



## FACTUAL HISTORY

1. STAG is not registered as a corporation with the South Carolina Secretary of State.
2. STAG is not and has not been registered as an investment adviser (“IA”) in South Carolina.
3. C P Smith Enterprises, Inc. (“CP Smith Enterprises”) does business as STAG.
4. CP Smith Enterprises is not and has not been registered as an IA in South Carolina.
5. CP Smith Enterprises was incorporated in South Carolina on July 2, 2003, and its registered agent is Smith at 252 Sessions Drive, Aiken, South Carolina, 29803.
6. Smith and Pearline D. Smith, his wife, own CP Smith Enterprises.
7. Smith has been President of CP Smith Enterprises since June, 2004.
8. Hall was Vice-President of CP Smith Enterprises from August, 2006 through October, 2008.
9. Hall was an insurance agent for CP Smith Enterprises.
10. Smith first became registered as an investment adviser representative (“IAR”) in South Carolina on November 13, 2008. Smith is affiliated with USA Tax and Insurance Services, Inc. (“USA Tax”), a federal covered investment adviser. Smith first submitted an application to register as an IAR in South Carolina on September 25, 2007.
11. Hall first became registered as an IAR in South Carolina on February 5, 2009. Hall is affiliated with USA Tax. Hall first submitted an application to register as an IAR in South Carolina on November 13, 2007.
12. In a letter dated December 19, 2006, that Smith wrote to the Division, Smith stated, “I’m president of Smith Tax Advisory Group, which is a full service tax and insurance service group. We promote ourselves through seminars designed to talk about taxes and ways of

protecting assets. . . . The following agents are insurance licensed and works [*sic*] through our group[:] Carl Smith, Rick Beebe, Tom Randall, Jack Bowles, Jason Mengel, and John Blacklocke.”

13. Regarding these seminars, Smith stated the following during a telephone conversation with the Division on April 9, 2008:

- a. “We talk about the volatility of the market.”
- b. We ask attendees, “Are you concerned about the volatility of the market?”

14. In a broader context, Smith stated during the April 9, 2008, telephone conversation with the Division that STAG’s objective is “protecting you from the volatility of the market.”

15. On its web site, <http://www.smithtaxadvisors.us>, STAG made the following representations in early 2008:

- a. It has “four (4) locations to meet our client’s needs.” Those locations are as follows:
  - i. 149 Crepe Myrtle Dr., Aiken, S.C., 29803;
  - ii. 3527 Wheeler Rd. 4th Floor, Suite 402, Augusta, GA, 30909;
  - iii. 3290 Ashley Phosphate Rd., Suite B, North Charleston, S.C., 29418; and
  - iv. 250 Berryhill Rd., Suite 103, Columbia, S.C., 29210.
- b. STAG has “six (6) independent representatives” who provide “Financial Planning” services to clients.
- c. **“It Is Never Too Late To Plan For Your Future...** But many people put it off because it seems such a daunting task. There are too many choices and who can I trust to guide me? When planning is done right, it can be exciting and

empowering. With the help of a skilled advisor who is interested in your specific needs and knowledgeable about all of the choices, *you direct your own destiny.*”

- d. “Carl Smith is a professional advisor who specializes in assisting people just like you in designing their preferred lifestyle.”
  - e. “Guided by your investment objectives-not obligated to any single investment-your Smith representatives draw upon a full compliment of conservative products to construct the most appropriate portfolio for your needs.”
16. On April 9, 2008, Smith stated that STAG was referring to Smith, Hall, Jason M. Mengel, Bobby Boggs, Jack R. Bowles, and Mark R. Shaurette when it said that it had six independent representatives who provide financial planning.
17. As owner and President of CP Smith Enterprises, Smith supervises its agents, including Hall.
18. On April 9, 2008, Smith stated that he and Hall each intend to become registered as an IAR and be affiliated with USA Tax.
19. On the home page of its web site in early 2008, STAG displayed the following tools commonly used by IARs and investors regarding securities: “Stock Quotes,” “Market Watch,” “Recent News: NYSE,” and a stock “WatchList.” Visitors to STAG’s web site were allowed to customize the WatchList by adding or deleting securities from the United States, Canada, and the United Kingdom in the following categories: stock, stock option, mutual fund, “MM fund,” forex, futures, and futures options. Visitors had the ability to add or delete various indexes including, but not limited to, the Dow Jones Industrial Composite Index, the NASDAQ Composite Index, the S&P 500 Index, the Dow Jones Utility Index, the PSE High Technology Index, and the Russell 2000 Index.

