

II. RESPONDENTS

2. Respondent Smith is a South Carolina resident with a last known address of 504 Flanders Court, Greenville, South Carolina 29607.
3. Respondent IL Enterprises is a South Carolina corporation with a last known address of 512 Golden Pine Court, Piedmont, South Carolina 29673.
4. Respondent IL Enterprises was incorporated on or about July 17, 2007.
5. At all times relevant to this Order, Respondent Smith was the owner, registered agent, and chief control person of Respondent IL Enterprises.

III. FINDINGS OF FACT

The Hawaiian Investors

6. On or about June 20, 2013, the Respondents began corresponding with a real estate company in Hawaii (the "Foundation").
7. The Respondents solicited the Foundation's participation in an alleged venture to purchase, renovate, and resell two properties (the "Properties") in Greenville, South Carolina (the "Project").
8. On or about July 23, 2013, the Foundation connected the Respondents with two Hawaii residents (the "Hawaiian Investors") who were interested in funding the Project.
9. On or about July 24, 2013 the Hawaiian Investors agreed to loan the Respondents a total of \$68,000 for the Project.
10. In connection with the offer and sale of the Project, the Respondents represented that the Hawaiian Investors' investment would be used solely to finance the Project and that the Respondents were to receive no compensation directly from these funds; the Respondents' compensation was to come in the form of a percentage of profits realized

upon completion of the Project.

11. On or about July 27, 2013, in exchange for the Hawaiian Investors' respective investments in the Project, the Respondents signed a \$50,000 promissory note to one of the Hawaiian Investors and a \$20,000 promissory note to the other Hawaiian Investor.
12. Through the promissory notes, the Respondents guaranteed repayment in full of the principal plus thirty percent (30%) interest.
13. The promissory notes stated that the Respondents would repay the balance of the promissory notes to the Hawaiian Investors within three months of the date of lending or upon sale of the Properties, whichever came first.
14. On or about August 1, 2013, based upon the Respondents' representations, the Hawaiian Investors wired \$68,000 to an account controlled solely by the Respondents, whereupon the Respondents spent the majority of the funds on personal expenses, including, but not limited to, clothing, restaurants, and vacationing.
15. Contrary to the Respondents' representations in connection with the offer and sale of investments, the Respondents did not make substantial use of the Hawaiian Investors' funds to complete the Project.
16. The Respondents failed to pay the Hawaiian Investors in accordance with the promissory notes.
17. When the Respondents failed to repay the Hawaiian Investors, the Foundation covered the Respondent's promissory obligations and paid the Hawaiian Investors both the principal and interest they were owed.
18. When the Foundation covered the Respondents' promissory obligations to the Hawaiian Investors, the Respondents executed new promissory notes transferring their debt

obligations to the Foundation.

19. To date, the Project has not come to fruition.
20. To date, the Respondents have not repaid the Foundation or the Hawaiian Investors.

The Arizona Investor

21. On or around January 9, 2014, while the Respondents were still obligated to the Hawaiian Investors, the Respondents solicited an investment from a third investor (the “Arizona Investor”) to finish the renovation and resale of one of the Greenville, South Carolina properties.
22. The Respondents signed promissory notes for all of the Arizona Investor’s investments promising a fifteen percent (15%) return and repayment a month from the date of execution of the promissory notes.
23. The Respondents purportedly secured some of the Arizona Investor’s investment by mortgaging the property to the Arizona Investor.
24. During the period of January 10, 2014 through February 20, 2014, the Arizona Investor deposited a total of \$30,500 into accounts controlled solely by the Respondents.
25. Contrary to representations made in connection with the offer and sale of securities to the Arizona Investor, the Respondents did not spend a significant portion of the Arizona Investor’s money on renovating or reselling one of the Greenville, South Carolina properties.
26. Instead, the Respondents spent a majority of the Arizona Investor’s money on personal expenses, including, but not limited to, clothing and restaurants.

27. In connection with the offer and sale of the securities, the Respondents made numerous false and misleading statements and omissions, including, but not limited to, the following:
- a. The Respondents' falsely stating that the Hawaiian Investors' investment would be used to finance the Project;
 - b. The Respondents' falsely stating that the Hawaiian Investors could each expect a thirty percent (30%) return on their investments;
 - c. The Respondents' falsely stating that the Arizona Investor's investment would be used to renovate the Greenville Property;
 - d. The Respondents' falsely stating that the Arizona Investor could expect a fifteen percent return on her investment;
 - e. The Respondents' failing to disclose to the Arizona Investor the existence of prior financial interests that the Hawaiian Investors held in the property mortgaged to the Arizona Investor; and
 - f. The Respondents' failing to disclose to both the Hawaiian Investors and the Arizona Investor a 2013 judgment against Respondent Smith and in favor of a Greenville property company for \$13,904.
28. Respondent Smith represented Respondent IL Enterprises in effecting or attempting to effect the above transactions in securities issued by Respondent IL Enterprises.
29. At no time relevant to the events stated herein was Respondent IL Enterprises registered with the Division as a broker-dealer, and no exemption from registration has been claimed by Respondent IL Enterprises.
30. At no time relevant to the events stated herein was Respondent Smith registered with the

Division as an agent, and no exemption from registration has been claimed by Respondent Smith.

