

**IN THE DISTRICT COURT IN AND
FOR OKLAHOMA COUNTY, OKLAHOMA**

SOUTHEAST INVESTMENTS, N.C. INC.,)
A NORTH CAROLINA CORPORATION; and)
FRANK H. BLACK,)

Plaintiffs/Petitioners,)

vs.)

THE STATE OF OKLAHOMA *ex rel.*)
THE OKLAHOMA SECURITIES COMMISSION)

Defendant.)

**FILED IN DISTRICT COURT
OKLAHOMA COUNTY**

JAN 20 2015

**TIM RHODES
COURT CLERK**

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Case No. _____

CV-2015-86

**PETITION FOR REVIEW OF FINAL ORDER
OF THE OKLAHOMA SECURITIES COMMISSION**

Plaintiffs/Petitioner’s Southeast Investments, N.C. Inc. and Frank H. Black (collectively, “Petitioners” and, individually, “Southeast” and “Black”) petition this Court for review of the Final Order entered by the Oklahoma Securities Commission (the “Commission”) on December 22, 2014 and filed that date (“Commission’s Final Order”). A copy of the Commission’s Final Order is attached hereto and made a part hereof as Exhibit “A.” The argument and authorities set forth in Exhibits D, F and H attached hereto are incorporated in this Petition and made a part hereof for all purposes.

NATURE OF THIS ACTION (SYNOPSIS OF BASES FOR REVIEW)

The Oklahoma Department of Securities (“ODS” or “the Department”) commenced proceedings against Plaintiffs/Petitioners and broker Rodney L. Watkins by its Recommendation of March 26, 2013. That Recommendation erroneously alleged that Watkins had violated a previous ODS order by executing securities orders from Oklahoma for customers in other states.

The facts adduced in the ODS proceedings showed that no such Oklahoma transactions had occurred and that, indeed; the ODS attempt to exercise extraterritorial jurisdiction exceeded its constitutional and statutory powers (and moreover was inconsistent with the putatively-violated order itself). When these constitutional, statutory and factual infirmities became apparent, the ODS, rather than dismissing its *ultra vires* proceedings, filed a “Supplemental Enforcement Division Recommendation” -- leveling entirely new and unrelated charges against Petitioners -- at the eleventh hour (just 8 days before the hearing on the original recommendation). The new charges were unsupported by any Oklahoma statute or regulation, but instead were predicated on putative violations of rules promulgated by the Financial Industry Regulatory Authority (“FINRA”). Yet FINRA itself and the United States Securities and Exchange Commission had audited Southeast numerous times (which audits included on-site inspection, in contrast to the ODS’s “due diligence” consisting of *no* on-site inspection) and had never cited Southeast for any violation of FINRA rules.

On October 10, 2014, the ODS Administrator issued a cease-and-desist order and imposed a \$5,000.00 monetary penalty on Petitioners. The full Commission affirmed on December 22, 2014. The Commission’s Final Order to be reviewed is reversible on multiple grounds specified by 75 O.S. § 322(1), including the grounds (i) that the Commission exceeded its constitutional and statutory authority; (ii) that the Commission committed plain errors of law and; (iii) that the Commission failed to accord Petitioners basic due process. These grounds are more fully detailed at ¶¶ 18-27 hereinbelow.

JURISDICTION OF THE DISTRICT COURT

1. This Court has jurisdiction to review all or part the Commission's Final Order by virtue of 12 O.S. § 1-609(B) and 75 O.S. § 322. More particularly, the former statute requires that appeals from a cease and desist order be taken to this court, but provides that appeals from all other orders of the Commission be taken to the Supreme Court.

2. The Commission's Final Order contains both a cease and desist order and the imposition of a \$5,000.00 monetary penalty. Simultaneously with the filing of this Petition, Petitioners have commenced an appeal of the monetary penalty order to the Supreme Court of Oklahoma.

BACKGROUND FACTS

3. The series of proceedings that culminated in the Commission's Final Order were commenced by the Department on the recommendation of its Enforcement Division on March 29, 2012, styled as follows: *In the Matter of: Rodney Larry Watkins, Jr.* (the "3-29-12 Recommendation"). The 3-29-12 Recommendation recommended a suspension for Watkins based on his actions while he was a broker-dealer agent and an investment advisor representative with Ameriprise Financial Services, Inc. ("AFS"). The original Department file number of "ODS 12-058" was carried forward in all of the subsequent proceedings before the Department's Administrator (the "Administrator").

4. The proceeding initiated by the 3-29-12 Recommendation culminated in an agreement and six-month suspension of Watkins set forth in the Order of August 29, 2012, a copy of which is attached hereto as Exhibit "B" ("8-29-12 Order"). The 8-29-12 Order was

retroactive to November, 2011, meaning that Watkins' suspension actually ended on the date of the 8-29-12 Order.

5. As explained more fully in the paragraphs of this Petition that follow, Watkins, at all times, complied with the 8-29-12 Order.

6. Watkins joined Southeast in the first quarter of 2012, during the period of his retroactive suspension. His association with Southeast as its agent received approval from FINRA on February 14, 2012, from the California Securities Commission on February 27, 2012, from the Kansas Securities Commission on February 28, 2012, and from the Texas Securities Commission on March 8, 2012. Watkins has never been suspended or disciplined by any state regulator other than the ODS.

7. The Department named Southeast and Black as additional Respondents in the "Supplemental Enforcement Division Recommendation" filed in the Commission on March 26, 2013 ("3-26-13 Recommendation"), a copy of which is attached hereto as Exhibit "C." The 3-26-13 Recommendation alleged that Watkins had violated the 8-29-12 Order by executing securities orders from the State of Oklahoma on behalf of customers in Kansas and Texas. The ODS alleged that Southeast and Black, as Southeast's managing director, had violated Oklahoma securities laws by failing to prohibit Watkins from engaging in the securities transactions that *allegedly* violated the 8-29-12 Order. The 3-26-13 Recommendation leveled no allegation that Petitioners had violated any Oklahoma securities law in any other particular.

8. Watkins in fact did not violate the 8-29-12 Order in any respect whatsoever. That order, on its face, confined its operation to activities occurring within the State of Oklahoma. Watkins in fact executed *no* securities orders from the State of Oklahoma and the Department, as the record will reflect, never made any showing whatsoever to the contrary. Both the underlying

statute, 71 O.S. § 1-610, and the United States Constitution preclude the Commission from asserting or exercising regulatory authority over actions that occur in other states of the United States. Watkins at all relevant times was duly licensed in the states where the relevant securities transactions occurred (Texas and Kansas).

9. Petitioners and Watkins delineated the constitutional, statutory and factual barriers -- the factual barrier being that the 8-29-12 Order on its face confined its own effectiveness to the State of Oklahoma -- to the claims advanced in the 3-26-13 Recommendation by their motion and brief filed with the Department on December 2, 2013. A copy of that motion and brief are attached hereto and made a part hereof as Exhibit "D."

10. Whether or not in recognition of the fact that the Department's actions in commencing the 3-26-13 Recommendation were *ultra vires* as a matter of law (such actions were in fact *ultra vires* and untenable as a matter of law), the Department and Watkins settled the issues raised in the 3-26-13 Recommendation on April 30, 2014 by the "Agreement of Rodney Larry Watkins, Jr.," a true and correct copy of which is attached hereto and made a part hereof as Exhibit "E" ("4-30-14 Settlement Agreement") Watkins agreed to a form of "heightened supervision" for a period of time commencing with the agreement date, but his suspension otherwise was lifted. The "heightened supervision" consisted of periodic review of Watkins' activities by an independent consulting firm approved by the Department. The ODS has never made any finding or even allegation that the "heightened supervision" that commenced on April 30, 2014 (i) has not occurred or (ii) has not been adequate and in compliance with the 4-30-14 Settlement Agreement.

11. Since the only allegations ever leveled against Petitioners prior to the execution of the 4-30-14 Settlement Agreement were that Petitioners were vicariously liable for Watkins'

actions, Petitioners rightly assumed that the charges against them would be dismissed by the ODS after April 30, 2014. But on June 20, 2014, the Department attempted to revive the proceedings against Petitioners by filing a *third* recommendation styled "Supplemental Enforcement Division Recommendation" (the "6-20-14 Recommendation"). The very filing of the 6-20-14 Recommendation was a tacit recognition by the Department that a dismissal of the charges against Petitioners would be the necessary upshot of resolving of the charges against Watkins. The eleventh-hour 6-20-14 Recommendation sought (i) a permanent suspension of Southeast and Black in Oklahoma and (ii) a \$65,000.00 monetary penalty. The 6-20-14 Recommendation alleged, for the first time, system-wide failures by Southeast to supervise its agents adequately, where those agents were located, and failure to update Watkins' address information to the Central Registration Depository ("CRD") maintained by FINRA. By the time the 6-20-14 Recommendation had been filed, the Watkins address information had already been updated on the CRD.

12. Petitioners were stunned by the Department's motion, filed June 10, 2014, for leave to file the belated 6-20-14 Recommendation. That filing made allegations that had never been made before that date, a date nearly 15 months after the charges against Petitioners were filed. Petitioners promptly objected to the filing of what amounted to an entirely new case (a) after so much time had elapsed after the commencement of the claims against Petitioners and (b) only eight days before the scheduled hearing on the issues raised in the original recommendation, i.e, the 3-26-13 Recommendation. During this elapsed time, the Department had full discovery access to Southeast documents and witnesses and had in fact long since obtained production of documents from Southeast. A true and copy of the Petitioners' objection is attached hereto and marked Exhibit "F."

13. Over the Petitioners' objection (Ex. F), the 6-20-14 Recommendation was allowed by order of the Administrator less than twenty-four hours after Petitioners' objection was filed with the Administrator and without response from Department counsel.

14. The parties agreed to submit the fact and legal issues to the Administrator on the record of the briefs, documents, affidavits and deposition testimony on file with the Department.

15. On October 10, 2014, the Administrator issued and filed his "Order to Cease and Desist and Imposing Monetary Penalty," a copy of which is attached hereto as Exhibit "G" ("Administrator's 10-10-14 Order"). The Administrator's 10-10-14 Order recommended the cease and desist order against Petitioners and the monetary penalty that is affirmed in the Commission's Final Order.

16. In addition to affirming the Administrator's 10-10-14 Order, the Commission found that "Watkins should have been under heightened supervision" (Commission's Final Order, Finding of Fact No. 15 at p. 3) and concluded that "associating with an agent who should be under heightened supervision requires a higher standard of oversight and supervision by the broker-dealer and its principals." Commission's Final Order, Conclusion of Law No. 1 at p. 3. The record of the proceedings before the Commission reveals, however (a) that Watkins was in fact under heightened supervision prior to the 4-30-14 Settlement Agreement, (b) that neither the Administrator's 10-10-14 Order nor any other finding by the Department states that such heightened supervision was inadequate, (c) that the 4-30-14 Settlement Agreement provided for heightened supervision in the form of review of Watkins' operations by an outside consulting firm approved by the Department (at Watkins' expense) and (d) that the Department has never criticized the adequacy of the post-April 30, 2014 heightened supervision of Watkins' activities.

17. The Administrator's 10-10-14 Order, as affirmed by the Commission's Final Order, flatly rejected the harsh sanctions urged upon the Administrator by the Department in favor of a cease-and-desist order and a fine one-twelfth of that sought by the Department. Nevertheless the Administrator's unwarranted actions that were affirmed by the Commission, if not set aside, will be reported on Petitioners' CRD information and will harm their reputations with potential customers and in the marketplace at large.

**GROUNDS FOR REVERSAL
OF THE COMMISSION'S FINAL ORDER**

A. ORDER AFFECTED BY ERROR OF LAW [75 O.S. § 322(1)(d)]

18. The Commission's Final Order, and the Administrator's 10-10-14 Order that the former order affirms, are affected by error of law. *See* 12 O.S. § 322(1)(d) . Specifically, the finding that "Southeast and Black willfully failed to comply with the Act and with a rule adopted under the Act," is erroneous as a matter of law. The basis for Petitioners' allegation of legal error are set forth in their joint brief filed with the Commission on November 20, 2014 at pages 11 through 14 (statement of dispositive facts); 15 through 16 ("Southeast's delay in reporting address information and the pendency of this proceeding did not violate any statute or regulation"); and 16 through 23 ("Southeast's supervisory procedures do not violate any statute, regulation, or NASD/FINRA rule"). A copy of that brief is attached hereto and made a part hereof as Exhibit "H."

**B. ORDER IN VIOLATION OF CONSTITUTIONAL PROVISIONS
[75 O.S. § 322(1)(a)]**

19. The "cease and desist" ordering paragraphs of the Administrator's 10-10-14 Order (Ex. G hereto at p. 6, numbered paragraphs 1 and 2 and p. 7 under the heading "Order"), which ordering paragraphs are replicated in the Commission's Final Order (Ex. A at p. 4, numbered

paragraphs 2 and 3 and under the heading “Order”) are so general that is nearly impossible to determine what exactly the Commission has ordered Petitioners to “cease and desist” from doing. However, on the face of the two orders, the Commission has purported to order Petitioners to take actions respecting its agents in all states of the United States where Southeast has agents. Such order violates the United States and Oklahoma Constitutions. Hence the Commission’s Final Order must be reversed in accordance with 75 O.S. § 322 (1)(a). *See* discussion in Respondents’ Motion for Summary Disposition, Ex. D hereto, at pp. 4-5 and OKLA. CONST., ART. I § 1 (“the Constitution of the United States is the supreme law of the land”).