20. In March, 2008 and April, 2008, STAG advertised on the web site for the Savannah River Site's Operations Recreation Association ("ORA"). This advertisement was titled "Smith Tax Advisory Group Offers \$49 Tax Preparation Services for ORA Members." In this advertisement, STAG made the following representations:

- a. "Any advice provided by [STAG] includes consideration of the following topics:"  
"Effective Tax Planning," "Asset Preservation," "Low risk Tolerance," "Adequate Liquidity," "Succession Planning," and "Protection."
- b. In describing its asset-preservation services, STAG stated, "The transition from accumulation to preservation can define your lifestyle and how well you experience your retirement years. The possibility of losing value in your assets must be minimized and/or eliminated to ensure a predictable and comfortable retirement."
- c. In describing its low-risk-tolerance services, STAG stated, "Once we arrive at retirement, it is time to readjust how we allocate our assets. Our strategies only include financial tools that guarantee 100% of your principal."
- d. "Our clients are no longer worried about . . . having any amount of their retirement assets exposed to market risk while outpacing inflation . . . ."

21. Before July 13, 2006, STAG advertised two "FREE DINNER" "event[s]" to be held in Aiken, South Carolina, on July 13, 2006 and on July 18, 2006. The advertisement was sent to prospective customers through the United States mail. The following were the return addresses on the presorted first-class mailing: Smith Tax Advisory Group, Inc., 1055 B Silver Bluff Rd., Aiken, S.C., 29803 and 2918 Professional Parkway, Augusta, GA, 30907. The advertisement included the following statements regarding the events:

- a. “Your presenters will be Rick Beebe, Vice President of Smith Tax Advisory Group . . . .”
  - b. “Protect your retirement assets in any market condition.”
  - c. “Have an income you can’t outlive.”
  - d. “Receive a higher potential income than your pension plan is offering.”
  - e. “Avoid the common mistakes made at retirement with 401k’s and IRA’s.”
22. Before January 29, 2008, STAG advertised two “no obligation,” “COMPLIMENTARY DINNER” “event[s]” to be held in Columbia, South Carolina, on January 29 and 30, 2008. The advertisement included the following statements regarding the events:
- a. “Your presenters will be Roger Hall, Vice President of Smith Tax Advisory Group . . . .”
  - b. “Help avoid common mistakes when planning for your future.”
  - c. “Learn helpful techniques for today’s market conditions.”
  - d. “Have guaranteed income for life from your 401k, IRA and retirement assets.”
  - e. “[S]trategies to help protect your savings and retirement funds, how to minimize taxes on your interest earnings, and possibly earn more interest on your assets.”
23. At the January 30, 2008, event, Hall distributed the following:
- a. A one-page document that stated the following:
    - i. “Once we arrive at retirement, it is time to readjust how we allocate our assets. Our strategies only include financial tools that guarantee 100% of your principal”; and
    - ii. “Our clients are no longer worried about . . . having any amount of their retirement assets exposed to market risk while outpacing inflation . . . .”

- b. A “Biography of Roger Hall” in which he stated, “It is my privilege and pleasure to work with seniors and assist them with their future personal tax, financial and income planning.”
  - c. A business card that identified him as a “Vice President” of “Smith Tax Advisory Group” and that identified his email address as rhall@smithtaxadvisors and his web site as www.smithtaxadvisors.us.
24. On one of the slides shown by Hall at the January 30, 2008, event, the following was written: “What is a market correction? The day after you buy a stock.”
25. In 2007, CP Smith Enterprises generated a significant amount of revenue. This revenue consisted of sales of the following product types: fixed indexed annuities – 96.9% of 2007 revenue; tax preparation service – 2.5% of 2007 revenue; life insurance – 0.3% of 2007 revenue; and long-term care insurance – 0.3% of 2007 revenue.
26. Smith’s income producing activities include the sale of life, accident, and health insurance products. In 2007, 99.4% of Smith’s income came from the sale of fixed indexed annuities, 0.3% from the sale of life insurance, and 0.3% from the sale of long-term care insurance.
27. Hall’s income producing activities include the sale of life, accident, and health insurance products. In 2007, 67.5% of Hall’s income came from the sale of fixed indexed annuities, 26.7% from the sale of life insurance, and 5.8% from the sale of long-term care insurance. A commission on the products sold compensated Hall.
28. CP Smith Enterprises received commissions earned from the sale of insurance products sold by its agents and disbursed part of the commission to the selling agent.

