

BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO. S-11-0299
ORDER NO. S-11-0299-13-OR03

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:
MICHEAL D. MUNSON

RESPONDENT

CONSENT ORDER

This Consent Order ("Order") is entered pursuant to the Arkansas Securities Act ("Act"), codified at Ark. Code Ann. §§ 23-42-101 through 23-42-509, the Rules of the Arkansas Securities Commissioner promulgated pursuant to the Act ("Rules"), and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-201 through 25-15-219, in accordance with an agreement between the Staff of the Arkansas Securities Department ("Staff") and the Respondent, Micheal D. Munson ("Munson").

Munson admits the jurisdiction of the Act and the Arkansas Securities Commissioner ("Commissioner"), waives his right to a formal hearing and appeal, consents to the entry of this Order without admitting or denying the findings of fact made herein, and agrees to abide by its terms in settlement of any possible violations committed by Munson concerning the matters detailed herein.

FINDINGS OF FACT

1. Micheal D. Munson, CRD No. 2374215, is an Arkansas resident most recently registered with the Arkansas Securities Department ("Department") as a broker-dealer agent and investment adviser with Brookstone Securities, Inc. ("Brookstone"), CRD No. 13366. Munson was registered as a broker-dealer agent with Brookstone from November 27, 2006 to July 14,

2011, and as an investment adviser representative with Brookstone from October 25, 2010 to July 14, 2011.

Unauthorized Practice as an Investment Adviser Representative

2. Prior to his employment with Brookstone, Munson was registered with the Department as a broker-dealer agent and investment adviser representative with First Midwest Securities, Inc. ("First Midwest"), CRD No. 21786. He was registered as a broker-dealer agent with First Midwest from March 19, 2002 to November 21, 2006, and as an investment adviser representative with First Midwest from October 4, 2006 to November 21, 2006. Munson's registration as an agent and representative with First Midwest was terminated on November 21, 2006, when he voluntarily left to become an employee of Brookstone.

3. When Munson became employed by Brookstone, he registered with the Department on November 27, 2006, as an agent but not as a representative. Munson did not apply for registration as a representative until May 4, 2009. At that time, he was informed by the Staff that he would be required to pass the Series 66 examination before his registration as a representative could be approved. Munson passed the Series 66 examination on August 4, 2010, and his registration as a representative was approved on October 25, 2010. However, from November 22, 2006 to October 25, 2010, Munson was not registered with the Department as an investment adviser representative in any capacity.

4. During the time he was not registered with the Department as an investment adviser representative, Munson entered into at least three contractual agreements with clients to provide investment advisory services.

5. The first such agreement was entitled "Agreement for Services" and was entered into between C1 and C2, thereafter referred to as "Client", and Select Capital Partners, Inc.,

thereafter referred to as "Advisor." Select Capital Partners, Inc. is an Arkansas corporation through which Munson sometimes conducts financial management and advisory services. In exchange for an annual fee of \$395.00, Munson agreed to provide Client with a variety of advisory services, including preparing and administering a personal financial plan with a detailed asset allocation analysis. The agreement was dated June 10, 2009, and was signed by C1 and C2, and by Munson on behalf of Select Capital Partners, Inc.

6. The second such agreement was entitled "Agreement for Financial Services" and was entered into between C3, thereafter referred to as "Client", and Micheal D. Munson Personal Financial Services, thereafter referred to as "Broker." Personal Financial Services is a trade name through which Munson sometimes provides financial management and advisory services. In exchange for an annual fee of \$495.00 and a service fee of \$125.00 per hour, Munson agreed to provide Client with a variety of advisory services, including preparing and administering a personal financial plan with a detailed asset allocation analysis and investment policy statement. The agreement was dated October 9, 2009, and was signed by both C3 and Munson.

7. The third such agreement was entitled "Agreement for Services" and was entered into between C4, thereafter referred to as "Client", and Micheal D. Munson, d.b.a. Personal Financial Services and Select Capital Partners, Inc., thereafter referred to as "Advisor." In exchange for an annual fee of \$495.00 and a service fee of \$125.00 per hour, Munson agreed to provide client with a variety of advisory services, including preparing and administering a personal financial plan with a detailed asset allocation analysis. The agreement was dated February 5, 2010, and was signed by both C4 and Munson.

