

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF
DAWN TAYLOR POWELL and
POWELL & DREES, INC.

Case No. S-08-029

REQUEST FOR 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 Dawn Taylor Powell and Powell & Drees, Inc., violated provisions of the Arkansas Securities Act (the Act), codified at Ark. Code Ann. §§ 23-42-101, *et seq.* (Repl. 2000).

ADMINISTRATIVE AUTHORITY

1. This matter is brought in connection with violations of sections of the Arkansas Securities Act, §§ 23-42-101, *et seq.* (Repl. 2000) (Act), and is therefore properly before the Arkansas Securities Commissioner (Commissioner) in accordance with Ark. Code Ann. § 23-42-209 (Repl. 2000).

RESPONDENTS

2. Dawn Taylor Powell is a licensed insurance agent and a resident of Maumelle, Arkansas.
3. Powell & Drees, Inc. (P&D), is an Arkansas for profit corporation formed as Powell Matlock Drees, Inc. on May 31, 2007. A name change was registered with the Arkansas Secretary of State on June 27, 2008 to the present name. It is registered with the Arkansas Insurance Department as an agency connected to Powell. Powell does business using the P&D name Its address is 10825 Financial Centre Parkway, Suite 131, Little Rock,

Arkansas 72211. For purposes of this order, P&D will refer to both names.

FACTS SUPPORTING CEASE AND DESIST ORDER

4. P&D was at all times discussed herein engaged in selling insurance products to the general public, relying heavily on free lunch and dinner seminars it hosted several times weekly.
5. AR1 and AR2 are a retired couple who attended a P&D free dinner seminar in August, 2007. After the dinner, they each went to Powell's office for individual appointments. At these appointments Powell learned the extent of AR1 and AR2's assets and financial condition.
 - a. Among AR2's assets were an Ameritrade account containing securities worth approximately \$7,000 and an RMK Morgan Keegan account containing securities worth approximately \$33,000. On August 29, 2007, Powell recommended that AR2 purchase an equity indexed annuity (EIA) for approximately \$52,000, funding the purchase by liquidating the Ameritrade account, the RMK Morgan Keegan account and a variable annuity AR2 owned. Powell filled out forms for AR2's signature entitled "Authorization to Transfer Funds," which ordered the securities in the Ameritrade and RMK Morgan Keegan accounts liquidated and the funds sent to the insurance company issuing the EIA. The liquidation of the securities accounts was accomplished and the purchase of the EIA was completed, the annuity being delivered to AR2 on October 16, 2007. Powell received a commission for the sale of the EIA.
 - b. Among AR1's assets were an Ameritrade account containing securities worth

approximately \$6,000 and a DWS Scudder account containing securities worth approximately \$10,000. On August 29, 2007, Powell recommended that AR1 purchase an EIA for approximately \$28,000, funding the purchase by liquidating the Ameritrade account, the DWS Scudder account and a variable annuity AR1 owned. Powell filled out forms for AR1's signature entitled "Authorization to Transfer Funds," which ordered the securities in the Ameritrade and DWS Scudder accounts liquidated and the funds sent to the insurance company issuing the EIA. The liquidation of these securities accounts was accomplished and the purchase of the EIA was completed, the annuity being delivered to AR1 on October 16, 2007. Powell received a commission for the sale of the EIA.

- c. Among other assets owned by AR1 were two Ameritrade accounts, one an IRA holding WalMart stock and the other a non-IRA account holding other securities.

Powell recommended that AR1 hold these accounts and not liquidate them.

- 6. AR3 is a retired person who attended a P&D free dinner seminar. After the dinner, AR3 went to P&D's office for individual appointments with Powell, at which Powell learned of AR3's assets and financial condition. Among AR3's assets was a Sterne Agee account holding securities worth approximately \$105,000. On November 20, 2007, Powell recommended that AR3 purchase an EIA for approximately \$100,000, funding the purchase by liquidating the Sterne Agee account. Powell filled out forms for AR3's signature entitled "Authorization to Transfer Funds," which ordered the securities in the Sterne Agee account liquidated and the funds sent to the insurance company issuing the EIA. The liquidation of the securities account was accomplished and the purchase of the

EIA was completed, the annuity being delivered to AR1 on January 11, 2008. Powell received a commission for the sale of the EIA.