29. Hall sold two fixed annuity products as a result of the January 29-30, 2008 events. The total commission earned from these two sales was \$5,105.86 of which Hall received \$1,400.46.
30. During the first seven months of 2008, CP Smith Enterprises earned commissions of \$131,676.24 from sales made by Hall, and CP Smith Enterprises paid commissions of \$42,795.91 to Hall.
31. Smith's income tax returns and related tax forms indicate that, as an owner and employee of CP Smith Enterprises, Smith receives income from CP Smith Enterprises.
32. CP Smith Enterprises, Smith, and Hall received compensation from the sale of investment-related products sold by Hall at these events.
33. On July 25, 2008, the Division issued subpoenas in this matter to CP Smith Enterprises, Smith, and Hall. The caption of each subpoena included "IN THE MATTER OF: C P Smith Enterprises, Inc., Calvin C. Smith, and Roger K. Hall, Respondents."
34. In these subpoenas, the Division informed CP Smith Enterprises, Smith, and Hall that the Division was conducting an investigation and that an investigation is conducted to determine whether the Act or any rules or orders issued thereunder have been violated.
35. On August 25, 2008, the Division received the responses to the three subpoenas from CP Smith Enterprises, Smith, and Hall.
36. Smith submitted Form U4, Uniform Application for Securities Industry Registration or Transfer, on September 24, 2008. In response to question 14G(2), Smith answered that he was not subject to any investigation that could result in a "yes" answer to various questions on Form U4 about criminal disclosure and regulatory action disclosure.



37. Hall submitted Form U4, Uniform Application for Securities Industry Registration or Transfer, on January 12, 2009. In response to question 14G(2), Hall answered that he was not subject to any investigation that could result in a “yes” answer to various questions on Form U4 about criminal disclosure and regulatory action disclosure.
38. At the time Smith and Hall filed their respective Form U4, this investigation was ongoing and could have resulted in Smith and Hall having to answer “yes” to certain questions on Form U4 about criminal disclosure or regulatory action disclosure.
39. Because Smith and Hall answered “no” to question 14G(2) on Form U4, Smith and Hall omitted material information by not completing the Investigation Disclosure Reporting Page.

### **APPLICABLE LAW**

#### **Definitions**

40. Pursuant to S.C. Code Ann. § 35-1-102(15) of the Act, an IA is a person that, for compensation, engages in the business of advising others as to the value of securities or the advisability of investing in, purchasing, or selling securities, or that, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice regarding securities to others for compensation as part of a business or that holds itself out as providing investment advice regarding securities to others for compensation.
41. In interpreting South Carolina securities laws, an examination of federal law may be helpful and interpretation of federal securities laws may be applied. *See, e.g., Atlanta Skin & Cancer Clinic, P.C. v. Hallmark General Partners, Inc.*, 320 S.C. 113, 122-23, 463 S.E.2d 600, 606 (S.C. 1995).

42. Pursuant to 52 Fed. Reg. 38,400 (1987) (S.E.C. Rel. No. IA-1092 titled “Applicability of the Investment Advisers Act to Financial Planners, Pension Consultants, and Other Persons Who Provide Investment Advisory Services as a Component of Other Financial Services”), a person is an IA if he satisfies the following three elements: (1) provides advice, or issues reports or analysis, regarding securities; (2) is in the business of providing such services; and (3) provides such services for compensation.

a. Pursuant to 52 Fed. Reg. 38,400 (1987), a person satisfies the first element, providing advice regarding securities, of the definition of being an IA when:

i. That person provides advice, or issues or promulgates reports or analyses, concerning securities, even when the advice does not relate to specific securities;

ii. That person advises others concerning the relative advantages and disadvantages of investing in securities in general as compared to other investments; or

iii. That person, in course of developing a financial program for another, advises a client as to the desirability of investing in, purchasing, or selling securities, as opposed to, or in relation to, any non-securities investment or financial vehicle.

b. Pursuant to 52 Fed. Reg. 38,400 (1987), giving advice does not need to be the principal business activity or any particular portion of the business activities of a person in order for the person to be in the business of providing advisory services, the second element. One way in which a person would be “in the business” of providing investment advice is if the person holds himself out as an investment

adviser or as one who provides investment advice or provides specific investment advice.