Sale of Unregistered Securities

8. Freedom Bible College and Seminary, Concepts of Freedom Ministries, Inc. ("Freedom Bible College") issued a property bond dated May 10, 2006, in the principal amount of \$200,000.00 ("Freedom Bible College Bond"). The sole purchaser of the Freedom Bible College Bond was Freedom 105 Walnut Property Limited Partnership ("Freedom 105"), an Arkansas limited partnership. The terms of the bond provided that Freedom Bible College would make monthly interest payments to the bondholder equal to 10.75% of the outstanding principal balance, beginning on June 10, 2006, and continuing on the tenth day of each month thereafter until the stated bond maturity date of May 10, 2008, when all principal and accrued interest was to be repaid in full.

9. Freedom 105 was created in May 2006 as a holding entity for the purchasers of the Freedom Bible College Bond. The limited partnership consisted of one general partner and three limited partners. The three limited partners were the actual monetary investors in the bond. The general partner was DFM Bentonville, LLC ("DFM"), a Missouri limited liability company for which Munson serves as an administrative member. DFM was made a general partner in Freedom 105 to handle the financial end of the transaction by receiving interest and principal payments from Freedom Bible College and distributing them to the limited partners. Freedom 105 was officially dissolved as an entity on December 31, 2009.

10. Munson solicited the investors who purchased the Freedom Bible College Bond through Freedom 105. Munson sold a \$50,000.00 principal investment in the bond to F1, an Arkansas resident for whom Munson served as a broker-dealer agent. Munson sold a \$100,000 principal investment in the bond to F2, a non-Arkansas resident for whom Munson served as a broker-dealer agent. F2 also was a member of DFM and was involved with Munson in other

business investments and transactions. Munson further sold an \$18,000.00 principal investment in the bond to F3, a non-Arkansas resident who was a relative of Munson. While the paperwork for the bond represents a principal amount of \$200,000.00, the only investors in the bond were those named above, representing a total principal investment of \$168,000.00.

11. Munson contacted an attorney while acting in his capacity as an administrative member of DFM to prepare the paperwork to create the Freedom Bible College Bond and establish Freedom 105 as a holding entity for the investors. Munson received compensation for arranging the issue and purchase of the bond in the form of fees paid both at the time of initial bond purchase and at the time of the bond's redemption.

12. Department records reveal no registration or proof of exemption for the Freedom Bible College Bond in accordance with the Act and no notice filing pursuant to federal law in connection with a covered security.

Securities Fraud in the Offer and Sale of Securities

13. As set forth above in paragraphs eight through twelve, Munson solicited F2 to invest \$100,000.00 in the Freedom Bible College Bond. To induce F2 into investing, Munson represented that an investment in the bond would yield monthly interest payments of 10.75% with a full return of principal within two years. Munson while acting in his capacity as an administrative member of DFM promised to service the financial side of the transaction by receiving the monthly interest payments and principal payments from Freedom Bible College and distributing them to the investors as received.

14. Freedom Bible College made each monthly interest payment as provided under the terms of the bond. The interest payments were set at a monthly amount of \$1,505.00, representing 10.75% of the outstanding principal balance of \$168,000.00. From June 2006 to

April 2008, Freedom Bible College made 23 monthly interest payments totaling \$34,615.00. On April 17, 2008, Freedom Bible College made a final payment of \$175,580.47 to the bondholders, representing all outstanding principal and interest owed under the terms of the bond. Freedom Bible College made each payment of interest and principal directly to DFM, as general partner acting on behalf of Freedom 105.

15. While Munson when acting in his capacity as an administrative member of DFM ensured that other investors received a pro rata share of all monthly interest payments as received, he did not forward all of the monthly interest payments to F2 as promised. F2's pro rata portion of the total \$1,505.00 monthly interest payment made by Freedom Bible College was \$895.83. F2 was entitled to 23 payments of \$895.83 for a total of \$20,604.09. Instead, F2 was only forwarded 18 payments of \$895.83 to F2 for a total of \$16,124.94. The remainder of the unpaid interest was left in the DFM general account where it was converted for the use and benefit of the company.

16. While Munson returned to some investors the amount of their original principal investment in the bond, he did not return to F2 any of the \$100,000.00 original principal investment as promised. Instead, after Freedom Bible College made final payment of \$175,580.47 on the bond, the funds were spent in the following manner:

- (a) \$50,000.00 was paid to F1 as a return of original principal investment;
- (b) \$25,000.00 was used to repay a third party who sent money to enable Munson to attempt to retrieve investor funds lost to Universal Money Traders, Inc.;
- (c) \$18,602.00 was paid to Northwest Health and Lifestyle Center, a business in which DFM and F2 had an ownership interest, to cover a \$3,310.74 bank overdraft fee as well as utility, payroll, and other business expenses;
- (d) \$5,228.00 was paid to F3 as a return of original principal investment;

- (e) \$1,750.00 was paid to Personal Financial Services as a loan management fee charged for Munson's services in the bond transaction; and
- (f) \$75,000.47 was lost to Signature Bank after the bank exercised its right of set-off to seize the funds in satisfaction of a loan obligation on which Northwest Health and Lifestyle Center had defaulted.

