

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA**

IN THE MATTER OF:)	
)	ORDER TO CEASE AND DESIST
James Mandel Hawkins,)	
)	
Respondent.)	File Number: 11022
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WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division"), has been authorized and directed by the Securities Commissioner of South Carolina (the "Securities Commissioner") to administer the provisions of S.C. Code Ann. § 35-1-101, *et seq.*, the South Carolina Uniform Securities Act of 2005 (the "Act"); and

WHEREAS, the Division received information regarding alleged activities of James Mandel Hawkins ("Hawkins" or "Respondent") which, if true, would constitute violations of the Act; and

WHEREAS, the information led the Division to open and conduct an investigation of the Respondent pursuant to S.C. Code Ann. § 35-1-602; and

WHEREAS, the Division alleges the following:

I. Jurisdiction

1. The Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

II. Respondent

2. Hawkins is a resident of South Carolina, residing at 2 Rose Dew Lane, Blythewood, South Carolina.

III. Findings of Fact

3. Between 1994 and 2005, Respondent was registered with the Division as a Broker Dealer Representative through Centarus Financial, Inc.

4. Respondent has passed several exams regarding securities, including the Series 6, Series 26, and Series 63 examinations.

5. Respondent was indicted by the United States of America in March of 2004 for bank fraud in violation of Title 18 U.S.C § 1344.

6. Respondent pled guilty to the charges of bank fraud in February, 2005.

7. As a consequence of his guilty plea, Respondent resigned his position with Centarus Financial, Inc. and subsequently ceased to be registered with the Division. In addition, Respondent's license as a resident insurance producer was suspended by the South Carolina Department of Insurance on October 16, 2006.

8. Beginning in early 2006, Respondent was engaged by Charles Ruff, operator of Clemson Grande Lakefront Condominiums, LLC ("Clemson Grande"), as an agent to solicit investments on behalf of a condominium development in Clemson, South Carolina (the "Condo Project").

9. The investments solicited by Respondent were styled as "Promissory Notes" (the "Notes").

10. The Notes promised very high rates of interest in return for a short-term investment in the Condo Project.

11. The Notes were not registered with the Division and were not offered under any claim of exemption from registration.

12. Between February of 2006 and June of 2009, Respondent sold over \$415,000 of Notes to twenty (20) or more investors South Carolina.

13. On at least one occasion, Respondent misled an investor by falsely claiming that the Notes were not subject to registration with the Division.

14. During the time period in which he sold Notes, Respondent was not registered with the Division.

15. Having previously been registered with the Division, Respondent knew or should have known that as a convicted felon he would most likely have been unable to obtain registration.

16. Having previously been registered with the Division, Respondent knew or should have known that the Notes constituted securities under the Act.

17. Respondent failed to inform numerous investors of his own lack of registration and his felony conviction for bank fraud.

IV. Conclusions of Law

18. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, governs the offer and sale of securities within the State of South Carolina.

19. Pursuant to S.C. Code Ann. § 35-1-102(29), promissory notes and investment contracts are securities.

20. Based on the foregoing, the Notes sold by Respondent are securities as defined by the Act.

21. Pursuant to S.C. Code Ann. § 35-1-301, it is unlawful for a person to sell a security in or from South Carolina unless that security is a federal covered security, exempt from registration, or registered with the Division.

22. Based on the foregoing, the Notes sold by Respondent were not federal covered securities, exempt from registration, or registered with the Division, and were therefore sold in violation of the Act.

23. Pursuant to S.C. Code Ann. § 35-1-402, it is unlawful for a person to engage in the sale of securities in South Carolina as an agent unless that person is registered with the Division or exempt from registration.

24. Based on the foregoing, Respondent sold securities in South Carolina while not being registered with the Division as an agent in violation of the Act.

25. Pursuant to S.C. Code Ann. § 35-1-501, it is unlawful for a person in connection with the offer or sale of a security in South Carolina: (1) to employ a scheme, device, or artifice to defraud; (2) to make an untrue statement of material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; or (3) to engage in an act, practice or course of business that operates or would operate as a fraud or deceit upon another person.

26. Based on the foregoing, Respondent sold securities in South Carolina while (1) employing a scheme, device, or artifice to defraud; (2) through the making of untrue statements of material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; and by (3) engaging in an act, practice or course of business that operated as a fraud or deceit upon another person.

V. Order

WHEREAS, pursuant to S.C. Code Ann. §35-1-604(a)(1), 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, 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; and

WHEREAS, pursuant to S.C. Code Ann. § 35-1-604(b), 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 sought, a statement of the reasons for the order, and notice that a hearing will be scheduled if one is requested; and

WHEREAS, based on the foregoing facts, it is in the public interest, for the protection of investors, and consistent with the purposes of the Act that Respondent be ordered to cease and desist from engaging in the above enumerated practices which constitute a violation of the Act;

NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1), it is hereby **ORDERED** that:

- a. Respondent and every successor, affiliate, control person, agent, servant, and employee of Respondent, and every entity owned, operated, or indirectly or directly controlled by or on behalf of the Respondent **CEASE AND DESIST** from transacting business in this State in violation of the Act, and in particular, S.C. Code Ann. §§ 35-1-301, 35-1-402, and 35-1-501 thereof; and

- b. Pay a civil penalty in the amount of **One Hundred Thousand Dollars (\$100,000.00)** if this Order becomes effective by operation of law, or, if Respondent seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed **Ten Thousand Dollars (\$10,000.00)** for each violation of the Act by Respondent, and the actual cost of the investigation or proceeding.

IT IS FURTHER ORDERED that, pursuant to S.C. Code Ann. § 35-1-604(a)(2) and (3), any exemption from registration with the Division that Respondent may claim to rely upon under S.C. Code Ann. §§ 35-1-201(3)(C), (7), or (8); 35-1-202; 35-1-401(b)(1)(D) or (F); or 35-1-403(b)(1)(C), has been and is **PERMANENTLY REVOKED**.

CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS 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 PROSECUTION. REGARDING MATTERS DESCRIBED HEREIN, THIS ORDER DOES NOT PRECLUDE THE FILING OF PRIVATE CAUSES OF ACTION OR THE FILING OF CRIMINAL CHARGES UNDER S.C. CODE ANN. § 35-1-508 OR ANY OTHER APPLICABLE CODE SECTION.

ENTERED at Columbia, South Carolina, this 18th day of October, 2013.

ALAN WILSON
SECURITIES COMMISSIONER

By: Tracy Meyers
TRACY A. MEYERS
Assistant Deputy Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING

Respondent is hereby notified that he has 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 of the date of service of this Order a written Answer specifically requesting that a hearing be held to consider rescinding the Order.

In his written Answer, Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation of the Order, shall set forth specific facts on which Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which Respondent relies. If Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, the Respondent shall so state.