

THE ARKANSAS SECURITIES DEPARTMENT

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ARKANSAS SECURITIES DEPT.

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IN THE MATTER OF:

CASE NO S-08-074

JAMES ROBERT CRAWFORD d/b/a  
SAFETY OF SENIORS, INC.

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**REQUEST FOR CEASE AND DESIST ORDER**

The Staff of the Arkansas Securities Department (“Staff”) received information and has in its possession certain evidence that indicates James Robert Crawford, d/b/a Safety of Seniors, Inc., and others unknown to the Staff but connected with this person and business entity have violated provisions of the Arkansas Securities Act (“Act”), Ark. Code Ann. § 23-42-101 through § 23-42-509.

**Administrative Authority**

1. This matter is brought in connection with violations of sections of the Act and is therefore properly before the Arkansas Securities Commissioner (“Commissioner”) in accordance with Ark. Code Ann. § 23-42-209.

**Respondents**

2. James Robert Crawford (“Crawford”) is a licensed insurance agent and a resident of Mountain Home, Arkansas, doing business as Safety of Seniors, Inc. (SOS”). Crawford is the president of SOS. Crawford is not registered with the Arkansas Securities Department (“Department”) in any capacity.

3. Safety of Seniors, Inc. is an Arkansas corporation. SOS is not registered with the Department in any capacity.

### **Facts Supporting Cease and Desist Order**

4. Crawford is not registered with the Department as an investment adviser, or a representative of an investment adviser.

5. Crawford provided investment advice in several letters to an Arkansas resident, AR1.

- i. On or about September 18, 2007, Crawford sent a letter to AR1. In this letter Crawford stated, "I would suggest moving your funds from Ameriprise, where they are vulnerable to Market Conditions and, in poor economic times could result in eventually running out of income." AR1's Ameriprise account was divided between an individual retirement account ("IRA") brokerage account and two separate IRA fund holdings. In the same letter Crawford went on to discuss an alternative investment in an annuity product designed to produce earnings of 6% to 9% with no danger of ever losing money.
- ii. On or about September 25, 2007, Crawford sent another letter to AR1. In this letter Crawford again stated, "You could move your Ameriprise Account .... If my calculations are correct, (the Ameriprise account) is 80% at risk should the Market fail. At your age, you may not be around long enough for the recovery." In the same letter Crawford recommended the purchase of a Balance Plus Annuity (an equity indexed annuity) with funds received from selling the securities in the Ameriprise account.

iii. On or about October 4, 2007, Crawford sent another letter to AR1. In this letter Crawford stated, “Regarding your conversation with your Broker yesterday, I offer several comments: a) He has been doing you no favors by leaving your funds 100% at risk when he is aware that you depend on those funds for living expenses. b) I would be very surprised if there is a \$2,000.00 transfer fee involved, but assuming there is, and he said there would be no fee in sending you a check. c) I would call Ameriprise direct, and request that they immediately send you a check for the full amount of your account.” In the same letter Crawford went on to discuss sending the check to American Investors to purchase an annuity.

In recommending that AR1 sell or liquidate his Ameriprise account containing securities, Crawford was providing investment advice recommending the sale of securities. AR1 followed Crawford’s advice and sold or liquidated his Ameriprise account containing securities. AR1 used the proceeds of said sale to purchase an equity indexed annuity from Crawford.

6. On or about June 21, 2007, Crawford sent a letter to Arkansas residents, AR2. In this letter Crawford stated, “Based on the above information, we as a Team, would like to make the following recommendations... As your IRAs are the last dollars you want to spend, because of tax implications, we would recommend that they be placed in a Balance Plus Annuity. IRAs can be rolled over once a year with no tax consequences...as they stand, they are vulnerable to Market and/or Creditor Losses, in addition to no protection in case of a Nursing Home.” At the time Crawford sent this

letter to AR2, AR2 had two separate IRAs that were invested in securities. In recommending that AR2 sell or liquidate their IRA accounts containing securities, Crawford was providing investment advice recommending the sale of securities. AR2 followed Crawford's advice and sold or liquidated their IRAs containing securities. AR2 used the proceeds of said sale to purchase two equity indexed annuities from Crawford.

7. On or about April 30, 2007, Crawford sent a letter to Arkansas residents, AR3. In this letter Crawford stated, "We would suggest that you retain your GM Stock and your Bank Stock, as, although they are not protected, they are solid investments. Regarding your non-qualified funds with Smith Barney and Charles Schwab, we are suggesting that you combine them with Washington National, which would give you a 10% Bonus, vesting immediately, making you a quick \$3,500.00.... Regarding (AR3's) IRA, I would suggest the AmeriMark Freedom (annuity), using a combination of 3 Strategies.... I would suggest the same with (AR3's other) IRAs..." Both AR3's Smith Barney and Charles Schwab accounts contained stock holdings. In recommending that AR3 sell their Smith Barney and Charles Schwab accounts containing securities, Crawford was providing investment advice recommending the sale of securities. AR3 followed Crawford's advice and sold or liquidated their Smith Barney and Charles Schwab accounts containing securities. AR3 used the proceeds of said sales to purchase two equity indexed annuities from Crawford.