20. The allegations of paragraphs 22 through 24 hereinbelow, relating to procedural due process, are incorporated herein and made a part hereof. The facts set forth therein supply additional bases for reversal of the Commission’s Final Order on the grounds of constitutional violation, in addition to the grounds of employment of unlawful procedures by the Department.

C. ORDER IN VIOLATION OF STATUTORY AUTHORITY AND JURISDICTION [75 O.S. § 322(1)(b)]

21. The nationwide “cease and desist” order set forth in the Administrator’s 10-10-14 Order and in the Commission’s Final Order also exceeds the Commission’s statutory authority and hence 75 O.S. § 322 (1)(b) mandates reversal of the Commission’s Final Order. *See* 71 O.S. § 1-610 and the discussion in Ex. D at pp. 6-7.

D. ORDER MADE UPON UNLAWFUL PROCEDURE [75 O.S. § 322(1)(c)]

22. The Administrator’s 10-10-14 Order, as affirmed by the Commission’s Final Order, was made upon unlawful procedure and in particular in violation of the due process clauses of the United States and Oklahoma Constitutions, as more fully explicated hereinbelow. UNITED STATES CONST., Amend. XIV, Sec. 1; OKLA. CONST., Art. II § 7.

23. The facts and procedural history set forth in paragraphs 3 through 17 hereinabove show that:

- (a) The very commencement of these proceedings was arbitrary, punitive and based upon *ultra vires* attempts by the Department to exercise jurisdiction and authority that exceeded its constitutional and statutory authority.
- (b) Rather than acknowledging its error and dismissing these ill-conceived, jurisdictionally-defective proceedings, the Department -- on the eve of trial of the only charges that the Department had then leveled against Southeast and Black -- attempted to snatch victory from the jaws of defeat. The Department took these actions arbitrarily -- without the fundamental fairness due United States citizens who deal with the state and federal governments -- by converting the original proceedings into an attack on Southeast's system-wide, i.e., nationwide, "supervisory procedures." Such procedures in fact violate no Oklahoma statute or regulation and such procedures have repeatedly survived scrutiny from the United States Securities and Exchange Commission and from FINRA. *See* discussion in Ex. H hereto at pp. 16-22.

24. The actions by the Department alleged in this Part D, and the approval of such actions by the Commission in the Commission's Final Order, compel the inference that the continuation of the proceedings before the Commission from and after June 20, 2014 was arbitrary and capricious and hence in contravention of Plaintiff's procedural due process rights.

See Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 163, 71 S. Ct. 624, 95 L. Ed. 817 (1951)(procedural due process requires that an appropriate governmental determination result from a “process of reasoning” and not an “arbitrary fiat contrary to the known facts”).

E. ARBITRARY AND CAPRICIOUS ORDER [75 O.S. § 322(1)(f)]

25. The allegations of paragraphs 23 and 24 hereinabove are incorporated in and made a part of this Part E of the Petitioners’ Grounds for Reversal of the Commission’s Final Order.

26. In the alternative to the grounds asserted in Part D above, the Commission’s Final Order and the actions described in this Petition that culminated in such order were arbitrary and capricious within the meaning of 75 O.S. § 322(1)(f).

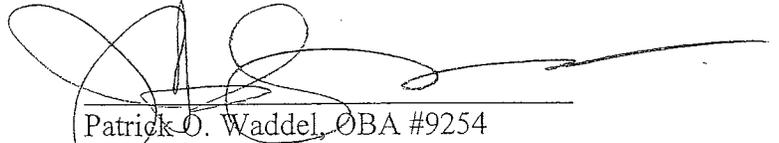
F. CLEARLY ERRONEOUS ORDER IN VIEW OF THE RELIABLE, MATERIAL, PROBATIVE, AND SUBSTANTIAL COMPETENT EVIDENCE [75 O.S. § 322(1)(e)]

27. It is not clear if the Commission’s Fact Finding No. 15 and Legal Conclusion No. 1 (described in paragraph 16 above) contributed to the Commission’s affirmance of the cease and desist order and/or the monetary penalty in the Administrator’s 10-10-14 Order. To the extent that the relief granted against Petitioners was predicated, in whole or in part, upon the Commission’s ruling in Fact Finding No. 15 and Legal Conclusion No. 1, such ruling contravenes the reliable, material, probative, and substantial competent evidence before the Commission, for the reasons set forth in paragraph 16 hereinabove.

REQUEST FOR RELIEF

WHEREFORE, Petitioners pray:

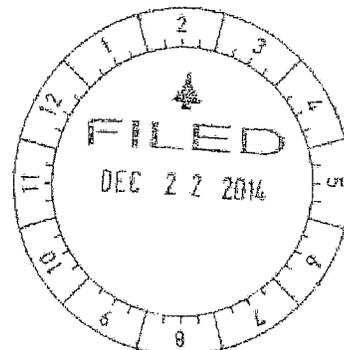
- (A) that the Commission's Final Order, in accordance with 75 O.S. § 322(1), be set aside or, in the alternative, that such order be modified appropriately or, in the further alternative, that such order be reversed and remanded to the Commission with appropriate directives to correct the order in accordance with this Court's instructions; and
- (B) for such other and further relief as may be appropriate.



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Investments, N.C. Inc.*

STATE OF OKLAHOMA
OKLAHOMA SECURITIES COMMISSION
THE FIRST NATIONAL CENTER
120 NORTH ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



IN THE MATTER OF:

SOUTHEAST INVESTMENTS, N.C. INC. and
FRANK H. BLACK,

Appellants,

v.

OSC 15-001

OKLAHOMA DEPARTMENT OF SECURITIES
ex rel. IRVING L. FAUGHT, ADMINISTRATOR,

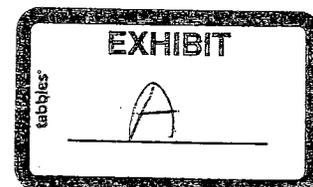
Appellee.

COMMISSION'S FINAL ORDER

On March 26, 2013, the Enforcement Division of the Oklahoma Department of Securities (Department) filed a recommendation under the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), alleging that Rodney Larry Watkins, Jr. (Watkins) violated a previous order of the Administrator of the Department (Administrator) by transacting business in and/or from the state of Oklahoma as an agent without the benefit of registration under the Act and that Frank H. Black (Black) and Southeast Investments, N.C. Inc. (Southeast) failed to supervise Watkins in violation of 660:11-5-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1 (2013 Recommendation).

On June 20, 2014, the Department supplemented its 2013 Recommendation to allege that Southeast failed to establish, maintain and enforce written procedures that enable Southeast to properly supervise the activities of Southeast's registered agents and associated persons to assure compliance with applicable securities laws, rules, and regulations.

On October 10, 2014, the Administrator issued a final order against Southeast and Black (Administrator's Order). The Administrator ordered Southeast and Black to cease and desist from violations of the Act, to wit: failing to establish, maintain and/or enforce supervisory procedures to enable Southeast to assure compliance with applicable



securities laws. The Administrator further ordered Southeast and Black to pay a monetary penalty in the amount of \$5,000 to the Department within ninety (90) days of the date of the Administrator's Order.

On October 24, 2014, Southeast and Black (collectively, the "Appellants") filed a petition for review by the Oklahoma Securities Commission (Commission) of the Administrator's Order pursuant to Section 1-609 of the Act and 660:1-5-1 of the Rules (Petition). On November 20, 2014, Appellants filed their brief in support of their petition and requested oral argument before the Commission. The Administrator filed his brief on December 5, 2014. With proper notice having been given, the Commission heard oral argument by Appellants and the Administrator commencing at 10:00 a.m. on December 18, 2014.

After reviewing the Petition, the record on which the Administrator's Order was issued, and the written briefs submitted by the Appellants and the Administrator, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Southeast became registered under the Act as a broker-dealer on May 8, 2009, and has been a member of the Financial Industry Regulation Authority (FINRA) since July 1, 1997.
2. Black, a South Carolina resident, is the owner and control person of Southeast. In addition to these duties, Black is Southeast's Chief Compliance Officer, Financial and Operations Principal, and "Designated Supervisory Principal" (the title used to designate particular authority and responsibilities in Southeast's written supervisory procedures dated August 2013 (WSPs)). Black is not and has not been registered under the Act in any capacity.
3. Watkins was first registered as an agent under the Act in December 1998. From March 2009 until October 2011, Watkins was registered as an agent of Ameriprise Financial Services, Inc. (AFS). Watkins was allowed to resign as a result of an internal AFS investigation. AFS filed a Uniform Termination Notice for Securities Industry Registration (Form U-5) with the Central Registration Depository (CRD) stating that Watkins had violated the firm's policies relating to "discretionary power; unacceptable activities/transactions; pre-signed forms and applications; forgery, signature stamps and other signature issues; [and] annuity overview." Watkins became an agent of Southeast in February of 2012 and designated an address in Tulsa, Oklahoma, as his business address.
4. Southeast's principal place of business located in Charlotte, North Carolina, is designated as Watkins' office of supervisory jurisdiction.
5. Black is responsible for directly supervising all of Southeast's approximately one hundred and forty-five (145) agents as well as its associated persons from Southeast's principal place of business.

6. The Southeast agents are geographically dispersed throughout the United States, mostly in one or two-agent offices. Many of the agents are held out to be independent contractors who conduct outside business activities.

7. For purposes of supervision, Southeast does not maintain a system of branch offices or regional offices of supervisory jurisdiction, but instead relies entirely on Black, individually, to supervise all agents other than himself.

8. The WSPs provide that Southeast and Black must report to CRD any disclosable event, including administrative actions, within ten (10) days of the event.

9. Southeast and Black did not timely report the proceeding on the 2013 Recommendation on CRD with regards to Watkins.

10. When Southeast and Black did report the 2013 Recommendation, the filing was inaccurate as to the date, the basis and the conditions of the action.

11. In June 2013, Watkins directed Southeast to update his business and residential addresses on CRD. Neither Southeast nor Black updated Watkins' business and residential addresses until November 2013, leaving Watkins' CRD profile inaccurate during this period.

12. The WSPs provide that Southeast's agents shall complete order tickets and submit them to Black for approval.

13. Contrary to the WSPs, Southeast's agents do not complete order tickets, but instead call in orders over the phone to one or more of Southeast's employees in the firm's Charlotte, North Carolina office.

14. The WSPs provide that Southeast will conduct annual compliance interviews with each of its agents and maintain a record of all interviews. Appellants have not submitted any record of compliance interviews with Watkins and Lamar Guillory, a Southeast agent located in Oklahoma, even though there were two separate discovery requests for such records.

15. Watkins should have been under heightened supervision during the period in which Southeast and Black failed to enforce the WSPs as to: (a) the timely update of business and residential addresses on CRD; (b) the timely and accurate disclosure of administrative actions on CRD; (c) the completion of order tickets; and (d) the annual compliance interviews.

CONCLUSIONS OF LAW

1. Associating with an agent who should be under heightened supervision requires a higher standard of oversight and supervision by the broker-dealer and its principals.

2. Southeast failed to establish, maintain and/or enforce supervisory procedures to enable the firm to assure compliance with applicable securities laws in violation of 660:11-5-42(b)(22) of the Rules.

3. Black failed to enforce supervisory procedures to assure compliance with applicable securities laws in violation of 660:11-5-42(b)(22) of the Rules.

4. Southeast and Black failed to promptly file a correcting amendment of Watkins' change of address and the filing of the 2013 Recommendation on March 26, 2013.

5. Southeast and Black willfully failed to comply with the Act and with a rule adopted under the Act. Such conduct constitutes dishonest and unethical practices in the securities business.

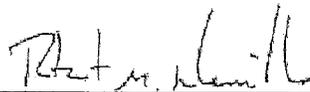
6. It is proper, just and equitable that Southeast and Black be required to take the necessary steps to come into compliance with the Act and Rules.

7. It is proper, just and equitable that a civil penalty be imposed against Southeast and Black.

ORDER

IT IS HEREBY ORDERED under Section 1-609 of the Act that Southeast and Black cease and desist from their violations of failing to establish, maintain and/or enforce supervisory procedures to enable the firm to assure compliance with applicable securities laws, and that Southeast and Black jointly pay a monetary penalty in the amount of \$5,000 to the Department, by cashier's check or money order within ninety (90) days of the date of the Administrator's Order.

WITNESS My Hand and the Official Seal of the Oklahoma Securities Commission this 22nd day of December, 2014.



Robert M. Neville, Chairperson
Oklahoma Securities Commission

CERTIFICATE OF SERVICE

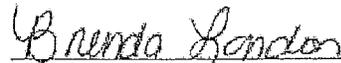
The undersigned hereby certifies that on the 22nd day of December, 2014, true and correct copies of the above and foregoing *Commission's Final Order* were sent in the following manner to the specified individuals:

By electronic mail, and by mail with postage prepaid thereon, to:

Patrick O. Waddel, OBA #9254
J. David Jorgenson, OBA #4839
1700 Williams Center Tower
One W. 3rd St.
Tulsa OK 74103-3522
pwaddel@sneedlang.com
Attorneys for Appellants

By electronic mail to:

Irving L. Faught, Administrator
Oklahoma Department of Securities
120 North Robinson, Suite. 860
Oklahoma City OK 73102
ifaught@securities.ok.gov


Brenda London

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936),

Respondent.

ODS File No. 12-058

ORDER

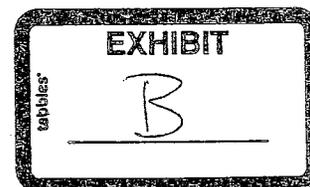
Pursuant to Section 1-602 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), and 660:11-5-43 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules") (effective July 1, 2007), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1, the Oklahoma Department of Securities (Department) conducted an investigation of certain activities of Rodney Larry Watkins, Jr. (Watkins) in connection with the offer and/or sale of securities in and/or from Oklahoma. Based thereon, an *Enforcement Division Recommendation* (Recommendation) was filed with the Administrator on March 29, 2012. The Recommendation is incorporated herein by reference. *Respondent's Response to the Enforcement Division Recommendation* was filed on May 15, 2012.

