

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES

In the Matter of:

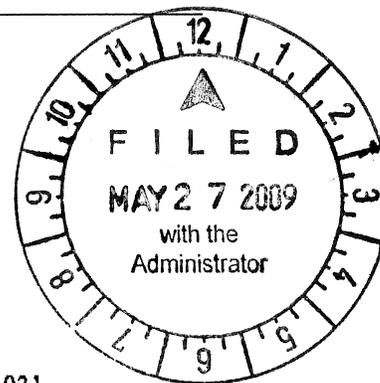
Governmental Finance of Oklahoma, Inc.
(CRD No. 126457)

And

Marshall Hawkins
(CRD No. 869148),

Respondents.

File No. ODS 09-031



ANSWER

Respondents Governmental Finance of Oklahoma, Inc. ("GFOI") and Marshall Hawkins ("Hawkins") answer the "Enforcement Division Recommendation" ("the Recommendation"), filed March 11, 2009, as follows:

RESPONSES TO ALLEGED FINDINGS OF FACT

1. Admitted. However, GFOI states that it registered only after the Oklahoma Department of Securities ("the Department") disagreed with GFOI's position that it was not an investment adviser within the meaning of the Oklahoma Securities Act and informed GFOI that, unless it registered, it would face adverse action by the Department.

2. Admitted.

3. Admitted. However, Hawkins states that he registered only after the Department disagreed with his position that he was not an investment adviser representative within the meaning of the Oklahoma Securities Act and informed him that, unless he registered, he would face adverse action by the Department.

4. Denied.

5. Denies that there were violations, but admits that it compromised with the Department, under threat of adverse action by the Department, to the terms of the compromise set out in paragraph 5 of the Recommendation.

6. Admitted.

7. Admitted.

8. Admitted.

9. Denied.

10. Denied.

11. Denied.

12. The first sentence is denied. With respect to the second sentence, Respondents admit that the Department apparently intended to send a letter, dated November 18, 2008, to GFOI requesting additional information. However, GFOI states that it received the letter sometime subsequent to March 23, 2009, after the Department initiated this proceeding. Notably, the letter is internally inconsistent, because the lead-in to its four bullet points states that the requested materials were required to be provided before the registration would be effective, but the first bullet point, which also affects the third bullet point, inconsistently states that certain of the information required in that bullet point was to be submitted within 30 days after the effective date of registration. With respect to the second bullet point, GFOI has provided the Department with copies of contracts it uses with Oklahoma entities. GFOI states that such contracts do not involve services which constitute its acting as an investment adviser. GFOI denies the third sentence of paragraph 12 and states that the Investment Adviser Registration Depository ("IARD") website stated that the online form completed by GFOI met

the completeness check. Moreover, until March 23, 2009, when GFOI received notice of this proceeding, it reasonably believed it had taken all necessary steps to register.

13. Denied.

RESPONSE TO ALLEGED "AUTHORITIES"

1. Admits that the "Authorities" quoted in paragraphs 1-4 are accurate excerpts from the Oklahoma Securities Act.

RESPONSES TO ALLEGED CONCLUSIONS OF LAW

1. Denied.
2. Denied.
3. Denied.
4. Denied.
5. Denied.

AFFIRMATIVE DEFENSES

1. At all times, Respondents have acted reasonably and in good faith, including GFOI's efforts to complete the online form at the IARD website, but, due to difficulties beyond its control, GFOI was delayed in completing the form.

2. Alternatively, Respondents should be treated as being excused from registration, due to the problems encountered with the IARD on-line form, which problems were beyond the control of Respondents.

3. On March 8, 2006, GFOI substantially complied with the registration requirements by transmitting \$300.00 via wire transfer to the IARD and by using its best efforts to complete the online form at the IARD website. This unsuccessful effort, caused by problems beyond the control of GFOI, and, instead, caused by IARD, as the Department's agent, should be

treated as resulting in constructive registration, effective March 8, 2006 and continuing to the present.

4. The Agreement, dated June 11, 2003, between GFOI and the Department is null and void, because it was entered into as a result of the Department exceeding its authority and GFOI being induced to enter into the contract by misstatements and representations by the Department of the following: (a) that the investment adviser and investment adviser representative provisions of the Oklahoma Securities Act applied to their conduct, (b) the Department had the power to enforce such provisions against them and would do so; and (c) that adverse consequences would flow from a failure to register.

5. Under the applicable facts, circumstances and authorities, there was no basis for the Department to require GFOI to register as an investment adviser and Marshall Hawkins to register as an investment adviser representative. The prior registration of GFOI, as an investment adviser and Hawkins, as an investment adviser representative, were made in reliance upon the Department's wrongful assertion that they were required to register and, if they did not, the Department would initiate adverse action against them. Thus, the fact of the prior registrations creates no estoppel or other bar against them.

6. GFOI was not an investment adviser and Hawkins was not an investment adviser, because their services did not include advising investors with respect to investments. (*See*, especially, 71 O.S. § 1-102(18) "...gives investment advice...provides investment advice... [or] receives compensation for selling investment advice.") Instead, they acted as consultants to various governmental entities which issued bonds, and in such capacity assisted in strategic planning, structuring, financial analysis, drafting documents, advising regarding current bond

market conditions, advising regarding timing, and other tasks. The issuers were not investors, and they received no investment advice from Respondents.

7. During the relevant time period, Hawkins was not employed by or associated with an investment adviser, because GFOI was not an investment adviser, and, alternatively, even if it were one, it would have been premature for Hawkins to register as an investment adviser representative until such time as GFOI's application was accepted. The services in question in this proceeding were rendered by Marshall Hawkins. Since he was not an investment adviser representative within the definition of 71 O.S. § 102(18), it necessarily follows that GFOI was not an investment adviser. In that connection, 71 O.S. § 1-102(17) specifically excludes investment adviser representatives from the definition of investment adviser.

8. Since the Department seeks to impose penalties upon Respondents, the applicable provisions of the Oklahoma Securities Act should be construed in favor of Respondents.



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ATTORNEY FOR RESPONDENTS
GOVERNMENTAL FINANCE OF OKLAHOMA,
INC. AND MARSHALL HAWKINS

CERTIFICATE OF SERVICE

I certify that on May 27, 2009, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to:

Rebecca Cryer, Esq.
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and sent via facsimile to:
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Date Sent: Wednesday, May 27, 2009 11:47:22 AM

TO: Rebecca Cryer

CLIENT:

MATTER:

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TELEPHONE:

FROM: Harry A. Woods, Jr.

FAX NUMBER:

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TOTAL NUMBER OF PAGES SENT, INCLUDING THIS PAGE: **07**

COMMENTS: Ms. Cryer, please see following answer of Respondents Governmental Finance of Oklahoma, Inc. and Marshall Hawkins. The original and a copy has been forwarded via U.S. Mail this date. Thank you.
Terri Bradburry, assistant to Harry A. Woods, Jr.