

STATE OF ARKANSAS
SECURITIES DEPARTMENT

IN THE MATTER OF
THE LIBERTY GROUP, LLC,
ANTHONY EUGENE KENNEDY,
LARRY WARREN and ALL PERSONS
EMPLOYED BY OR OTHERWISE
AFFILIATED WITH THAT ENTITY
OR THOSE INDIVIDUALS

No S-05-041-07-CD01

CEASE AND DESIST ORDER

The Staff of the Arkansas Securities Department (the Staff) has received information and has in its possession certain evidence which indicates that THE LIBERTY GROUP, LLC, ANTHONY EUGENE KENNEDY and LARRY WARREN have violated provisions of the Arkansas Securities Act (the Act), codified at Ark. Code Ann. §§ 23-42-101, *et seq.* (Repl. 2000).

FINDINGS OF FACT

1. THE LIBERTY GROUP (TLG), is a Nevada limited liability company organized on 9 July 2004. At all times relevant herein, it listed two addresses, P.O. Box 1942, Broken Arrow, Oklahoma 74013, and 484 East Carmel Drive, Suite 262, Carmel, Indiana 46032. Its charter or status as a limited liability company was revoked on 1 August 2006.
2. ANTHONY EUGENE KENNEDY (KENNEDY) was at all times relevant herein a resident of both Broken Arrow, Oklahoma and Carmel, Indiana and the managing member and president of TLG.
3. LARRY WARREN (WARREN) was at all times relevant herein a resident of Wynne,

Arkansas and an agent and affiliate of TLG and KENNEDY.

4. Beginning in the spring of 2004, TLG and KENNEDY, primarily through the agency and activities of WARREN, marketed an investment opportunity to several Arkansas residents. In its most basic form, these residents were told that they could make their money back totally in twelve months and receive an even higher return a month later. This was referred to as a thirteen month balloon award or a thirteen month program. Such a high rate of return was said to be possible because TLG pooled investors' funds and invested them in a poorly explained market of hedge funds, private placement investments, and international finance in which the parties, usually governments or large corporations, dealt in increments of millions of dollars. According to a contract signed by one investor, the funds sought by TLG from these Arkansas investors would be used to somehow increase funds and achieve lines of credit large enough for "placement into a high yield project." Other investors were told that the minimum amount for the investments returning these high yields (not always called high yield projects) was said to have once been as high as \$100 million, but was then as low as \$100,000. TLG was said to be one of many limited liability companies (LLCs), each of which could collect and pool together a specific amount of money, which would then be pooled with the funds of other LLCs to make up the staggeringly large amount of money needed to invest in this esoteric overseas market. Such an international market or exchange, commonly known as high yield investments or prime bank trades, does not in actuality exist. The investors were all encouraged to obtain money to invest by refinancing the mortgages on their homes and investing the equity realized from refinancing. The investors were told that this refinancing of homes would be painless because TLG would pay the investors' monthly

mortgage payments for twelve months and then pay off the mortgage. At the end of the thirteenth month, the respondents said, TLG would pay the investors the promised return, less monies expended in paying the mortgage.

5. AR1, actually a married couple, were the first Arkansas residents to whom this investment opportunity was pitched by WARREN. Through emails and telephone calls, KENNEDY also pitched the investment. On 7 July 2004 AR1 invested \$34,731.50 after obtaining a refinancing mortgage on the couple's home. About a month later, on 10 August 2004, AR1 invested another \$4,000. WARREN and KENNEDY told AR1 that the return on their investment would be great enough to pay their new, increased mortgage payments and pay the return mentioned in ¶ 4, i.e., a return of the entire investment and then much, much more. WARREN and KENNEDY promised also to pay the new mortgage payments for AR1. Although a few mortgage payments were paid for AR1 by TLG, no other payments of any kind have been made.
6. In May of 2004, AR1 mentioned this investment to AR2, also a married couple. AR2 also refinanced their home and invested the equity they realized from the refinancing loan. On 27 September 2004, AR2 invested \$23,400. Roughly a month later, on 15 October 2004, AR2 invested another \$1,600 in order to make the investment an even \$25,000. They, too, were made the same promises made to AR1, to wit, that the return on their investment would be great enough to pay their new, increased mortgage payments and pay the return mentioned in ¶ 4, i.e., a return of the entire investment and then much, much more. WARREN and KENNEDY promised also to pay the new mortgage payments for AR2. Although some mortgage payments were paid for AR2 by TLG, no other payments of any kind have been

made.

7. AR3, a recently widowed Arkansas resident, heard of this investment from AR1 and AR2. After listening to the sales pitch from WARREN and KENNEDY, AR3 mortgaged her home, which she obtained from her late husband's estate free of all liens, and invested \$100,000 with TLG in October, 2004. WARREN and KENNEDY made the same promises as were made to the others, to wit, that the return on their investment would be great enough to pay her new, increased mortgage payments and pay the return mentioned in ¶ 4, a return of the entire investment and then much, much more. WARREN and KENNEDY promised also to pay the new mortgage payments for AR3. Although some mortgage payments were paid for AR3 by TLG, no other payments of any kind have been made.
8. The monies invested with TLG were used by KENNEDY for normal business operating expenses and for personal expenses, but were not invested so as to yield any return at all, much less the exorbitant returns promised in ¶ 4.
9. A check of the records of the Arkansas Securities Department shows no registrations or proofs of exemptions from registrations filed for any securities issued by TLG.
10. A check of the records of the Arkansas Securities Department shows that none of the respondents has ever been registered with the Arkansas Securities Department in any capacity under the Act, including as an agent of the issuer.