31. At no time relevant to the events stated herein were the securities at issue registered with the Division or federal covered securities, and no exemption from registration has been claimed by the Respondents.

IV. CONCLUSIONS OF LAW

32. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, governs the offer and sale of securities in this State.
33. Pursuant to S.C. Code Ann. § 35-1-102(29), investment contracts, promissory notes, and certificates of interest or participation in profit-sharing agreements, *inter alia*, constitute securities.
34. Pursuant to S.C. Code Ann. § 35-1-301, it is unlawful for a person to offer or sell a security in this State unless that security is registered, exempt from registration, or a federal covered security.
35. Pursuant to S.C. Code Ann. § 35-1-102(2), an “agent” includes an individual who represents an issuer in effecting or attempting to effect purchases or sales of the issuer’s securities.
36. Pursuant to S.C. Code Ann. § 35-1-102(17), an “issuer” includes an individual that issues or proposes to issue a security.
37. Pursuant to S.C. Code Ann. § 35-1-402(a), it is unlawful for an individual to transact business in this State as an agent unless that individual is registered or exempt from registration.
38. Pursuant to S.C. Code Ann. § 35-1-402(d), it is unlawful for a broker-dealer, or an issuer

engaged in offering, selling, or purchasing securities in this State, to employ or associate with an agent who transacts business in this State on behalf of broker-dealers or issuers unless that agent is registered or exempt from registration.

39. Pursuant to S.C. Code Ann. § 35-1-501, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (1) to employ a device, scheme, or artifice to defraud; (2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under 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.
40. The Project offered and sold by the Respondents to the Hawaiian Investors constitutes an interest in a profit-sharing agreement and is thus a security as defined by the Act.
41. The securities offered and sold by the Respondents were not registered with the Division, exempt from registration, or federal covered securities, and were therefore offered and sold in violation of S.C. Code Ann. § 35-1-301.
42. Respondent Smith, on at least one occasion, transacted business in this State as an unregistered agent.
43. Respondent IL Enterprises, on at least one occasion, transacted business in this State as an unregistered broker-dealer.
44. Respondent IL Enterprises, on at least one occasion, employed or associated with an unregistered agent who transacted business on behalf of IL Enterprises while that agent was not registered.
45. The Respondents, on at least one occasion and in connection with the offer, sale, or

purchase of a security, directly or indirectly (1) employed a device, scheme, or artifice to defraud; (2) made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (3) engaged in an act, practice, or course of business that operated or would operate as a fraud or deceit upon another person, in violation of S.C. Code Ann. § 35-1-501.

46. It is in the public interest, for the protection of investors, and consistent with the purposes of the Act that the Respondents be ordered to cease and desist from engaging in the above-enumerated practices, which constitute violations of the Act and pay an appropriate civil penalty for their wrongdoing.

V. CEASE AND DESIST ORDER

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

- a. Respondent IL Enterprises and every successor, affiliate, control person, agent, servant, and employee of IL Enterprises, and every entity owned, operated, or indirectly or directly controlled by or on behalf of IL Enterprises **CEASE AND DESIST** from transacting business in this State in violation of the Act, and, in particular, §§ 35-1-301, 35-1-402, and 35-1-501 thereof;
- b. Respondent Smith **CEASE AND DESIST** from transacting business in this State in violation of the Act, and, in particular, §§ 35-1-301, 35-1-402, and 35-1-501 thereof;
- c. Respondent IL Enterprises pay a civil penalty in the amount of eighty thousand dollars (\$80,000) if this Order becomes effective by operation of law, or, if Respondent IL Enterprises seeks a hearing and any legal authority resolves this matter, pay a civil

penalty in an amount not to exceed \$10,000 for each violation of the Act by Respondent IL Enterprises, and the actual cost of investigation or proceeding;

- d. Respondent Smith pay a civil penalty in the amount of sixty thousand dollars (\$60,000) if this Order becomes effective by operation of law, or, if Respondent Smith seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed \$10,000 for each violation of the Act by Respondent Smith, and the actual cost of investigation or proceeding; and

VI. REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING

Each Respondent is hereby notified that he has the right to a hearing on the matters contained herein. To schedule such a hearing, the 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. If a Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a request in a record from the Respondent, will schedule the hearing for that Respondent.

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


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 Order, including the stated civil penalty and any assessed costs, becoming final as to that Respondent by operation of law.


This Order does not prevent the Division or any other law enforcement agency from seeking additional civil or criminal remedies as are available under the Act, including remedies related to the offers and sales of securities by the Respondent set forth above.

ENTERED, this the 28th day of July, 2015.

ALAN WILSON
SECURITIES COMMISSIONER

By: 
TRACY A. MEYERS
Deputy Securities Commissioner

ISSUANCE REQUESTED BY:


TAYLOR FAW
Assistant Attorney General
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