In order to resolve this matter, Respondent voluntarily entered into the Agreement attached hereto as "Exhibit A" and incorporated herein by reference ("Agreement").

This Order is issued pursuant to Section 1-411 of the Act, 660:2-5-3 of the Rules, and Item 2 of the Agreement. For purposes of this Order, the Administrator adopts the following findings and/or conclusions: (1) through his execution of the Agreement, Respondent consented to the entry of this Order; (2) the issuance of this Order is in the public interest and for the protection of investors and is consistent with the purposes intended by the Act; and (3) the Administrator is authorized by law to issue this Order.

NOW THEREFORE IT IS HEREBY ORDERED that the Agreement is approved, effective and binding on all parties to such Agreement.

IT IS FURTHER ORDERED that Respondent shall not offer and/or sell any security as defined by Section 1-102 of the Act in and/or from the state of Oklahoma for a period of nine months. Such period shall retroactively begin on November 25, 2011, and end on August 26, 2012. This bar would apply to the transaction of business on or



before August 26, 2012, in and/or from the state as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, and/or investment adviser representative, as such terms are defined in Section 1-102 of the Act.

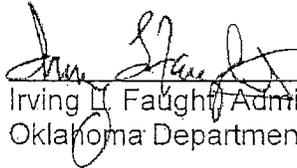
IT IS FURTHER ORDERED that Respondent shall pay a monetary penalty in the amount of \$2,500 to the Department, by cashier's check or money order, that shall be due and payable prior to or contemporaneously with his registration under the Act as a broker-dealer, broker-dealer agent, issuer agent, investment adviser and/or investment adviser representative.

IT IS FURTHER ORDERED that, for a period of three years from the date hereof, any registration by Respondent under the Act, or a successor act, shall be conditioned on a Department approved heightened supervision plan relating to Respondent presented by his affiliated broker-dealer and/or investment adviser. The heightened supervision plan shall include, but not be limited to, daily, on-site supervision of Respondent.

IT IS FURTHER ORDERED that Respondent shall at all times comply with all provisions of the Act and Rules, and successors of the Act and Rules, in connection with offers and/or sales of securities in and/or from the state of Oklahoma.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities on this 29th day of August, 2012.

(SEAL)



Irving L. Faught, Administrator of the
Oklahoma Department of Securities

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936),

Respondent.

ODS File No. 12-058

AGREEMENT

THIS AGREEMENT is entered into between Rodney Larry Watkins, Jr. ("Respondent") and the Administrator ("Administrator") of the Oklahoma Department of Securities ("Department") as of the Effective Date set forth below.

Pursuant to Section 1-602 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), and 660:11-5-43 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules") (effective July 1, 2007), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1, the Oklahoma Department of Securities (Department) conducted an investigation of certain activities of Rodney Larry Watkins, Jr. (Watkins) in connection with the offer and/or sale of securities in and/or from Oklahoma. Based thereon, an *Enforcement Division Recommendation* (Recommendation) was filed with the Administrator on March 29, 2012. *Respondent's Response to Enforcement Division Recommendation* was filed on May 15, 2012.

Respondent desires to settle this matter expeditiously without the adjudication of any issue of law or fact and in a manner consistent with the purposes fairly intended by the policies and provisions of the Act.

Respondent represents that he has not offered or sold a security or transacted business in and/or from the state as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, and/or investment adviser representative, as such terms are defined in Section 1-102 of the Act, since November 25, 2011.

The undersigned parties hereto agree as follows:

1. **Jurisdiction.** The Administrator has jurisdiction over Respondent and the subject matter of this action.

2. **Order.** The Administrator shall issue the order relating to Respondent in the form attached hereto as "Attachment A" (the "Order").

3. **Failure to Comply.** Should Respondent fail to comply with the terms of this Agreement and/or the Order in any material respect or if Respondent has made any false or misleading statements to the Department in connection with this matter, the Department may initiate an action against Respondent as authorized by the Act.

4. **Waiver.** Respondent waives his right to a hearing as provided by the Act, the Rules, and the Oklahoma Administrative Procedures Act, and any right to appeal.

5. **No Coercion.** Respondent enters into this Agreement voluntarily and without any duress, undue influence or coercion by the Administrator, any employee of the Department, or any member of the Oklahoma Securities Commission.

6. **Limitation on the Agreement.** Nothing in this Agreement shall prohibit the Administrator from furnishing information to any other properly constituted agency or authority. In the event any other agency or authority commences an action in connection with information obtained by the Administrator against Respondent, the Administrator may assist in such action as authorized by law.

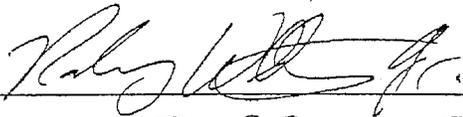
7. **Entire Agreement.** This writing constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all prior contemporaneous agreements, representations and understanding of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by each of the parties hereto.

8. **Effective Date.** This Agreement shall be in effect as of the date on which it is signed by the Administrator as set forth below his signature hereto.

9. **Applicability.** This Agreement applies only to the alleged activities of Respondent as set forth in the Recommendation, and to no others.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year set forth below their signatures hereto.

RODNEY LARRY WATKINS, JR.



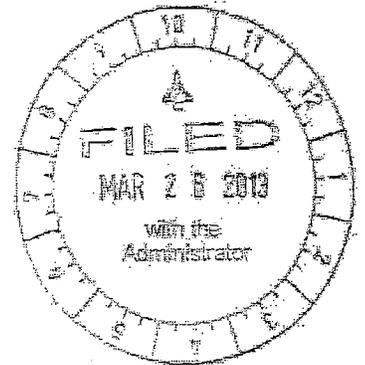
Date: 8-22-12

OKLAHOMA DEPARTMENT OF SECURITIES

By: 

Date: August 29, 2012

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

Respondents.

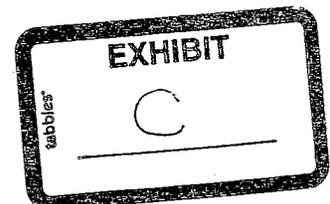
ODS File No. 12-058

ENFORCEMENT DIVISION RECOMMENDATION

Pursuant to Section 1-602 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), and 660:11-5-43 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules"), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1, the Oklahoma Department of Securities (Department) conducted an investigation into certain activities of Rodney Larry Watkins, Jr. (Watkins), Southeast Investments, N.C. Inc. (Southeast), and Frank H. Black (Black) (collectively "Respondents") in connection with the offer and/or sale of securities in and/or from Oklahoma. Based thereon, the Enforcement Division of the Department submits the following Findings of Fact, Authorities, and Conclusions of Law to the Administrator of the Department (Administrator) in support of sanctions against Respondents.

Findings of Fact

1. Watkins is a resident of Tulsa, Oklahoma.
2. Watkins first registered as a broker-dealer agent under the Oklahoma securities laws in December 1998. Watkins was registered as a broker-dealer agent and an investment adviser representative of Ameriprise Financial Services, Inc. (AFS) from March 2009 to October 2011. Watkins was allowed to resign as a result of an internal AFS investigation.
3. Watkins is currently associated with Southeast and filed for broker-dealer agent registration under the Act on February 24, 2012. Watkins' registration under the Act is pending.
4. Watkins is registered as a broker-dealer agent of Southeast in the states of California, Kansas and Texas.
5. Watkins' office and primary place of business is located at 46 E. 16th Street, Tulsa, Oklahoma (Primary Place of Business).



6. Southeast is, and has been at all times material hereto, a broker-dealer registered under the Act. Southeast's main office is designated as Watkins' office of supervisory jurisdiction (OSJ) and is located at 820 Tyvola Road - Suite 104, Charlotte, North Carolina.

7. Black, a South Carolina resident, is the owner and control person of Southeast. Black is the chief compliance officer of Southeast and a FINRA registered general principal. Black has not been registered under the Act in any capacity.

8. On March 29, 2012, the Enforcement Division of the Department filed an *Enforcement Division Recommendation* (Recommendation) to bar Watkins from association with a broker-dealer or investment adviser in any capacity based on Watkins engaging in unethical practices in violation of 660:11-5-42 of the Rules.

9. On August 22, 2012, Watkins voluntarily entered into an agreement (Agreement) with the Department. The Agreement provided for the issuance of an agreed order (Order) and stated that if Watkins "made any false or misleading statements to the Department in connection with this matter, the Department may initiate an action[.]"

10. On August 29, 2012, the Administrator signed the Agreement and issued the Order. The Order included the following provisions:

IT IS FURTHER ORDERED that Respondent [Watkins] shall not offer and/or sell any security as defined by Section 1-102 of the Act in and/or from the state of Oklahoma for a period of nine months. Such period shall retroactively begin on November 25, 2011, and end on August 26, 2012. This bar would apply to the transaction of business on or before August 26, 2012, in and/or from the state as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, and/or investment adviser representative, as such terms are defined in Section 1-102 of the Act.

IT IS FURTHER ORDERED that Respondent [Watkins] shall at all times comply with all provisions of the Act and Rules, and successors of the Act and Rules, in connection with offers and/or sales of securities in and/or from the state of Oklahoma.

11. On May 11, 2012, while unregistered under the Act, Watkins solicited and/or effected, through his Primary Place of Business, the purchase of 1450.512 shares of Transamerica Asset Alloc Growth C (AALX) by Texas customer, Alprin, and received \$170.00 in commission.

12. On June 8, 2012, while unregistered under the Act, Watkins effected, through his Primary Place of Business, the sale of 30,000 shares of General Electric Cap Corp 4.375% Due 9/16/2020 Corporate Bond by Texas customer, Walker, and received \$375.00 in commission.

13. On June 19, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the sale of 16,000 shares of Bank of America Corp Note 4.75% due 9/15/2019 Corporate Bond and 32,000 shares of Goldman Sachs Grp. 4.75% due 5/15/2022 Corporate Bond by Texas customer, Walker, and received \$600.00 in commission.

14. On June 19, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the purchase of 442.87 shares of Pimco Total Return C (PTTCX) by Texas customer, Reed, and received \$50.00 in commission.

15. On June 20, 2012 while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the purchase of 45,000 shares of Morgan Stanley 5.50% due 7/28/2021 Corporate Bond by Texas customer, Walker, and received \$562.50 in commission.

16. On July 17, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the sale of 1743.281 shares of Columbia Portfolio Bldr Mod Agrsv C (AGECX) by Texas customer, Lewis, and received \$150.00 in commission.

17. On July 23, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the sale of 5000 shares of Federal Home Ln Mig Corp 4.4% due 3/15/2029 Corporate Bond by Kansas customer, Payne, and received a \$100.00 in commission.

18. On July 23, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the purchase of 1528.014 shares of Transamerica Asset Alloc Mod Gr C (IMLLX) by Texas customer, Lewis, and received \$180.00 in commission.

19. On July 26, 2012, while unregistered under the Act, Watkins effected, through his Primary Place of Business, the purchase of a CNL REIT by Texas customer, Walker, and received a \$2,050.65 in commission.

20. On August 6, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the purchase of 1522.843 shares of Transamerica Asset Alloc Growth C (LAALX) by Texas customer, Alphin, and received \$180.00 in commission.

21. On August 6, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the sale of 56.497 shares of BlackRock Global Allocation Inv C (MCLOX) by Texas customer, Watkins, and received \$65.00 in commission.

22. At the time Watkins entered into the Agreement on August 22, 2012, Watkins did not disclose to the Department that he had effected the transactions described in paragraphs 11 through 21 above.

23. On September 19, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the sale of 45,000 shares of Morgan Stanley 5.50% due 7/28/2021 Corporate Bond by Texas customer, Walker, and received \$675.00 in commission.

24. On September 19, 2012, while unregistered under the Act, Watkins solicited and effected, through his Primary Place of Business, the purchase of 822,511 shares of Pimco Total Return C (PTTCX) by Texas customer, Williams, and received \$95.00 in commission.

25. All of the transactions outlined in paragraphs 11-24 above were executed through Southeast and approved by Black.

To the extent any of these Findings of Fact are more properly characterized as Conclusions of Law, they should be so considered.

Authorities

1. Section 1-102 of the Act provides in pertinent part:

2. "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities.

* * *

4. "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

* * *

30. "Sale" includes every contract of sale, contract to sell, or disposition of, a security or interest in a security for value, and "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.

2. Section 1-402 of the Act provides in pertinent part:

A. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection B of this section.

* * *

D. It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection A of this section or exempt from registration under subsection B of this section.

* * *

F. It is unlawful for an individual acting as an agent, directly or indirectly, to conduct business in this state on behalf of a broker-dealer or issuer if the registration of the individual as an agent is suspended or revoked under this act; or the individual is barred from employment or association with a broker-dealer by an order under this act, the Securities and Exchange Commission, or a self-regulatory organization; or the individual is subject to an order of a court of competent jurisdiction temporarily, preliminarily or permanently enjoining such individual from conducting business in this state on behalf of a broker-dealer or issuer.

3. Rule 660:11-5-42 of the Rules states in pertinent part:

(a) Purpose. This rule is intended to set forth the standards of ethical practices for broker-dealers and their agents. Any noncompliance with the standards of ethical practices specified in this section will constitute unethical practices in the securities business; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of broker-dealers, and their agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) Standards.