- c. Pursuant to 52 Fed. Reg. 38,400 (1987), one way in which a person can satisfy the third element, providing advice for compensation, is to receive any economic benefit from providing a variety of services to a client, including investment advisory services. Such economic benefit may include receipt of a single fee or commission upon the sale to the client of insurance products or investments.
43. Pursuant to S.C. Code Ann. § 35-1-102(16) of the Act, an IAR is an individual employed by or associated with an IA or a federal covered investment adviser and who, among other activities, makes any recommendations or otherwise gives investment advice regarding securities; manages securities accounts or portfolios of clients; determines which recommendation or advice regarding securities should be given; provides investment advice regarding securities; holds himself out as providing investment advice regarding securities; receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice regarding securities; or supervises employees who perform any of the foregoing.

#### Registration

44. Pursuant to S.C. Code Ann. § 35-1-406(a) of the Act, a person who seeks to register as an IAR in South Carolina must file “a uniform application,” which includes Form U4.
45. Pursuant to S.C. Code Ann. § 35-1-503(a), in a civil or administrative proceeding under the Act, a person claiming an exemption has the burden to prove the applicability of the claim.

## Unlawful Acts

46. Pursuant to S.C. Code Ann. § 35-1-403(a) of the Act, it is unlawful for a person to transact business in South Carolina as an IA unless the person is registered under the Act as an IA or is exempt from registration as an IA under Section 35-1-403(b).
47. Pursuant to S.C. Code Ann. § 35-1-403(d) of the Act, it is unlawful for an IA to employ or associate with an individual required to be registered under the Act as an IAR who transacts business in South Carolina on behalf of the IA unless the individual is registered under Section 35-1-404(a) or is exempt from registration under Section 35-1-404(b).
48. Pursuant to S.C. Code Ann. § 35-1-404(a) of the Act, it is unlawful for an individual to transact business in South Carolina as an IAR unless the individual is registered as an IAR under the Act or is exempt from registration as an IAR under Section 35-1-404(b).
49. Pursuant to S.C. Code Ann. § 35-1-502(a) of the Act, it is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities:
  - a. To employ a devise, scheme, or artifice to defraud another person; or
  - b. To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.
50. Pursuant to S.C. Code Ann. § 35-1-505 of the Act, it is unlawful for a person to make or cause to be made, in a record that is used in an action or proceeding or filed under the Act, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, to omit to state

a material fact necessary to make the statement made, in the light of the circumstances under which it was made, not false or misleading.

### Administrative Remedies

51. Pursuant to S.C. Code Ann. § 35-1-604(a)(1) of the Act, if the Securities Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this Act or a rule adopted or order issued under this Act, the Securities Commissioner may issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with the Act.

52. Pursuant to S.C. Code Ann. § 35-1-604(b) of the Act, an order issued under Section 35-1-604(a) is effective on the date of issuance and must include a statement of any civil penalty or costs of investigation the Securities Commissioner will seek, a statement of the reasons for the order, and notice that a hearing will be scheduled if one is requested.

### **DIVISION'S DETERMINATION**

53. WHEREAS, based on the foregoing, the Division has determined that CP Smith Enterprises has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting violations of the Act or a rule adopted or order issued under the Act as follows:

- a. CP Smith Enterprises does business as STAG.
- b. CP Smith Enterprises provides investment advice regarding securities to others for compensation as part of a regular business.

- c. CP Smith Enterprises holds itself and its agents out as financial planners.
- d. CP Smith Enterprises holds itself out as providing investment advice regarding securities to others for compensation.
- e. Therefore, CP Smith Enterprises is an IA pursuant to S.C. Code Ann. § 35-1-102(15).
- f. CP Smith Enterprises has transacted business in South Carolina as an IA.
- g. CP Smith Enterprises has not applied to register as an IA in South Carolina and is not registered as an IA in South Carolina.
- h. CP Smith Enterprises has not asserted a valid claim of exemption from registration as an IA in South Carolina.
- i. Therefore, CP Smith Enterprises has violated S.C. Code Ann. § 35-1-403(a) by transacting business in South Carolina as an IA without being registered as an IA in South Carolina or being exempt from such registration.
- j. CP Smith Enterprises employs or associates with Smith and employed or associated with Hall.
- k. Smith and Hall, while not registered, but required to be registered, as IARs in South Carolina, transacted business in South Carolina on behalf of CP Smith Enterprises.
- l. Smith and Hall have not asserted a valid claim of exemption from registration as IARs in South Carolina.
- m. Therefore, CP Smith Enterprises has violated S.C. Code Ann. § 35-1-403(d) by employing or associating with unregistered or non-exempt IARs who transact business in South Carolina on behalf of the IA.