Misuse of Customer Funds

17. As set forth above in paragraphs eight through sixteen, Munson solicited F2 to invest \$100,000.00 in the Freedom Bible College Bond. Although Freedom Bible College made all monthly interest payments and tendered a full repayment of principal as provided under the terms of the bond, Munson did not return to F2 the full allotted share of the interest payments or the \$100,000.00 original principal investment as promised.

18. Instead, Munson while acting in his capacity as an administrative member in DFM converted \$4,479.15 in interest payments owed to F2 for the use and benefit of DFM. Munson used the original \$100,000.00 principal investment to repay outside investors and cure financial obligations on which Northwest Health and Lifestyle Center had defaulted.

LEGAL AUTHORITY AND CONCLUSIONS OF LAW

19. Ark. Code Ann. § 23-42-301(c) prohibits any person from transacting business in Arkansas as an investment adviser or representative without first being registered to do so. Munson committed separate violations of Ark. Code Ann. § 23-42-301(c) when he entered into contracts and provided investment advisory services to C1 and C2, C3, and C4 as set forth above in paragraphs two through seven.

20. Ark. Code Ann. § 23-42-501 provides that it is unlawful for any person to offer or sell any security unless it is registered, exempt, or a covered security. Munson committed

separate violations of Ark. Code Ann. § 23-42-501 when he offered and sold unregistered securities to F1, F2, and F3 as set forth above in paragraphs eight through twelve.

21. Ark. Code Ann. § 23-42-507(2) makes it unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. Munson violated Ark. Code Ann. § 23-42-507(2) when he represented to F2 that all monthly interest and principal payments received from investment in the bond would be returned to F2, when in fact portions of interest and the entire amount of the principal investment were used for various improper and unauthorized purposes, as set forth above in paragraphs thirteen through sixteen.

22. Rule 308.01 of the Rules provides that each broker-dealer or agent shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Rule 308.01 (p) of the Rules specifically prohibits a broker-dealer agent from “borrowing or unauthorized use of customers’ funds or securities.” Munson violated Rule 308.01 (p) when he used funds belonging to F2 for various improper and unauthorized purposes, as set forth above in paragraphs thirteen through eighteen.

23. Ark. Code Ann. §§ 23-42-308(a)(1) and 23-42-308(a)(2)(B) state that the Commissioner may by order deny, suspend, make conditional or probationary, or revoke any registration if he finds that the order is in the public interest and the registrant has willfully violated or willfully failed to comply with any provision of the Act or the Rules.

UNDERTAKINGS

In settlement of this matter, but without admitting or denying the findings of fact set forth herein, Munson agrees to not apply for registration with the Department in any capacity pursuant to the Act for a period of five years from the date of this Order.

OPINION

This Order is in the public interest. The facts as set forth in paragraphs two through eighteen support the violations of the Act and Rules as set forth in paragraphs nineteen through twenty-three.

ORDER

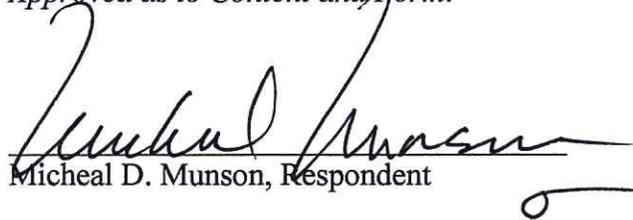
IT IS THEREFORE ORDERED that Munson's registration as a broker-dealer agent is hereby revoked as of the last date on which his registration was effective in Arkansas, pursuant to Arkansas Code Ann. §§ 23-42-308(a)(1) and 23-42-308(a)(2)(B), and that, in accordance with Munson's undertaking, no application by Munson for registration with the Department in any capacity pursuant to the Act will be accepted or granted within five years of the date of this Order.

WITNESS MY HAND AND SEAL this the 14th day of February, 2013.



A. Heath Abshire
Arkansas Securities Commissioner

Approved as to Content and Form:


Micheal D. Munson, Respondent _____ Date 1/24/13


J. Campbell McLaurin III, Staff Attorney
Arkansas Securities Department _____ Date 2/14/13