(1) A broker-dealer and his agents, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and his agents shall not violate any federal securities statute or rule or any rule of a national securities exchange or national securities association of which it is a member with respect to any customer, transaction or business effected in this state.

* * *

(22) The following standards shall apply to supervisory procedures:

(A) Each broker-dealer shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each registered agent and associated person to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Final responsibility for proper supervision shall rest with the broker-dealer, the principal(s) of the broker-dealer registered in accordance with 660:11-5-11, and the principal(s) of the broker-dealer in each OSJ, including the main office, and the registered representatives in each non-OSJ branch office designated by the broker-dealer to carry out the supervisory responsibilities assigned to that office by the broker-dealer pursuant to the rules and regulations of the NASD. A copy of the written supervisory procedures shall be kept in each office of supervisory jurisdiction and each non-OSJ branch office.

4. Section 1-411 of the Act provides, in pertinent part:

A. If the Administrator finds that the order is in the public interest and subsection D of this section authorizes the action, an order issued under this act may deny an application, or may condition or limit registration[.]

B. If the Administrator finds that the order issued is in the public interest and subsection D of this section authorizes the action an order issued under this act may revoke, suspend, condition, or limit the registration of a registrant and if the registrant is a broker-dealer or investment adviser, any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser.

C. If the Administrator finds that the order is in the public interest and paragraphs 1 through 6, 8, 9, 10, 12 or 13 of subsection D of this section authorizes the action, an order under this act may censure, impose a bar, impose a civil penalty in an amount not to exceed a

maximum of Five Thousand Dollars (\$5,000.00) for a single violation or Two Hundred Fifty Thousand Dollars (\$250,000.00) for multiple violations on a registrant, and/or recover the costs of the investigation from a registrant and if the registrant is a broker-dealer or investment adviser, from any partner, officer, or director, any person having a similar function or any person directly or indirectly controlling the broker-dealer or investment adviser.

D. A person may be disciplined under subsections A through C of this section if the person:

* * *

2. Has willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years[.]

* * *

9. Has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individuals was subject to the person's supervision and committed a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years;

5. Section 1-505 of the Act provides:

It is unlawful for a person to make or cause to be made, in a record that is used in an action or proceeding or filed under this act, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading in a material respect, or, in connection with the statement, to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not false or misleading.

6. Section 1-610 of the Act provides in pertinent part:

C. For purpose of this section, an offer to sell or to purchase a security is made in this state, whether or not either party is then present in this state, if the offer:

1. Originates from within this state; or

2. Is directed by the offeror to a place in this state and received at the place to which it is directed.

Conclusions of Law

1. Watkins transacted business in and/or from this state as an agent without the benefit of registration under the Act, in violation of Section 1-402 of the Act.
2. Southeast associated with Watkins and allowed him to transact business in this state on its behalf without the benefit of registration under the Act, in violation of Section 1-402 of the Act.
3. Southeast and Black failed to supervise Watkins properly to ensure compliance with the Act, in violation of 660:11-5-42 of the Rules.
4. Watkins omitted to disclose the transactions outlined in paragraphs 11 through 21 above when he entered into the Agreement, in violation of Section 1-505 of the Act.
5. Watkins knowingly violated the Order by soliciting and effecting the transactions outlined above.
6. The Administrator is authorized, pursuant to Section 1-411 of the Act, to deny a pending agent application, suspend a registration, impose a censure, impose a bar, and/or impose a civil penalty against Respondents.
7. It is in the public interest for the Administrator to deny the pending agent registration application of Respondent Watkins; to bar Respondent Watkins from engaging in the offer and/or sale of securities and association with a broker-dealer or investment adviser in any capacity; to censure Respondent Black; to suspend the broker-dealer registration of Respondent Southeast; and to impose a civil penalty against Respondent Southeast.

To the extent any of these Conclusions of Law are more properly characterized as Findings of Fact, they should be so considered.

WHEREFORE, it is recommended that the Administrator issue an order denying the pending registration application of Respondent Watkins; barring Respondent Watkins from engaging in the offer and/or sale of securities and association with a broker-dealer or investment adviser in any capacity; imposing a censure against Respondent Black; suspending the registration of Respondent Southeast for a period of one (1) year; imposing a civil penalty in the amount of Sixty-Five Thousand Dollars (\$65,000) against Respondent Southeast; and imposing such other sanctions as deemed appropriate and authorized by law.

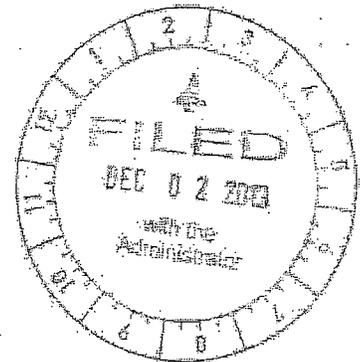
Dated this 7th day of March, 2013.

Respectfully submitted,



Jennifer Shaw, Enforcement Attorney
Amanda Commesser, Enforcement Attorney
Oklahoma Department of Securities
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Oklahoma City, OK 73102
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STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

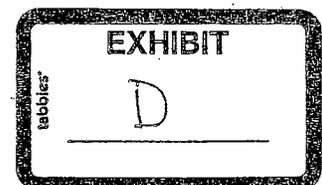
Respondents.

ODS File No. 12-058

RESPONDENTS' MOTION FOR SUMMARY DISPOSITION

Respondents Rodney L. Watkins ("Watkins") and Southeast Investments, N.C. Inc. ("Southeast") move the Administrator to dismiss this proceeding or summarily dispose of the same. That result is compelled as a matter of law because the Commission lacks jurisdiction of the matters complained of in the Enforcement Division Recommendation filed herein on March 26, 2013 ("Recommendation").

This motion is supported by the Affidavit of Rodney L. Watkins ("Watkins Affidavit," Exhibit 1) and the Affidavits of Clifford Alprin, Terry Payne, Lonnie Lewis, Ronica Watkins, Carolyn Williams and Brenda Walker (collectively "Customer Affidavits," Exhibits 2 through 7).



STATEMENT OF PERTINENT FACTS

1. Southeast is a registered securities broker-dealer licensed to transact business pursuant to rules and regulations promulgated by the Securities and Exchange Commission, the Financial Industry Regulatory Authority and other necessary government agencies, including the Oklahoma Securities Commission. Southeast's principal office is located in Charlotte, North Carolina.

2. Specifically, Southeast is a registered broker-dealer under the Oklahoma Uniform Securities Act of 2004 ("the Act").

3. Watkins and Southeast are parties to an Independent Contractor Agreement dated February 20, 2012, whereby Watkins agrees to engage in the purchase and sale of securities by and through Southeast under the regulatory supervision of Southeast. See Watkins Affidavit, ¶ 1 and Exhibit "A" thereto.

4. Watkins is registered as a broker-dealer agent of Southeast in the States of California, Kansas and Texas and first registered as a broker-dealer under the Oklahoma securities laws in 1998.

5. On August 29, 2012, Watkins and the Department entered into an agreement that was then incorporated into an agreed order of that date (the "Order"). The Order provides, *inter alia*, that:

... Respondent [Watkins] shall not offer and/or sell any security as defined by Section 1-102 of the Act *in and/or from the state of Oklahoma* for a period of nine months. Such period shall retroactively begin on November 25, 2011, and end on August 26, 2012. This bar would apply to the transaction of business on or before August 26, 2012, *in and/or from the state* as a broker-dealer, broker-dealer agent, issuer agent, investment adviser,

and/or investment adviser representative, as such terms are defined in Section 1-102 of the Act.

* * *

[Watkins] shall at all times comply with all provisions of the Act and Rules, and successors of the Act and Rules, in connection with offers and/or sales of securities *in and/or from the state of Oklahoma.*

(emphasis added).

6. At no time during the period ended August 26, 2012, *nor since that date*, has Watkins solicited or effected the sale of any security of any kind from the State of Oklahoma. The Department's statements to the contrary in paragraphs 11 through 25 of the Recommendation's Statement of Facts are flatly erroneous. Watkins Affidavit, ¶¶ 2-3.

7. At no time during the period ended August 26, 2012, *nor since that date*, has Watkins solicited or effected the sale of any security to any Oklahoma customer. The non-Oklahoma residency of the customers named in the Recommendation is admitted on the face thereof in paragraphs 11 through 25 of the "Findings of Fact." See ¶ 1 of each of the Customer Affidavits.

8. Watkins contacted the customers named in the Recommendation from an office located in his sister's home at 9801 Royal Lane in Dallas, Texas or at their homes in Texas or Kansas. All customer orders were placed with Watkins at that location or at the customer's own home in Texas. The orders were executed by Southeast at its offices in North Carolina. Watkins Affidavit at ¶ 3.

9. None of the customers that are the subject of the Recommendation have registered or communicated any complaint about Watkins' handling of the safe transaction or about the securities that they purchased through Southeast. See all Customer Affidavits and Watkins Affidavit, ¶ 4.

ARGUMENT AND AUTHORITIES

The Commission lacks jurisdiction of the matters complained of in the Recommendation (i) as a matter of constitutional law and (ii) by virtue of the express jurisdictional provisions of the Act itself. Moreover, Watkins' securities' sales activities did not in fact contravene the Order. Those points are discussed seriatim below.

A. As a matter of constitutional law, Oklahoma governmental agencies lack extraterritorial jurisdiction.

The constitutional principle that State governments lack extraterritorial jurisdiction or regulatory authority is both fundamental and ancient. The Supreme Court's most succinct application of that principle, as applied to the facts here, could not be more apt. Thus "[a] State cannot punish a defendant for conduct that may have been lawful where it occurred." *BMI of N. Amer. v. Gore*, 517 U.S. 559, 572 (1996). Neither does a State "acquire power or supervision over the internal affairs of another State" even if "the welfare and health of its own citizens may be affected when they travel to that State." *Bigelow v. Virginia*, 421 U.S. 809, 824 (1975). The Supreme Court articulated the constitutional rationale for the extraterritorial constraints on the States almost 100 years ago.

It would be impossible to permit the statutes of Missouri to operate beyond the jurisdiction of that State . . . without throwing down the constitutional barriers by which all the States are restricted within the orbits of their lawful authority and upon the preservation of which the Government under the Constitution

depends. This is so obviously the necessary result of the Constitution that it has rarely been called in question and hence authorities directly dealing with it do not abound.

New York Life Ins. Co. v. Head, 234 U.S. 149, 161 (1914), quoted verbatim and relied upon in *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 421 (2002). See also *Huntington v. Ayrill*, 146 U.S. 657, 669 (1892) (also quoted in *Campbell*) ("Laws have no force of themselves beyond the jurisdiction of the State which enacts them, and can have extra-territorial effect only by the comity of other States"). Regarding securities regulation in particular, see *In re Nat'l Century Fin. Enters., Inc.*, 755 F. Supp. 2d 857 (N.D. Ohio 2010) (noting the presumption against extraterritorial effect of state securities regulation, but holding that the state could regulate transactions in the shares of an Ohio issuer¹). Cf. *Morrison v. Nat'l Australian Bank Ltd.*, 561 U.S. 247 (2010) (holding that § 10(b) of the Securities and Exchange Act and SEC Rule 10b-5 have no extraterritorial effect and hence do not govern the activities of issuers traded on foreign exchanges).

Watkins is licensed to sell securities in Texas and Kansas and is under no professional restriction of any kind by Texas or Kansas securities regulators. His business activities there not only "may have been lawful," they were indisputably lawful. See *BMW of N. Amer. v. Gore*, 517 U.S. at 572. Under *New York Life* and its progeny, the Order could not have restricted Watkins' activities in Texas even if the Department purported to do so in the Order. Of course -- as if to recognize the constitutional prohibition just discussed -- the Order on its face does not even purport to exercise extraterritorial authority. See Statement of Facts *supra* at ¶ 5 and Proposition C *infra*.

¹ This "in-state issuer" exception, arguably, stretches the constitutional reach of the State of Ohio to its outer limits. Be that as it may, none of the issuers here was an Oklahoma company.

B. The Act expressly deprives the Department of jurisdiction over out-of-state sales activities with out-of-state customers.

A long line of cases holds that state regulatory laws have no extraterritorial effect unless a contrary legislative intent is clearly expressed. See, e.g., *Avery v. State Farm Mut. Automobile Ins. Co.*, 835 N.E.2d 801 (Ill. 2005) and *Consumer Prot. Div. v. Outdoor World Corp.*, 603 A.2d 1376 (Md. App. 1992). Of course, the legislature can "intend" anything it wants, but any attempt at extraterritorial regulation runs headlong into the constitutional wall described in Proposition A above. The only real effect of the "legislative intent" rule, then, is to "to preserve the validity of a statute" that would otherwise be facially unconstitutional. See, e.g., *Abel v. Planning & Zoning Comm'n*, 297 Conn. 414, 425, 998 A.2d 1149 (2010) ("the primary reason for the presumption against the extraterritorial application of statutes is that states have limited authority to regulate conduct beyond their territorial jurisdiction" [court's emphasis]; hence the clear-legislative-intent rule of statutory interpretation "is akin to other rules of construction intended to preserve the validity of a statute").

Fortunately, the Administrator here need not be troubled by any legislative intent to regulate activities beyond Oklahoma's borders. The Act's jurisdictional provisions expressly abjure any intent to regulate extraterritorial securities transactions. Thus:

Sections 10 and 11, subsection A of Section 18, subsection A of Section 19, subsection A of Section 20, subsection A of Section 21, and Sections 29, 34, 37 and 38 of this act do not apply to a person that sells or offers to sell a security unless the offer to sell or the sale is made in this state or the offer to purchase or the purchase is made and accepted in this state.