8. On or about December 19, 2007, Crawford made hand written notes concerning his investment advice to Arkansas residents, AR4. Crawford's notes state, "Recommendation- Call local Broker from here (2<sup>nd</sup> line); Uncomfortable with Market- Move to cash- Money Mkt acct; Want present cost basis of 'Equities' & estimate of

commissions & fees to do.” A memorandum on SOS letterhead dated December 19, 2007, and located in AR4’s file states, “Phone call to Local Rep, AGE ‘Uncomfortable with Market’; might want to transfer funds to my Cash –Money Market Account; in order to make that decision, I need from you: The present ‘Cost Basis of my Equities’. An estimate of commissions and fees to do that. Will I continue to be charged A Quarterly (monthly?) Fee?” Crawford was providing investment advice recommending the sale or liquidation of AR4’s AG Edwards brokerage accounts in order purchase an equity indexed annuity. Further, Crawford facilitated this sale of securities by drafting a script for AR4 to use during their telephone conversation with their broker. In addition, it appears Crawford arranged for AR4 to call their broker on a telephone located at Crawford’s office. AR4 followed Crawford’s advice and sold or liquidated their AG Edwards accounts containing securities. AR4 used the proceeds of said sale to purchase an equity indexed annuity from Crawford.

9. AR1 through AR4 followed Crawford’s investment advice as detailed in paragraphs five through eight. AR1 through AR4 sold or liquidated their securities in order to purchase various equity indexed annuity products from Crawford. While Crawford not directly charge a fee to AR1 through AR4 for any of the investment advice detailed in paragraphs five through eight, Crawford and SOS did receive sales commissions for the sale of annuity products to AR1 through AR4. Therefore, Crawford and SOS did receive indirect payments of compensation for the investment advice provided to AR1 through AR4 as detailed in paragraphs five through eight.

10. Crawford d/b/a SOS omitted and failed to disclose to AR1 through AR4 that neither he nor SOS was properly registered with the Department as an investment adviser

or a registered representative of an investment adviser in Arkansas. Registration with the Department assures a client that the person providing investment recommendations or advice has the proper training to make or provide suitable investment recommendations and advice. The result of Crawford's and SOS's omission concerning his and its lack of registration with the Department likely caused reasonable persons, like AR1 through AR4, to be left with the impression or understanding that Crawford and/or SOS were properly registered with the Department, with the assurance of proper training resulting from such registration, to make suitable investment recommendations and give suitable advice. Without this false impression or understanding of Crawford's and SOS's registration status and training, it is unlikely that reasonable persons, like AR1 through AR4, would have followed Crawford's investment recommendations or advice.

#### **Applicable Law**

11. Ark. Code Ann. § 23-42-102(8) defines an investment adviser as any person who, for compensation, engages in the business of advising others as to the advisability of investing in, purchasing or selling securities.

12. Ark. Code Ann. § 23-42-301(c) prohibits as unlawful the transaction of business as an investment adviser or representative by any person who is not first registered with the Arkansas Securities Department as such.

13. Ark. Code Ann. § 23-42-307(a)(3) provides that it is unlawful for any person who receives any consideration, directly or indirectly, from another person for advising the other person as to the value of securities or their purchase or sale, to make any untrue statement or omit to state a material fact necessary in order to make the statements made not misleading in the light of the circumstances under which it was made.

14. Ark. Code Ann. § 23-42-507(2) states that it is unlawful for any person, in connection with the sale of any security, to directly or indirectly, omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it was made, not misleading.

### **Conclusions of Law**

15. All of the investment advice provided by Crawford d/b/a SOS to AR1 through AR4 as detailed in paragraphs five through eight involved the selling of securities.

16. Sales commissions received by Crawford d/b/a SOS for the sales of annuity investments to AR1 through AR4 constituted compensation as contemplated by Ark. Code Ann. § 23-42-102(8).

17. All of the investment advice provided by Crawford d/b/a SOS to AR1 through AR4 as detailed in paragraphs five through eight constituted engaging in the business of advising others as to the advisability of selling securities as defined in Ark. Code Ann. § 23-42-102(8).

18. Crawford d/b/a SOS violated Ark. Code Ann. § 23-42-301(c) by transacting business in Arkansas as an investment adviser without first being registered with the Department.

19. The failure of Crawford d/b/a SOS to disclose to AR1 through AR4 that neither he nor SOS was properly registered with the Department as an investment adviser or a registered representative of an investment adviser in Arkansas was the omission of a material fact in violation of Ark. Code Ann. § 23-42-307(a)(3) and § 23-42-507(2).

20. The conduct, acts, and practices of Crawford d/b/a SOS threaten immediate and irreparable public harm. A cease and desist order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-42-209.

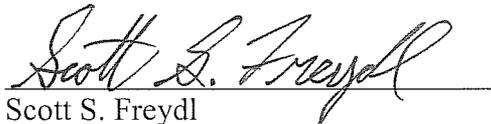
**Legal Authority to Issue Cease and Desist Order**

21. Whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory to the Commissioner, that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule or order under the Act, the Commissioner may summarily order the person to cease and desist from the act or practice. Ark. Code Ann. § 23-42-209.

**Prayer for Relief**

**WHEREFORE**, the Staff respectfully requests that the Commissioner order James Robert Crawford, d/b/a Safety of Seniors, Inc. and others unknown to the Staff but connected with this person and business entity to immediately CEASE AND DESIST from providing investment advisory services and/or acting as an investment adviser in Arkansas until he and it are properly registered under the Arkansas Securities Act with the Department; and, for all other relief to which the Department may be entitled.

Respectfully submitted,



Scott S. Freydl  
Staff Attorney  
Arkansas Securities Department

3/12/09

Date