APPLICABLE LAW

11. Ark. Code Ann. § 23-42-102(15)(A)(xi) (Supp. 2005) defines a security in pertinent part as an investment contract.
12. Ark. Code Ann. § 23-42-501 (Repl. 2000) provides that it is unlawful for any person to offer

or sell any security which is not registered or which is not exempt from registration under the terms of the Act

13. Ark. Code Ann. § 23-42-102(9) (Supp. 2005) defines issuer as any person who issues or proposes to issue any security.
14. Ark. Code Ann. § 23-42-102(1)(A) (Supp. 2005) defines agent as, *inter alia*, an individual representing the issuer of securities and effecting or attempting to effect purchases or sales of those securities.
15. Ark. Code Ann. § 23-42-301(a) (Repl. 2000) provides that it is unlawful for any person to transact business in this state as an agent of the issuer unless he is registered under the Act.
16. Ark. Code Ann. § 23-42-507(2) (Repl. 2000) provides that it is unlawful for any person in connection with the offer or sale of any security to make any untrue statement or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which they are made.

CONCLUSIONS OF LAW

17. The investments made by AR1, AR2 and AR3 were investment contracts. Although the particulars of the investment was not fully explained, TLG, KENNEDY and WARREN were clear that KENNEDY had the expertise to run the esoteric business they touted, involving elements of international business, hedge funds and private placements (none of which were defined), and the investors involved herein did not have that expertise. Thus, AR1, AR2 and AR3 were totally dependent on the respondents for the successful operation of the business and the promised return on their investments and, thus, wholly passive investors. Because there was no limit on the number of investors, there could be too many investors for any

individual investors to have any meaningful input into the management of these investments. The investors in TLG would be involved in a common enterprise with the expectation of profits to be produced only from the managerial efforts of others. Therefore, under established legal precedent the investments sold herein were investment contracts, and constituted securities as defined at Ark. Code Ann. § 23-42-102(15)(A)(xi) (Supp. 2005).

18. Because it caused these investment contracts to be drafted and marketed, TLG was the issuer of that security in accordance with Ark. Code Ann. § 23-42-102(9) (Supp. 2005).
19. KENNEDY and WARREN, in offering and selling these investment contracts, which were not registered or exempt from the registration provisions of the Act, sold unregistered and non-exempt securities in violation of Ark. Code Ann. § 23-42-501 (Repl. 2000).
20. KENNEDY and WARREN, in offering and selling these investment contracts, acted as agents of the issuer without being properly registered in violation of Ark. Code Ann. § 23-42-301(a) (Repl. 2000).
21. The statements made by WARREN to AR1 that they would make enough money on the refinancing of their home to 1) pay off the new, higher mortgage, 2) receive their entire investment back and 3) make an even higher amount of money after that, *see* ¶¶ 4 and 5, with no reasonable basis for concluding that such returns were probable or even possible, were false statements made in connection with the sale or offer of a security in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 2000).
22. The statements made by WARREN to AR2 that they would make enough money on the refinancing of their home to 1) pay off the new, higher mortgage, 2) receive their entire investment back and 3) make an even higher amount of money after that, *see* ¶¶ 4 and 6, with

no reasonable basis for concluding that such returns were probable or even possible, were false statements made in connection with the sale or offer of a security in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 2000).

23. The statements made by WARREN to AR3 that she would make enough money on the refinancing of her home to 1) pay off the new, higher mortgage, 2) receive her entire investment back and 3) make an even higher amount of money after that, *see* ¶¶ 4 and 7, with no reasonable basis for concluding that such returns were probable or even possible, were false statements made in connection with the sale or offer of a security in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 2000).

24. Because KENNEDY obtained the funds of the Arkansas residents mentioned herein and simply used them as though they were his and TLG's without investing in anything that would make a return of any kind, *see* ¶ 8, it is reasonable to conclude that he never intended to do anything with those funds but convert them to his own use. Thus, his statements to the investors of how they would make such exorbitant returns, detailed in ¶¶ 4-6, were false statements made in connection with the sale or offer of a security in violation of Ark. Code Ann. § 23-42-507(2) (Repl. 2000).

OPINION

As per the facts and law set forth above, the conclusion is inescapable that the respondents, THE LIBERTY GROUP, LLC, ANTHONY EUGENE KENNEDY and LARRY WARREN have engaged in the sale of unregistered securities in violation of Ark. Code Ann. § 23-42-501 (Repl. 2000), the sale of securities by persons who were unregistered to sell securities as an agent of the issuer in violation of Ark. Code Ann. § 23-42-301 (Repl. 2000) and securities fraud

in contravention of Ark. Code Ann. § 23-42-507(2) (Repl. 2000), and therefore should be ordered to immediately cease and desist all actions in connection with the offer or sale of securities in accordance with Ark. Code Ann. § 23-42-209(a)(1)(A) (Repl. 2000).

ORDER

IT IS THEREFORE ORDERED that THE LIBERTY GROUP, LLC, ANTHONY EUGENE KENNEDY and LARRY WARREN , as well as others whose identities are not yet known who are in positions of control of THE LIBERTY GROUP, LLC, and who are employed by or otherwise affiliated with THE LIBERTY GROUP, LLC, or ANTHONY EUGENE KENNEDY or LARRY WARREN, directly or through other companies, **CEASE AND DESIST** from any further actions in the state of Arkansas in connection with the offer or sale of the securities described above and any other securities.

WITNESS MY HAND AND SEAL this 5th day of February, 2007.



Michael B. Johnson
ARKANSAS SECURITIES COMMISSIONER