71 O.S. 2013 Supp., § 1-610.

Among the sections that "do not apply" is that codified at §1-402 of the Act, the very predicate of the enforcement demand set forth in the Recommendation. *See id* at § 1-610, Note 1 and the "Conclusions of Law" in the Recommendation at p. 8. The Recommendation on its face admits that all of Watkins' customers reside outside Oklahoma. The Customer Affidavits establish that no purchase was made in Oklahoma. The Watkins Affidavit establishes that he solicited no customers and made no sales in Oklahoma.

The Department is wholly without jurisdiction to regulate Watkins' *licensed* activities in the States of Texas and Kansas or his sales to (noncomplaining) customers who reside in those states. It is wholly without jurisdiction: (i) to bar Watkins from practicing his profession, predicated on activities over which the Department has no regulatory authority whatsoever; (ii) to fine Southeast, a North Carolina company, for activities that occurred outside of Oklahoma by a licensed broker who is an independent contractor for Southeast; or (iii) to censure Frank Black -- a principal of Southeast and a licensed broker in North Carolina -- purportedly for the very same extraterritorial (and completely lawful) activities. Under the law cited herein, any continued denial of a license for which Watkins is otherwise amply qualified would be arbitrary and capricious, if not indeed retaliatory.

C. Watkins has not violated the Order.

Whether or not the Department has extraterritorial jurisdiction in this matter, Watkins simply has not violated the Order. The Recommendation itself, at page 2 (¶ 3), quotes the provisions of the Order that make this clear. Those sections are reproduced in Statement of Fact No. 5, *supra*. The Order on its face disclaims any extraterritorial effect. The Department's

Enforcement Division apparently believed, at the time that the Recommendation was filed, that Watkins took the customer orders from his office in Tulsa. It is not clear what facts supported that belief. On information and belief, the Enforcement Division counsel undertook to interview the customers named in the Recommendation after filing the same.² Those counsel now know, Watkins respectfully submits, that the Enforcement Division's belief was mistaken; that there is in fact no evidence whatsoever of any violation of the Order in any respect.

CONCLUSION

Watkins has complied with the Order to the letter. Under the terms of the Order and the Department's agreement incorporated therein, Watkins was owed a reinstatement of his license well over one year ago. The Department's *ultra vires* actions - actions pretextually predicated on activities over which the Department knew (or should be charged with knowing) that it had no

² This approach is sometimes colloquially labeled the "shoot first and ask questions later" method. All of the customers have reported to Watkins, or directly to the undersigned counsel, that they have been contacted by the Department. Each has reported that he or she has advised the Department that their directions to Watkins to purchase particular securities for their accounts were communicated from or at (in a face-to-face meeting) their own homes or offices in Texas or Kansas. In addition, some have reported that the Department caller(s) were intimidating and seemed to be trying to bully them into giving some kind of evidence of some kind of wrongdoing by Watkins. One customer also reported, via e-mail, that "Jennifer said that you were terminated from Ameriprise and you should not have been doing transactions for 90 days which would include the timeframe that the 9/18/2012 transaction occurred." That statement, self-evidently, was not true. See Recommendation at p. 1, paragraph 2. A copy of the e-mail is attached hereto as Exhibit 8.

jurisdiction; activities that were completely lawful in the states that *do* have jurisdiction -- have impaired his opportunity to make a living in his home town and state. This proceeding should be terminated and Watkins' license should be reinstated forthwith.

Respectfully submitted,



Dated: December 2, 2013

Patrick O. Waddel, OBA #9254
L. David Jorgenson, OBA #4839
SNEED LANG PC
One West Third Street, Suite 1700
Tulsa, OK 74103
(918) 588-1313
(918) 588-1314 Facsimile

Counsel for Rodney L. Watkins, Jr.

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102

In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

Respondents.

ODS File No. 12-058

AFFIDAVIT OF RODNEY L. WATKINS

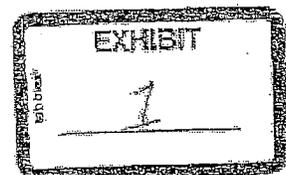
STATE OF OKLAHOMA)
) SS
COUNTY OF TULSA)

Rodney L. Watkins ("Affiant"), of lawful age and being first duly sworn, deposes and states as follows:

1. I am one of the respondents in the captioned proceeding. I am a party to an Independent Contractor Agreement with Southeast Investments, NC Inc. ("Southeast") dated February 20, 2012, under which I have agreed to engage in the purchase and sale of securities by and through Southeast under the regulatory supervision of Southeast. A copy of the contract is attached hereto as Exhibit A.

2. During the period of time between November 25, 2011 and the date of this affidavit, I have not solicited and/or transacted any securities with any Southeast customer from my office in Tulsa, Oklahoma or from any other location in Oklahoma.

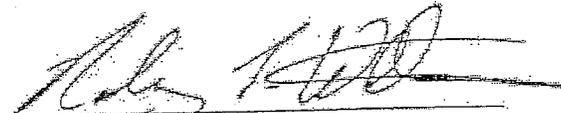
3. I have read the Enforcement Division Recommendation filed herein on March 26, 2013 ("Recommendation"). The transactions described in paragraphs 11 through 25 of the



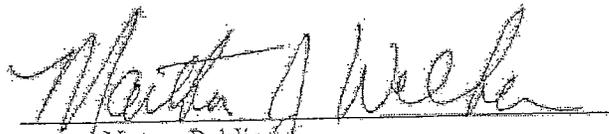
Recommendation constitute all of the securities sales I have made between November 25, 2011 and the date of this Affidavit. All of the orders identified there, with the exception of the sales to Mr. Payne and Mr. Alprin, were given to me in person at the customer's home or a public place in the State of Texas. I then called each order in to Southeast from Texas. I took the Alprin and Payne orders by phone in Texas and relayed the orders to Southeast in North Carolina by phone from Texas.

4. None of the customers have complained to me or expressed any concern about the handling of the transactions described in this Affidavit. On the contrary I have confirmed that each was satisfied with the results and my handling of the transactions.

Further Affiant saith not.

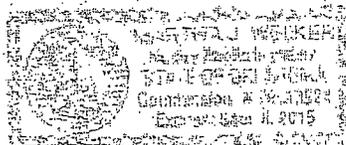

Rodacy L. Watkins

SUBSCRIBED and SWORN to before me this 26th day of November, 2013.


Notary Public

My commission expires:

9-8-2015
[SEAL]



AFFIDAVIT OF DR. CLIFFORD ALPRIN

STATE OF TEXAS

COUNTY OF BEXAR

ss.

The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Clifford Alprin, am a resident of San Antonio, Texas, and have been for a period of more than one year.

2. On or about May 11, 2012, I visited by telephone with Rodney L. Watkins, at which time we discussed, or I inquired about, specific investments which resulted in me placing with Mr. Watkins an order for 1450.512 shares of Transamerica Asset Allc Growth C. It is my understanding and belief that at the time of placing the aforedescribed purchase that Mr. Watkins was in Dallas, Texas operating out of his sister's home located there.

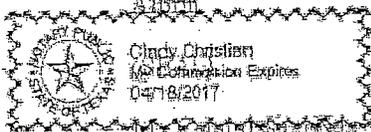
3. On or about August 6, 2012, I visited by telephone with Rodney L. Watkins, at which time we discussed, or I inquired about, specific investments which resulted in me placing with Mr. Watkins an order for 1522.843 shares of Transamerica Asset Allc Growth C. It is my understanding and belief that at the time of placing the aforedescribed purchase that Mr. Watkins was in Dallas, Texas operating out of his sister's home located there.

4. Subsequent to the placement of the foregoing described order, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

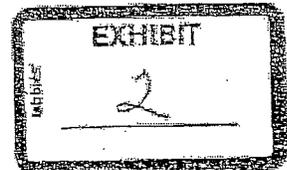
[Handwritten Signature]
Affiant

Subscribed and sworn to before me this 7th day of May, 2013, by Dr. Clifford Alprin



[Handwritten Signature]
Notary Public

My Commission Expires: N/A 04/18/2017



AFFIDAVIT OF TERRY PAYNE

STATE OF KANSAS

COUNTY OF SEDGWICK

} ss.
}

The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Terry Payne, am a resident of Wichita, Kansas, and have been for a period of more than one year.

2. On or about July 23, 2012, I visited by telephone with Rodney L. Watkins, at which time we discussed, or I inquired about, specific investments which resulted in me placing with Mr. Watkins an order for \$5,000 face amount of Federal Home Ln Mtg Corp. 4.40% Corporate Bonds due 3/15/2029. It is my understanding and belief that at the time of placing the aforesaid purchase that Mr. Watkins was in Dallas, Texas operating out of his sister's home located there.

3. Subsequent to the placement of the foregoing described order, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

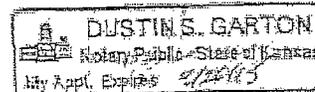

Affiant

Subscribed and sworn to before me this 15th day of May, 2013, by Terry Payne.


Notary Public

(SEAL)

My Commission No.: 1061184
My Commission Expires: April 26, 2015



AFFIDAVIT OF LONNIE LEWIS

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

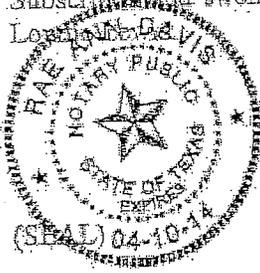
The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Lonnie Lewis, am a resident of Fort Worth, Texas, and have been for a period of more than one year.
2. On or about July 17, 2012, I met with Rodney L. Watkins in Fort Worth, Texas, at which time we discussed, or I inquired about, specific investments which resulted in me placing with Mr. Watkins an order for 1743.281 shares of Columbia Portfolio Bldr Mod Agrsv C.
3. Subsequent to the placement of the foregoing described order, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

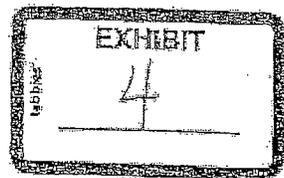
Lonnie Lewis
Affiant

Subscribed and sworn to before me this 26 day of April, 2013, by
Lonnie Lewis



Rae M. Davis
Notary Public

My Commission No.: 01048127-6
My Commission Expires: 4-10-14



AFFIDAVIT OF RONICA WATKINS

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Ronica Watkins, am a resident of Dallas Texas, and have been for a period of more than one year.

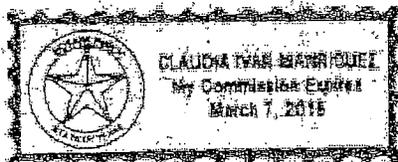
2. On or about August 6, 2012, I met with Rodney L. Watkins in Dallas, Texas, at which time we discussed, or I inquired about, specific investments which resulted in me placing with Mr. Watkins an order for 54,497 shares of Black Rock Global Allocation Inv C.

3. Subsequent to the placement of the foregoing described order, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

Ronica L. Watkins
Affiant

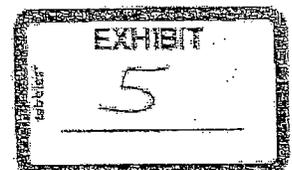
Subscribed and sworn to before me this 26 day of April, 2013, by Ronica Watkins.



(SEAL)

[Signature]
Notary Public

My Commission No.: March 7, 2016
My Commission Expires: March 7, 2016



AFFIDAVIT OF CAROLYN WILLIAMS

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)
 COLLIN)

The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Carolyn Williams, am a resident of Dallas, Texas, and have been for a period of more than one year.
2. On or about September 19, 2012, I met with Rodney L. Watkins in Dallas, Texas, at which time we discussed, or I inquired about, specific investments for my personal account, which resulted in me placing with Mr. Watkins an order for 822,511 shares of Finco Total Return C.
3. Subsequent to the placement of the foregoing described order, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

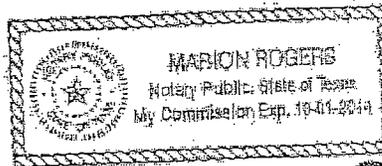
Carolyn Williams
Affiant

Subscribed and sworn to before me this 25th day of APRIL, 2013, by Carolyn Williams.

Marion Rogers
Notary Public

(SEAL)

My Commission No.: 18
My Commission Expires: 10/01/2014



AFFIDAVIT OF CAROLYN WILLIAMS

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)
COLLIN)

The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Carolyn Williams, am a resident of Dallas, Texas, and have been for a period of more than one year.

2. On or about June 19, 2012, I met with Rodney L. Watkins in Dallas, Texas, at which time we discussed, or I inquired about, specific investments for Troy Shawn Reed, a minor, for whom I am his custodian, which resulted in me placing with Mr. Watkins an order for 442.87 shares of Pimco Total Return C for his account.

3. Subsequent to the placement of the foregoing described order, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

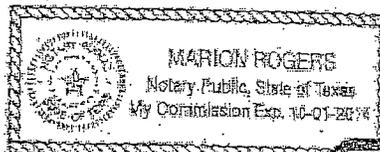
Carolyn Williams
Affiant

Subscribed and sworn to before me this 26th day of APRIL, 2013, by Carolyn Williams.

Marion Rogers
Notary Public

(SEAL)

My Commission No.: _____
My Commission Expires: 10/1/2014



AFFIDAVIT OF BRENDA WALKER

STATE OF TEXAS

COUNTY OF DALLAS

)
) ss.
)

The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. I, Brenda Walker, am a resident of Dallas, Texas, and have been for a period of more than one year.

2. Beginning in June 2012 through September 2012, I met with Rodney L. Watkins on several occasions in Dallas, Texas, at which time we discussed, or I inquired about, specific investments which resulted in me placing with Mr. Watkins orders for certain bonds and an interest in an REIT.