54. WHEREAS, based on the foregoing, the Division has determined that CP Smith Enterprises, Smith and Hall have engaged, are engaging, or are about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act as follows:

- a. In early 2008, CP Smith Enterprises's web site included stock price quotes and various analytical information about the stock market that were not needed by a person purchasing insurance products and that indicated to client and potential clients that CP Smith Enterprises could give advice regarding securities.
- b. As owner and President of CP Smith Enterprises, Smith was responsible for CP Smith Enterprises's advertising, including its web site.
- c. Hall directed clients and potential clients to CP Smith Enterprises's web site.
- d. In various advertising materials and during various marketing events, CP Smith Enterprises, Smith, and Hall represented that the stock market was volatile and that at retirement an investor should re-allocate his assets to eliminate exposure to the stock market.
- e. Hall distributed literature at the January 30, 2008, marketing event in which he stated that clients of CP Smith Enterprises are no longer exposed to stock market risk.
- f. The volatility of the stock market was a topic at the marketing events held by CP Smith Enterprises and its agents.
- g. When these advertisements were made and marketing events held, CP Smith Enterprises, Smith, and Hall were not registered as IAs or IARs, yet acted as such.

- h. CP Smith Enterprises, Smith, and Hall did not disclose to clients or potential clients that they were not registered to transact business as IAs or IARs.
- i. On its web site, CP Smith Enterprises represented that the advisers employed by CP Smith Enterprises offered and sold and were knowledgeable about a wide range of financial products and made investment recommendations based on each person's individual needs and objectives.
- j. From 2006 through most of 2008, CP Smith Enterprises, Smith, and Hall primarily offered and sold only certain insurance, including annuity, products.
- k. Because the products offered and sold by CP Smith Enterprises and its agents did not include securities and other non-insurance products, CP Smith Enterprises did not offer or sell a wide range of financial products.
- l. Because CP Smith Enterprises, Smith, and Hall were not registered as IAs or IARs and offered and sold only insurance products, they did not offer and sell and were not knowledgeable about a wide range of financial products.
- m. Statements made by CP Smith Enterprises, Smith, and Hall constituted a device, scheme, or artifice to defraud another person or an act, practice, or course of business that operates or would operate as a fraud or deceit on another person because they made potential clients believe that CP Smith Enterprises offered and sold a much wider range of products, including securities, than it did; served a much wider range of investment objectives than it could serve; and was properly registered to give investment advice regarding securities.
- n. Therefore, CP Smith Enterprises, Smith, and Hall have violated S.C. Code Ann. § 35-1-502(a) by employing a device, scheme, or artifice to defraud another person



or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

55. WHEREAS, based on the foregoing, the Division has determined that Smith and Hall have engaged, are engaging, or are about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act as follows:

- a. During the relevant time period, Smith and Hall were officers of CP Smith Enterprises.
- b. As President of CP Smith Enterprises, Smith supervised individuals who performed activities included in S.C. Code Ann. § 35-1-102(16).
- c. Smith and Hall provided financial planning services to clients through CP Smith Enterprises.
- d. Smith and Hall gave investment advice regarding securities in South Carolina and held themselves out as providing investment advice regarding securities in South Carolina.
- e. Smith and Hall are IARs pursuant to S.C. Code Ann. § 35-1-102(16) and are not exempt from registration in South Carolina under S.C. Code Ann. § 35-1-404(b).
- f. Smith and Hall were not registered as IARs in South Carolina when they transacted business as IARs in South Carolina.
- g. Smith and Hall have not asserted a valid claim of exemption from registration as IARs in South Carolina.
- h. Therefore, Smith and Hall have violated S.C. Code Ann. § 35-1-404(a) by transacting business in South Carolina as IARs while not being registered or exempt from registration as an IAR.