7. AR4 is a retired person who attended a P&D free dinner seminar. After the dinner, AR4 went to P&D's office for individual appointments with Powell, at which Powell learned of AR4's assets and financial condition. Among AR4's assets was an Edward Jones account holding securities worth approximately \$40,000. On September 7, 2007, Powell recommended that AR4 purchase an EIA for approximately \$55,000, partially funding the purchase by liquidating the Edward Jones account. Powell filled out an application for the EIA and a transfer form, which ordered the securities in the Edward Jones account liquidated and the funds sent to the insurance company issuing the EIA. The liquidation of the securities account was accomplished and the purchase of the EIA was completed, the annuity being delivered to AR4 on October 17, 2007. Powell received a commission for the sale of the EIA.
8. AR5 and AR6 are an Arkansas couple who attended a P&D free lunch or dinner seminar in October, 2007. AR5 is retired and disabled, but AR6 is still working and hoping to retire in the foreseeable future. After the seminar, they each went to Powell's office for individual appointments. At these appointments Powell learned the extent of AR5 and AR6's assets and financial condition.
 - a. Among AR5's assets was a BlackRock account containing securities worth approximately \$18,000. On December 17, 2007, Powell recommended that AR5 purchase an EIA for approximately \$18,000, funding the purchase by liquidating the BlackRock account. Powell filled out forms for AR2's signature entitled

“Authorization to Transfer Funds,” which ordered the securities in the BlackRock account liquidated and the funds sent to the insurance company issuing the EIA. The liquidation of the securities account was accomplished and the purchase of the EIA was completed, the annuity being delivered to AR5 on January 29, 2008. Powell received a commission for the sale of the EIA.

- b. Among AR6's assets was a BlackRock account containing securities worth approximately \$25,000. On December 17, 2007, Powell recommended that AR5 purchase an EIA for approximately \$105,000, funding the purchase by liquidating the BlackRock account and a variable annuity AR6 owned. Powell filled out forms for AR6's signature entitled “Authorization to Transfer Funds,” which ordered the securities in the BlackRock account liquidated and the funds sent to the insurance company issuing the EIA. The liquidation of the securities account was accomplished and the purchase of the EIA was completed, the annuity being delivered to AR6 on January 29, 2008. Powell received a commission for the sale of the EIA.

9. Neither P&D, nor Powell is or was at any time discussed herein registered in any capacity with the Arkansas Securities Department (Department) in accordance with the Act.

APPLICABLE LAW

10. Ark. Code Ann. § 23-42-102(8) (Repl. 2000) defines investment adviser as any person who, for compensation, engages in the business of advising others, directly or indirectly, of, among other things, the value of securities or the advisability of selling securities.
11. Ark. Code Ann. § 23-42-301(c) (Repl. 2000) provides that it is unlawful for any person to

transact business in this state as an investment adviser without first being registered as such, unless such person is registered as an investment adviser or agent of an investment adviser registered with the United States Securities and Exchange Commission or is exempt from registration under the Investment Advisers Act of 1940.

VIOLATIONS OF LAW

12. The facts set out in ¶¶ 1 - 9 show that Powell, acting as an agent of P&D, acted as an unregistered investment adviser in violation of Ark. Code Ann. § 23-42-301(c) (Repl.2000). When she recommended that AR1, AR2, AR3, AR4, AR5 and AR6 liquidate securities and invest the proceeds in an EIA, she was recommending the sale of securities in return for a fee, specifically the fee she anticipated receiving from the sale of the EIA. Further, the facts set out in ¶¶ 1 - 9 show that Powell was engaging in the business of advising others as to the advisability of selling securities, regardless of whether she was recommending liquidating securities in order to buy EIAs or recommending that a security not be sold, as in the case of AR1, recounted in ¶5.c, which is also a violation of Ark. Code Ann. § 23-42-301(c) (Repl. 2000).

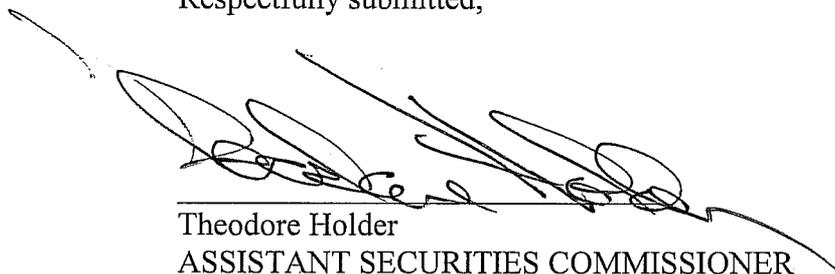
LEGAL AUTHORITY TO ISSUE CEASE AND DESIST ORDER

13. Ark. Code Ann. § 23-42-209(a)(1)(A) (Repl. 2000) provides that whenever it appears 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, he may summarily order the person to cease and desist from the act or practice.

WHEREFORE, the Staff respectfully requests that the Commissioner summarily issue a

cease and desist order against Dawn Taylor Powell and Powell & Drees, Inc., ordering them to
cease and desist from any further actions in the state of Arkansas in connection with the business
of an investment adviser or the offer or sale of securities until such time as are properly
registered or shown to be exempt from registration pursuant to the Arkansas Securities Act.

Respectfully submitted,



Theodore Holder
ASSISTANT SECURITIES COMMISSIONER

Attorney for the Staff
Arkansas Securities Department