3. Subsequent to the placement of the foregoing orders, I received a confirmation of the purchase of the same.

FURTHER AFFIANT SAYETH NOT.

Brenda Walker

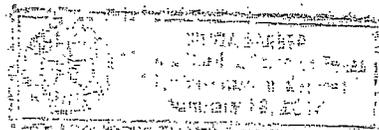
Affiant

Subscribed and sworn to before me this 26 day of April, 2013, by
Brenda Walker.

S. B. B. B.
Notary Public

(SBAL)

My Commission No.: 128148921
My Commission Expires: 1-15-2014



From: carolyn.d.williams@accenture.com [mailto:carolyn.d.williams@accenture.com]
Sent: Monday, November 18, 2013 2:26 PM
To: Rodney@watkinsandassoc.com
Subject: 9/2012 inquiry from Department of Securities - 11/18 Meeting

Rodney -
I had a call conversation with Jennifer Shaw, Amanda Cornmesser, and John (don't remember his last name) on today, 11/18 at 10 AM Central time from the Oklahoma Department of Securities.

Brief History - I was contacted by Jennifer last week while I was in Voorhees NJ and we set up a call for Friday, 11/15 because she was going to send me some information about the 9/18/2012 transaction in question. Jennifer did not send me the information so when Jennifer and Amanda talked to me on Friday, we rescheduled the meeting to 11/18 and Jennifer would send me the information. The only thing I received was the email below. The reason the email title is test it is because Jennifer said she had sent me a email before 11/21/13 but I did not receive the email so I initiate a test email and Jennifer responded to my

During our 11/18 call I was asked did I make the 9/18/2012 transaction, I said yes. Then I was asked the following questions:

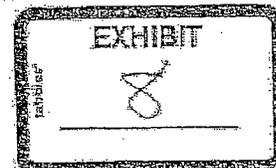
- Who was Troy Shawn. I told them, he was my nephew. Jennifer said that explained why transaction in 07/2012 had the same address as mine for Troy Shawn. She wanted to know if Troy Shawn's account was under mine. I told them I had my account first and I added a 529 account for Troy Shawn. Later, I changed to account with \$5000 in it but I could not remember the exact amount
- What is your office telephone number in OK. I gave them your direct number and toll free number
- Did I know your address on OK. I told her I did not have it. Jennifer said an address on 16th street but I did not confirm
- Jennifer said that you were terminated from Ameriprise and you should not have been doing transactions for 90 days which would include the timeframe that the 9/18/2012 transaction occurred.
- They wanted to know when was the last time I talk to you. I said in the last weeks. They wanted to know if you told me that someone else would be handling my account. I told them you mentioned a guy who is working with you now, but I did not remember his name. Jennifer said that you could not perform any transaction currently and if I had any transactions done lately, I said no.
- Do I review statements that I received and I said yes. Jennifer said she was not saying anything wrong with the statements.
- Did my transactions occur in the Dallas office, I said no.
- Have I been to your Dallas office; I said no
- Did I know the address of the Dallas office; I said no. Jennifer said a location address but I did not confirm.

During the meeting I finally asked what was the objective of this meeting and was told it was the 2012 transactions. I was asked if I remember any specifics of the transaction and I said no.

At end of call I asked if I could tell you about the meeting and Jennifer said that they prefer I not tell you but said they were not telling me that I couldn't so I decided to let you know what were asked since many of the questions were not regarding the 9/18/2012 transaction.

I was asked if I remember anything about the transactions to give Jennifer a call or send an email.

Thanks,
Carolyn



From: Jennifer Shaw [mailto:jshaw@securities.ok.gov]
Sent: Friday, November 15, 2013 10:56 AM
To: Williams, Carolyn D.
Cc: Amanda Commesser
Subject: RE: This is a test

Ms. Williams,

Thank you for speaking with me today. As discussed my co-worker, Amanda, and I will call you Monday November 18, 2013 at 10:00am. We would like to discuss any transactions you had with Mr. Watkins from May 2012 to present. Specifically a transaction that occurred on September 19, 2012.

Please let me know if you have any questions or if you need to change the time of our call.

Jennifer Shaw
Enforcement Attorney
Oklahoma Department of Securities
120 N. Robinson Ave., Ste. 860
Oklahoma City, OK 73102
(405) 280-7736

From: carolyn.d.williams@accenture.com [mailto:carolyn.d.williams@accenture.com]
Sent: Friday, November 15, 2013 10:01 AM
To: Jennifer Shaw
Subject: This is a test

Carolyn D. Williams - PMP
Dallas Office 469-666-6416
Fax Number: 713-257-6460 | US Mobile: 832-734-6032

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Visit InvestOR.org for unbiased investor education resources. InvestOR.org is a collaboration between the Oklahoma Securities Commission and the University of Oklahoma
DUTREACH

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2012.0.2247 / Virus Database: 3222/6346 - Release Date: 11/18/13

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER, SUITE 860
120 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

Respondents.

ODS File No. 12-058

AGREEMENT OF RESPONDENT
RODNEY LARRY WATKINS, JR.

THIS AGREEMENT is entered into between Rodney Larry Watkins, Jr. ("Watkins") and the Administrator ("Administrator") of the Oklahoma Department of Securities ("Department") as of the Effective Date set forth below.

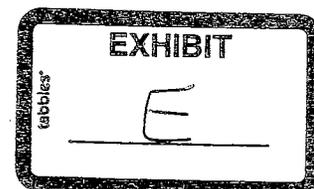
Pursuant to the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), and the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities, Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1 ("Oklahoma Rules"), the Department conducted an investigation into certain activities of Watkins, Southeast Investments, N.C. Inc. ("Southeast"), and Frank H. Black ("Black") (collectively "Respondents") in connection with the offer and/or sale of securities in and/or from Oklahoma.

As a result of the investigation, the Enforcement Division of the Department ("Enforcement Division") recommended that the Administrator sanction Respondents ("Recommendation").

On March 29, 2013 the Administrator issued a Notice of Opportunity for Hearing ("Notice") allowing Respondents twenty (20) days after service of the Notice to request a hearing on the Recommendation. On April 15, 2013, Watkins filed a Request for Hearing with the Administrator.

Watkins desires to expeditiously settle this matter prior to a hearing and without the adjudication of any issue of law or fact. Watkins voluntarily waives his right to a hearing provided by the Act, the Oklahoma Rules, and the Oklahoma Administrative Procedures Act.

NOW THEREFORE, the undersigned parties hereto agree as follows:



1. Independent Compliance Consultant

- A. Watkins shall retain, within thirty (30) days of the Effective Date of this Agreement, at his expense or the expense of his affiliated broker-dealer and/or investment adviser, an Independent Compliance Consultant acceptable to the Administrator, to perform monthly reviews of the activities of Respondent Watkins for a period of three (3) years. Watkins shall require the Independent Compliance Consultant to also perform quarterly on-site inspections, that shall be comparable to a branch office audit, of activities of Watkins for a period of three (3) years. The Independent Compliance Consultant shall have access to all files, books, and records of Watkins, and personnel associated with Watkins. Watkins shall cooperate fully with the Independent Compliance Consultant.
- B. In connection with each on-site inspection, Watkins shall require the Independent Compliance Consultant to review all broker-dealer agent and investment adviser representative activities and services performed by Watkins and any other broker-dealer agent and or investment adviser representative affiliated or associated with Watkins.
- C. In connection with each on-site inspection, Watkins shall require the Independent Compliance Consultant to evaluate Watkins' compliance with the existing policies, procedures, and internal controls of Watkins' affiliated broker-dealer and/or investment adviser. Watkins shall require the Independent Compliance Consultant to immediately report to the Administrator any deficiencies in the policies, procedures, and internal control of Watkins' affiliated broker-dealer and/or investment adviser.
- D. At the conclusion of each calendar quarter, Watkins shall require the Independent Compliance Consultant to send a report to himself and his affiliated broker-dealer and/or investment adviser. Watkins shall require the Independent Compliance Consultant send a report to the Administrator on an annual basis within 30 days of the Effective Date of this Agreement.
- E. Watkins shall adopt all recommendations made by the Independent Compliance Consultant. Watkins shall require the Independent Compliance Consultant as part of their monthly reviews and quarterly on-site inspections to evaluate his subsequent compliance with such recommendations.

2. Discretionary Authority

Watkins shall not be allowed to exercise discretionary authority in any broker-dealer or investment adviser client account for a period of five (5) years.

3. CRD Amendments

A. Watkins, within five (5) days of the Effective Date of this Agreement, shall update his Form U-4 by causing an amendment to be filed by Southeast on the Central Registration Depository (CRD) System disclosing his current office location, residential address, accurate reflections of all outside business activities, and this action by the Department.

B. Watkins shall cause an amendment to be filed to accurately reflect any future changes of previously reported answers within ten (10) days of the change.

4. Previous Order

Compliance with the terms of this Agreement shall be considered compliance with the August 29, 2012 Order of the Administrator relating to the requirements for the heightened supervision of Respondent Watkins.

5. Watkins' Registration

Upon the Effective Date of this Agreement, Watkins' pending registration as an agent of Southeast shall be made effective.

6. Entire Agreement; Amendment

This writing constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification, or amendment to this Agreement shall be binding unless executed in writing by each of the parties hereto.

7. Failure to Comply

Should Watkins fail to comply with the terms of this Agreement in any material respect or if Watkins has made any false or misleading statements to the Department in connection with this matter, the Department may initiate an action as authorized by the Act.

8. Limitation on Agreement

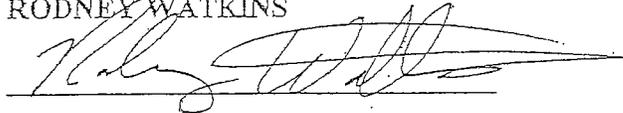
Nothing in this Agreement shall prohibit the Administrator from conducting future examinations of any office of Watkins. Nothing in this Agreement shall prohibit the Administrator from furnishing information to any other properly constituted agency or authority. In the event any other agency or authority commences an action in connection with information obtained by the Administrator against Watkins, the Administrator may assist in such actions as authorized by law.

9. Effective Date

This Agreement shall be effective as of the date on which it is signed by the Administrator as set forth below his signature hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year set forth below their signatures hereto.

RODNEY WATKINS

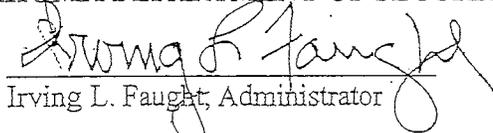


Date: April 30, 2014

Address: 46 East 16th Street

Tulsa, Oklahoma 74119

OKLAHOMA DEPARTMENT OF SECURITIES

By: 
Irving L. Fought, Administrator

Date: April 30, 2014

Brenda London

From: Brenda London
Sent: Wednesday, April 30, 2014 11:31 AM
To: pwaddel@sneedlang.com; 'David Jorgenson'; Amanda Cornmesser; Jennifer Shaw
Subject: Rodney Watkins ODS 12-058
Attachments: Agmt_RodneyWatkins_12-058.pdf

Attached is the *Agreement of Respondent Rodney Larry Watkins, Jr.* signed by Mr. Watkins and the Administrator of the Department.

Thank you

Brenda London
Paralegal
OK Department of Securities
First National Center Ste 860
120 N Robinson
Oklahoma City OK 73102
blondon@securities.ok.gov
(405) 280-7700
(405) 280-7742 Fax

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 N. ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

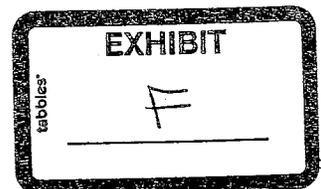
Respondents.

ODS File No. 12-058

**RESPONDENTS' RESPONSE AND OBJECTION
TO THE DEPARTMENT'S MOTION FOR
LEAVE TO SUPPLEMENT RECOMMENDATION**

Respondents Southeast Investments, N.C. Inc. ("Southeast") and Frank Black ("Black") object to the Department's Motion for Leave to Supplement Recommendation filed June 10, 2014 ("Motion to Supplement") and in support of such objection would show the Administrator as follows:

1. The original Enforcement Division Recommendation was filed herein on March 26, 2013 ("Original Recommendation" or "Orig. Rec."), some 15 months ago. The Original Recommendation leveled no broad allegations against Southeast related to training and supervision of its entire, nationwide complement of agents. The Original Recommendation alleged only that the transactions activity of Rodney L. Watkins, Jr. ("Watkins") (which activity allegedly violated the Commission's order of August 29, 2012) was "executed through Southeast and approved by Black." Orig. Rec. at 4, ¶ 25. *See also id* at 8, ¶¶ 2-3. Plainly the Department's entire "case" against Southeast and Black was predicated on (i) vicarious responsibility for



Watkins' actions and (ii) failure to supervise *Watkins alone* by (allegedly) allowing him to transact securities business in Oklahoma. The Department's allegations against Watkins were themselves, Southeast respectfully submits, contrary to the overwhelming weight of the evidence already adduced to the Administrator.¹

2. On May 14, 2014, almost fourteen months after the Original Recommendation was filed, the Department's counsel took Black's deposition. The Department asked for and received an expedited transcript, copies of which were delivered to all parties the next day, May 15, 2014. The transcript is all of 65 pages long.

3. On June 10, 2014, twenty-six days after delivery of the Black deposition transcript and thirteen days before the then-scheduled evidentiary hearing, the Department filed the Motion to Supplement. The proposed "Supplemental Enforcement Division Recommendation" ("Supplemental Recommendation" or "Supp. Rec.") attached to the motion, on its face, converts this proceeding into an entirely new case based upon an entirely new theory.