- i. On September 24, 2008, and January 12, 2009, Smith and Hall, respectively, filed with the Division Form U4 as part of their application to register as IARs in South Carolina.
- j. Each Form U4 contained a materially false statement that Smith and Hall had not been notified in writing that each was the subject of an investigation that could result in other disclosure questions on Form U4 having to be answered in the affirmative. Because Smith and Hall answered “no” to the applicable question, Smith and Hall also omitted material information by not completing the Investigation Disclosure Reporting Page.
- k. Before Smith and Hall filed their Form U4, each had received notification in writing from the Division that they were under investigation by the Division and that the Division was investigating whether they had violated the Act.
- l. Therefore, Smith and Hall have violated S.C. Code Ann. § 35-1-505 by making or causing to be made, in Form U4 that was filed under the Act, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, omitting to state material facts on the Investigation Disclosure Reporting Page.

56. If this Order becomes effective by operation of law, the Division seeks a civil penalty of \$1,000 from CP Smith Enterprises, \$1,000 from CP Smith Enterprises as reimbursement for the costs of this investigation, a civil penalty of \$2,000 from Smith, and a civil penalty of \$2,000 from Hall. However, if a Respondent(s) seeks a hearing and a hearing officer or any other legal authority resolves this matter, the Division seeks an amount not to exceed \$10,000 for each violation of the Act by the Respondent(s) and the actual cost of the investigation.

**ORDER CEASE AND DESIST**

57. NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1) of the Act, IT IS HEREBY **ORDERED** that CP Smith Enterprises:

- a. Cease and desist from violating S.C. Code Ann. § 35-1-403(d) of the Act;
- b. Cease and desist from violating S.C. Code Ann. § 35-1-403(a) of the Act;
- c. Cease and desist from violating S.C. Code Ann. § 35-1-502(a) of the Act; and
- d. Pay a civil penalty of \$1,000 and a reimbursement of certain costs of the investigation of \$1,000 if this Order becomes effective by operation of law, or, if CP Smith Enterprises seeks a hearing and a hearing officer or any other legal authority resolves this matter, pay an amount not to exceed \$10,000 for each violation of the Act by CP Smith Enterprises and the actual cost of the investigation.

58. NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1) of the Act, IT IS HEREBY **ORDERED** that Smith and Hall:


- a. Cease and desist from violating S.C. Code Ann. § 35-1-404(a) of the Act;
- b. Cease and desist from violating S.C. Code Ann. § 35-1-502(a) of the Act;
- c. Cease and desist from violating S.C. Code Ann. § 35-1-505 of the Act; and
- d. Pay \$2,000 each (i.e., \$4,000 in total) if this Order becomes effective by operation of law, or, if Smith or Hall seeks a hearing and a hearing officer or any other legal authority resolves this matter, pay an amount not to exceed \$10,000 for each violation of the Act by Smith or Hall and the actual cost of the investigation.

**REQUIREMENT OF ANSWER AND  
NOTICE OF OPPORTUNITY FOR HEARING**

59. Respondents are hereby notified that they have the right to a hearing on the matters contained herein. To schedule such a hearing, a Respondent must file with the Securities Division, Post Office Box 11549, Rembert C. Dennis Building, Columbia, South Carolina, 29211-1549, attention: Thresechia Navarro, within thirty (30) days after the date of service of this Order to Cease and Desist a written Answer specifically requesting a hearing therein. If a Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a request in a record from a Respondent, will schedule the hearing.
60. In the written Answer, Respondent(s), in addition to requesting a hearing, shall admit or deny each factual allegation in this C&D Order, shall set forth specific facts on which the Respondent(s) relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent(s) relies. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.
61. Failure by a Respondent to file a written request for a hearing in this matter within the thirty-day (30) period stated above shall be deemed a waiver by that Respondent of the right to such a hearing. Failure of a Respondent to file an Answer, including a request for a hearing, shall result in this C&D Order, including the stated civil penalty and assessed fees, becoming final as to the Respondent by operation of law.
62. CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS C&D ORDER AND/OR SIMILAR ACTS MAY RESULT IN THE DIVISION'S FILING ADDITIONAL ADMINISTRATIVE ACTIONS AND/OR SEEKING FURTHER ADMINISTRATIVE FINES. WILLFUL VIOLATION OF THIS ORDER COULD RESULT IN CRIMINAL PENALTIES UNDER S.C. CODE ANN. § 35-1-508 OF THE ACT.

**IT IS SO ORDERED.**

Executed and entered, this the 7<sup>th</sup> day of May, 2009.

By:   
\_\_\_\_\_  
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