4. There was no order of the Administrator and no other restriction that prevented the Department from deposing Black in 2013. The Department's delays are not excusable and its eleventh-hour filing of newly-minted, trumped-up charges against Southeast and Black should not be countenanced.

¹ See Respondent's Motion for Summary Disposition filed Dec. 2, 2013. The Department's response to that motion offers no real rebuttal evidence concerning Watkins' testimony -- and the customer affidavits regarding the in-person transactions -- showing that the transactions occurred in Texas. Instead, the Department countered with innuendo concerning Watkins' credibility and by arguing a "nexus" theory that would allow the Commission to discipline Watkins, even if the actual sales/purchase activities occurred outside Oklahoma. See Department's Response to Respondents' Motion for Summary Disposition filed Feb. 28, 2014, especially at pp. 14-20.

5. By the Supplemental Recommendation, the Department once again seeks to step outside its own jurisdictional boundaries. Southeast is regulated by the other states where Southeast has agents, as well as by the United States Securities and Exchange Commission. The SEC regulates not only broker-dealers like Southeast, but also the nongovernmental organization, the Financial Industry Regulatory Authority (FINRA). FINRA in turn polices Southeast and performs regular audits and reviews of Southeast. Southeast's supervision and training of non-Oklahoma brokers is the concern of the other states, of the SEC, and of FINRA, not the Oklahoma Department of Securities. Again, the Department simply does not have jurisdiction over extraterritorial activities.

6. Guillory sells mostly insurance products and only a handful of securities annually. The parties have resolved the Department's claims against Watkins and his securities license has been reinstated. In light of that outcome, it was not clear to Southeast or its counsel (prior to the filing of the Motion to Supplement) why the original "supervision" case was not treated as moot. Guillory has never been charged with, or even accused of, any substantive violation of any kind. Neither does the Supplemental Recommendation point to any specific failure to supervise Guillory with respect to any particular sale or purchase transaction. Indeed, the Department well knows that there is no evidence of *any* customer complaint or *any* substantive wrong committed by Guillory -- or for that matter, *Watkins* -- related in any way to any customer transaction. And, of course, the Original Recommendation made no allegation that Southeast had failed to supervise Guillory adequately. He is not even mentioned in the Original Recommendation.

7. Guillory's name appears exactly twice in the Supplemental Recommendation. The Department alleges (i) that Southeast has not provided it a copy of a compliance interview of

Guillory and (ii) that Southeast has not requested or received copies of Guillory's e-mails. Supp. Rec. at ¶¶ 34, 38. In that connection, a copy of Guillory's Bi-Annual Certification of Representative's Declaration to Supervisory Office is attached hereto as Exhibit "A" ("Declaration"). The actual testimony is that Southeast does not require submission of broker e-mails *related to personal matters or non-securities business*. See Exhibit "B" hereto (Registered Representative's e-mail acknowledgement form, signed by Lamar Guillory). The testimony also has been that many brokers do not use e-mail *to communicate with or transact business with their clients*.² Among those brokers is Lamar Guillory. Guillory testified that while Southeast requires he send copies of all e-mails to clients regarding securities transactions, he does not provide his "e-mails" because he does not communicate with his clients via e-mail; hence none of his e-mails are relevant to supervision or anything else having to do with Southeast's business. Guillory in fact certifies the fact that he does not communicate with clients via e-mail in his Declaration. See Ex. A hereto at "Page 3" and Exhibit B.

8. Southeast and Black will respond to the specific substantive allegations of the Supplemental Recommendation if and when the Administrator grants the Motion to Supplement. It is clear, however, that even on their face and even if every allegation were taken as true, the

² The Department's allegation, based on an obvious misunderstanding of Black's testimony, that Black has testified that only "twenty-seven . . . of Southeast's [145] agents use e-mail" is absurd on its face in the year 2014. What Black obviously meant was that only 27 use e-mail *to communicate with their clients*. The others, like Black himself (as he also testified) use the mail, delivery services and the telephone. The Department's suggestion that Southeast agents could not have received the Southeast WSP by e-mail is risible.

allegations of the Supplemental Recommendation add up to very little.³ The Department, in effect, alleges that Southeast does not follow its own, quite strict, Written Supervisory Procedures (“WSP”) to the absolute, draconian letter, *not* that Southeast fails to abide by any regulatory requirements. The Supplemental Recommendation, when it gets to its legal “analysis,” simply quotes the regulations verbatim, then makes the *ipse dixit* pronouncement that the same were not followed. *See* Supp. Rec. at “Conclusions of Law” ¶¶ 8, 9 (unnumbered page).

9. The Supplemental Recommendation makes no attempt to apply the substance of the (very generalized) regulations to the substantive conduct of Southeast or Black. Instead the Department measures the alleged deficient conduct – none of which has resulted in any wrong of any kind to any Southeast customer – by the standard of Southeast’s own WSP. The reality is that every transaction is in fact reviewed and approved by Black. All orders are called in to the home office and actually placed from there. Black or personnel that report to him see every order before it is even placed! Every Southeast customer is in fact subjected to a suitability

³ An objective observer must ask: if the kind of supposed supervisory deficiencies alleged at the eleventh hour were of such momentous significance – if such deficiencies actually impacted the investing public in any meaningful way – why did the Department wait *14 months* to “investigate” these matters? The Original Recommendation, filed in March, 2013, alleged that Southeast failed to supervise Watkins properly, so supervision is not a new subject. It is difficult not to conclude that the Department, deprived of a bona fide case on the merits (there *never were* any Oklahoma activities and hence *there never was* any “failure to supervise” Watkins), is grasping for some kind of case – *any* kind of case -- to substitute for what it mistakenly believed was its *real* case.

review when he or she opens a Southeast account. That review need not be repeated every time the same customer buys a share of stock, although Southeast in fact spot-checks individual orders with regard to customer suitability.⁴ The WSP is in fact distributed by e-mail to all of the brokers and the brokers do in fact submit their "Biannual Declarations to Supervisory Office" as required – "required," that is, by Southeast's own WSP, but not by any specific regulation.⁵

CONCLUSION

As an example of the kind of generality employed by the Commission's Rules, Section 660:11-5-42 (b)(22)(D) provides that each broker-dealer "shall review the activities of each office . . . to detect and prevent irregularities and abuses . . ." The regulations quite rightly concern themselves with preventing bad outcomes that stem from lax supervision -- outcomes that impact the investing public adversely. Where are the irregularities and abuses here? The Department, in this entire, overheated, protracted proceeding has never alleged any "irregularity" (except in the most pedantic sense of the word) nor certainly any "abuse" by Southeast. Instead it has chosen, after all else has failed, to gin up a case based on supposed procedural lapses that have never affected any customer anywhere (to say nothing of any Oklahoma customer⁶). Further, contrast the violations cited in the Department's Original Recommendation involving Watkins' tenure at Ameriprise over a two-year period with the action in this proceeding not

⁴ It is noteworthy that FINRA rules require only a sampling inspection of order tickets, customer correspondence and e-mails.

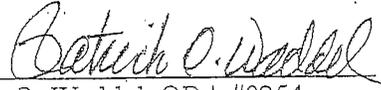
⁵ An example of the supervision administered by Southeast and Black is set forth in the letter dated July 6, 2012 that is attached hereto as Exhibit "C." In addition, Southeast enforces the FINRA requirements for continuing education of registered representatives.

⁶ One wonders how many unregistered securities have been sold, how many accounts have been churned, how many unwitting Oklahoma customers have been sold fractional interests in "speculative schemes which have no more basis than so many feet of 'blue sky,'" while the Department's legal staff worries about whether Lamar Guillory has his personal e-mails reviewed by Frank Black. *See Hall v. Geiger-Jones Co.*, 242 U.S. 539, 550 (1917).

involving any specific substantive violations. Enough is enough. The Motion to Supplement should be denied and this entire proceeding should be dismissed.

Respectfully submitted,

Dated: June 19, 2014



Patrick O. Waddel, OBA #9254
J. David Jorgenson, OBA #4839
SNEED LANG PC
One West Third Street, Suite 1700
Tulsa, OK 74103
(918) 588-1313
(918) 588-1314 Facsimile

Counsel for Rodney L. Watkins, Jr.

EXHIBIT A

Guillory

2013 BI-ANNUAL CERTIFICATION OF REPRESENTATIVE'S
DECLARATION TO SUPERVISORY OFFICE

Please **INITIAL** each item and **SIGN** on reverse side **AFTER**
READING EACH STATEMENT CAREFULLY.

I certify in the past year that I have followed the following regulatory requirements of Southeast Investments, N.C., Inc. State and Federal Regulatory Authorities, and FINRA:

I UNDERSTAND THAT FAILURE TO FOLLOW THESE REQUIREMENTS MAY RESULT IN FINES,
SANCTIONS, OR IMMEDIATE TERMINATION OF MY REGISTRATION.

I did not prepare mail or otherwise provide confirmations and/or statements to customers or other broker/dealers.

All advertising and sales literature, including any published material, form letters, newsletters or general mailing in which the Company's name appears or which makes mention or reference in any way to securities was sent to the OSJ for review, approval, and maintenance prior to use. This included any newsletters sent to clients or prospects.

TV and Radio appearances are considered communications by FINRA and require notification to Southeast Investments, N.C. Inc. CCO prior to appearance for approval. I certify I have NOT appeared on TV or radio without notifying the CCO of Southeast Investments, N.C. Inc of these appearances.

I have sent a copy of any materials to be used in seminars or speaking engagements I have conducted to the main office of Southeast Investments, N.C. Inc for approval prior to use. This includes but is not limited to advertisements, mailers, seminar scripts, slides, handouts, or video presentations. I have also sent a list of all attendees at any seminars I have held to Southeast Investments, N.C. Inc main office for the seminar file as required by FINRA rules.

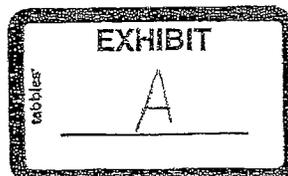
All correspondence with the Company's customer accounts including written or electronic means (including e-mails) was sent to the OSJ for review, approval and record keeping maintenance. I did not use any chat rooms, instant messages, blogs, message boards or on-line communications of any form to tout or recommend securities. I UNDERSTAND THE USE OF CHAT ROOMS, INSTANT MESSAGES, BLOGS, MESSAGE BOARDS OR ANY FORM OF ON-LINE COMMUNICATIONS TO TOUT OR RECOMMEND SECURITIES IS STRICTLY PROHIBITED BY SOUTHEAST INVESTMENTS POLICY. Any e-mails or communications of any kind involving securities have been sent to the home office for approval prior to use.

All mutual fund and annuity applications (including variable, fixed index and equity index) have been sent and will be sent to the OSJ for processing and approval by the OSJ prior to submission to the mutual fund or annuity carrier.

I notified the OSJ or the Company's Supervisory Principal of any customer complaint within 24 hours of receipt of such complaint.

I have not given any client tax or legal advice (unless you are a CPA or lawyer) without telling them to seek advice from their accountant or attorney.

I represent that there are no events that have occurred since the filing of my U-4 or any subsequent amendment (which I have notified SE of that would require my previously reported answers on my U-4 to be amended). I understand that should any event occur that would require amending my U-4, I will promptly notify Southeast Investments to amend my U-4. These events include but are not limited to customer complaints, regulatory complaint or proceeding, change of address of home or business, liens, court actions, arrests, warrants, bankruptcy and outside business activities. I will promptly request a copy of the amendment once it is filed to verify the correctness of the amendment. I understand that FINRA will impose a fine which I will pay should my filing of the above information not be promptly submitted to the Home Office for filing with FINRA.



I have made it clear to all customers that all my securities transactions are through Southeast Investments, N.C. Inc. If I have a non-securities business such as insurance, I have clearly informed all clients that this associated business is not owned by nor affiliated with Southeast Investments. If I am using a business card for the non-securities business, I have clearly stated this information on the business card.

I have advised my clients that all non-security transactions are not through Southeast Investments but are through my own or other companies which are not affiliated with and are not owned by Southeast Investments.

I have not offered nor sold any securities or investments of any kind except those offered and approved by Southeast Investments, N.C. Inc. I have not introduced anyone to someone seeking to raise money or arrange a loan in a business I own, my friends own, or anyone owns without first discussing it with Southeast Investments' Chief Compliance Officer and receiving permission in writing.

I am familiar with regulatory requirements regarding insider trading. I have not received information from any company insider regarding company events which I have used to effectuate trades for the benefit of myself or others.

I have not spoken with nor received any communications from State or Federal Regulatory Authorities without first notifying the Compliance Department of Southeast Investments. Any written communication from regulatory authorities have been and will be promptly (within 24 hours) sent to the Compliance Department of Southeast Investments. Should you receive a call from a State or Federal Regulator or an attorney, simply refer them to the Main Office Compliance Department.

I am familiar with the regulatory requirements regarding the privacy of client financial information (Regulation S-P) and have not divulged information regarding any client to any unauthorized persons. I have taken steps to safeguard the privacy of client's records and information.

I have reviewed Section VI of the Written Supervisory Procedures for Southeast Investments regarding Employee Conduct and Activities.

I have not engaged in any outside business activities without first notifying and having the activity or investment approved by Southeast Investments, i.e., I have not sold away.

I have not engaged in any outside business activities involving private securities business with a representative or another broker/dealer nor have I shared in any profit or loss with a customer. I have not settled any errors or losses directly with clients. I have not rebated any commissions to clients.

I have not guaranteed profits nor guaranteed against loss in a client's account.

I have not offered a money back guarantee of fees or commissions charged. I understand this is against FINRA, SEC, exchange and Southeast Investment rules to say such things and I have not.

I do not share or have an interest in a client's account.

I have informed the OSJ or Supervisory Principal in writing of all outside business activity for which I receive compensation, directly or indirectly. I have listed on Attachment A all outside businesses or activities in which I am engaged.

Other than commissions received through Southeast Investments, I have not received directly or indirectly anything that might be considered compensation from a sponsor or wholesaler of an investment product. Any seminars or meetings for which the sponsoring organization paid over \$100.00 for me to attend has been pre-approved by Southeast Investments, N.C. Inc.

I have neither borrowed from nor loaned to clients any monies. I understand FINRA and Southeast Investments rules prohibit receiving any kind of performance based gift or bonus from a client. I also understand rules prohibit giving gifts or monies to clients or rebating commissions. I understand this is strictly prohibited by FINRA and Southeast Investments, N.C., Inc. rules.

I have access to a copy of the firm's Written Supervisory Procedures which were e-mailed to me.

I have reviewed the firm's Written Supervisory Procedures and agree to abide by them:

 I have reviewed the Anti-Money Laundering Procedures in Southeast Investments Written Supervisory Procedures.

 I have not bought or sold for my own account a private placement such as an oil and gas deal without notifying Southeast Investments.

 I understand Southeast Investments' rules prohibit me or members of my family having accounts at other broker dealers unless given written approval. This affirms I have followed that rule.

 I have not received a check or checks from a client made payable to my name or any business name associated with me. All checks are made payable to National Financial Securities or the appropriate mutual fund or insurance carrier. I understand it is **STRICTLY PROHIBITED** to deposit client checks in my account or any account I control.

 I have not raised money for any investment offered by anyone including myself not offered through Southeast Investments.

 I understand that it is a violation of FINRA regulations to share in the profit or loss with a client. I have not shared in the profit or loss with a client.

 I have not deposited check from a client to an account under my control. I understand it is a violation of FINRA rules even if I temporarily deposit it and write a check for the exact same amount to the intended recipient.

 If I have an RIA, I have sent duplicate confirmations and statements to Southeast Investments for review or notified Southeast Investments of how to access RIA client accounts in accordance with FINRA Notice To Members 94-44 and FINRA Rule 3040 which prohibits securities transactions by associated persons without written prior approval. I have printed and read FINRA Notice to Members 94-44 and FINRA Rule 3040.

 I have not sold nor have I participated in life settlements. I understand FINRA has issued two notices Regulatory Notice 09-42 and NTM 06-38 prohibiting broker/dealers or their registered representatives from entering life settlement business prior to approval by FINRA.

 I have reviewed the Telemarketing Procedures in Southeast Investments Written Supervisory Procedures including the rules regarding cold calling and the use of scripts. I have followed the regulations of the firm and of regulators regarding these.

 I am aware of the provisions of the Telephone Consumer Protection Act of 1991, including the DO NOT CALL List. I have read and have abided by the firm's rule regarding telemarketing as delineated in the Written Supervisory Procedures.

 I am aware that all materials on my website (if I have one) have to be approved prior to adding it to my website. I have not added any material to my website without prior approval.

 I understand that all orders are to be called in. Any faxed or e-mail orders that are not confirmed with a phone call and result in an error will be charged to me.

 I am aware of Mutual Fund Rights of Accumulation and Letters of Intent. I have NOT sold Mutual Funds to clients without first reviewing amounts owned to take advantage of Rights of Accumulation and Letters of Intent.

 This certifies that I have received a copy of the Southeast Investments Code of Ethics.

 I do do not (initial one) use email to communicate with clients regarding securities. If I do, I have copied Southeast Investments on all emails regarding securities.

I have not signed a client's name to any document.

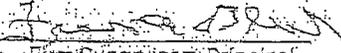
I certify to the above this 11th day of October, 2013.



Registered Representative Signature

Walter Buckley

Registered Representative Printed Name

Reviewed by 
Firm Supervisory Principal

DATE 11-30-13

ATTACHMENT A

Annual Certification of Outside Business Affiliations

FINRA Rule 3030 requires that firms maintain registration information, including outside business affiliations, on forms U4 and U5, and form BD. Failing to properly update records is a frequent finding during FINRA exams.

Please list any and ALL outside business activities in which you are engaged, even if they have previously been disclosed.

Business Central
10-30-13

I certify that I am not engaged in any activity involving the offer or sale of Viatical or life settlements, pay phone or ATM sales, or promissory notes. I understand that should I be approached to offer any investment, I am required to notify the CCO of Southeast Investments and obtain approval.

If you have engaged in a new outside business activity in the last 12 months:

1. How are you compensated for this business?

2. What is the name of the company used for the outside business activity?

3. What is your position or title?

4. Is the business structure a corporation, LLC, partnership or a sole proprietor operation?

5. How much time do you devote each week to the outside business?

6. Are there other registered reps, associated with this firm or not, affiliated with this business? no

7. Are you subject to any formal or informal agreement or arrangement requiring you to turn over or share your securities commissions?
no

Thomas Guillone
Print Name

Thomas Guillone
Signature

10-30-13
Date

Reviewed by J. R. [unclear] OSI

Date 10-30-13

EXHIBIT B

E-MAIL AND ELECTRONIC
COMMUNICATIONS
ACKNOWLEDGEMENT FORM

In accordance with the FINRA Rule 3010 and the supervisory procedures set forth by Southeast Investments, N.C., Inc., I LAMAR GUILLODY, hereby agree to have approved all securities related correspondence both written and electronic (e-mail, website, etc.) with my OSJ Principal. In addition, I agree to have all incoming communications from my customers either written or electronic (e-mail, website, etc.) submitted to my OSJ for review.

I will "carbon copy" (CC) my OSJ on all securities related e-mail correspondence sent to my clients. I will also CC by forwarding to my OSJ Principal copies of all securities related e-mails received by me from clients. These e-mails will be CC to Jeanette Roberts and Frank Black.

Lamar Guildoy
Registered Representative

4-12-12
DATE

Frank Black
OSJ Principal

4/27/12
DATE

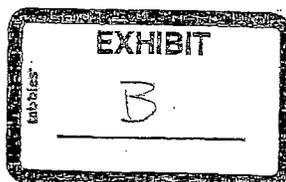


EXHIBIT C

Southeast Investments, N.C. Inc.

Member FINRA, SIPC

820 Tyvola Road, Suite 104
Charlotte, NC 28217
704-527-7873 or 800-828-1295
Fax 704-527-2166

June 6, 2012

Re: Rodney Larry Watkins, Jr. (CRD #3091936)

To Whom It May Concern:

Southeast Investments has submitted through FINRA to register Mr. Watkins with my firm in the State of Oklahoma. Should Oklahoma grant Mr. Watkins registration, I and Southeast Investments agree to do the following to supervise Mr. Watkins to prevent violations of Oklahoma, Federal, FINRA, SEC or other state regulations and rules as well as those of Southeast Investments:

1-All registered representatives including Mr. Watkins are required to forward to the home office all paperwork re opening of brokerage account, application for mutual funds or variable annuities, etc for review and approval. The opening of a brokerage account can only take place by personnel in the home office. Applications for mutual funds, variable annuities are sent directly from the home office to the carriers.

2-As part of registration with Southeast Investments, all registered representations are required to sign:

a-Form titled SELLING AWAY detailing FINRA Rule and Southeast's requirement that written approval be obtained from the Southeast Investments Compliance Officer prior to selling any investment not offered through the Company.



g-Form titled FINRA RULE 3050 requiring registered representatives signature acknowledging he understands all brokerage accounts must be through Southeast Investments.

h-Form acknowledging receipt of AML and Customer Identification Program procedures with signature page attached agreeing to abide by the rules.

i-Form titled SOUTHEAST INVESTMENTS, N.C., INC. REQUEST TO ENGAGE IN OUTSIDE ACTIVITY requiring completion and signature.

3-Neither Mr. Watkins nor any Southeast Investments representatives have the ability to transmit orders from his (their) office to our clearing firm, National Financial Services division of Fidelity Investments. Mr. Watkins will be required to call all orders for securities in to the main office for review and approval prior to transmission to our clearing firm, National Financial Services division of Fidelity Investments for execution.

4-All documents containing client signatures are required to be sent to the home office for review and approval. Part of the review is to compare the signature versus other documents signed by the client.

It is firm policy that clients are sent copies of all documents containing their signature for their records, review and correction if need be. This is true of new account documents, change of address, mutual fund and variable annuity applications, etc. All new clients of Southeast Investments receive a welcome letter from me containing a copy of their new account form along with any other documents containing their signature. The welcome letter explicitly asks that they review all documents for

correctness and asks that they call me personally then or in the future if they have questions or concerns.

5-It is firm policy that all variable annuity contracts be delivered directly from the respective carriers to the policy holder to assure prompt delivery of the contract to the client.

6-Mr. Watkins will not be permitted to act in a supervisory capacity.

7-All requests for disbursement of funds must be sent to the main office for review and approval prior to transmittal to our clearing firm National Financial Services for issuance of check or wire. Neither Mr. Watkins, Southeast Investments or any of our representatives can issue checks.

8-All changes of address requests must be in writing, signed by the client and sent to Southeast main office for review and approval prior to transmittal to our clearing firm National Financial Services. National Financial sends a confirming letter to the client at both the old and new address for confirmation by the client that new address is correct.

9-Mr. Watkins will be required to review the firms Written Supervisory Procedures and discuss in detail each section with the firms Chief Compliance Officer.

10-Mr. Watkins will be placed on Heightened Supervision for a period of not less than 2 (two) years or as long as the state requires.

b-Form titled EMAIL AND ELECTRONIC COMMUNICATIONS ACKNOWLEDGEMENT FORM delineating our requirements and acknowledging they agree to abide by them.

c-Form titled STATEMENT OF ACKNOWLEDGEMENT AND AFFIRMATION OF THE FIRM'S POLICIES AND PROCEDURES CONCERNING THE ANTI-MONEY LAUNDERING REGULATIONS.

d-Form titled REPRESENTATIVES DECLARATION TO SUPERVISORY OFFICE OF SOUTHEAST. This form requires representatives to initial each item and sign at the bottom agreeing to abide by the regulatory requirements.

This form is required to be signed prior to registration.

e-Form titled BI-ANNUAL CERTIFICATION OF REPRESENTATIVE'S DECLARATION TO SUPERVISORY OFFICE. This form requires representatives to initial each item and sign at the bottom agreeing to abide by the regulatory requirements of Southeast Investments, State and Regulatory Authorities and FINRA.

This form is required to be signed by all registered representative of Southeast on a bi-annual basis. Attachment A titled ANNUAL CERTIFICATION OF OUTSIDE BUSINESS AFFILIATIONS REQUIRES certification and signature.

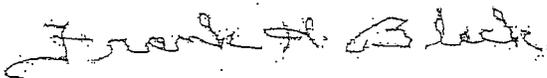
f-Page 2 of the Form titled BI-ANNUAL CERTIFICATION OF REPRESENTATIVE'S DECLARATION TO SUPERVISORY OFFICE states, "I have reviewed Section VI of the Written Supervisory Procedures for Southeast Investments regarding Employee Conduct and Activities.

Despite the fact that my wife owns the building the main office is located in, I do not sit in nor do I have a private office. I sit in an open area 7 1/2 feet from the Operations Manager, Jeanette Roberts. Jeanette has worked for me for 34 years. My daughter Dominique sits at a desk approximately 15 feet directly in front of me. The other wire operator who can take orders from representatives in addition to Jeanette and Dominique sits approximately 12 feet to my right. I hear and see orders as they are received prior to transmission to our clearing firm National Financial for execution.

The fax machine for receipt of faxes is located within 6 feet of my desk. I personally open the mail each day to view the contents. We do not use voice mail nor do I allow screening of my calls; anyone wanting to speak with me simply walks in the main door and sees me or calls and speaks to me.

I take my duties as Chief Compliance Officer of Southeast Investments seriously to prevent violation of regulatory body rules, protect the public as well as my thorough understanding that the very existence of the firm could be jeopardized if rules are violated. Since both I and three of my grown children, 2 nieces and numerous representatives are dependent on Southeast to conduct business, I do everything I can to ensure we follow the rules.

Sincerely,



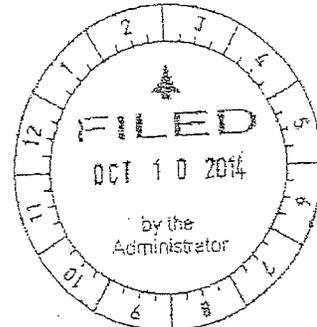
Frank H. Black-CCO

Brenda London

From: Brenda London
Sent: Thursday, June 19, 2014 4:00 PM
To: pwaddel@sneedlang.com; Irving Faught
Cc: Jennifer Shaw; Amanda Cornmesser; Faye Morton
Subject: Rodney Watkins ODS 12-058
Attachments: SoutheastInv-Black_RespObjToODSMotionForLeaveToSuppRecommendation_12-058.pdf

Attached is a filed stamped copy of *Respondents' Response and Objection to the Department's Motion for Leave to Supplement Recommendation* filed with the Administrator on this date.

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER
120 NORTH ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

Respondents.

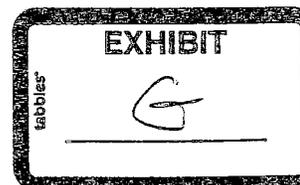
ODS File No. 12-058

ORDER TO CEASE AND DESIST AND IMPOSING A CIVIL PENALTY

On March 26, 2013, the Enforcement Division of the Oklahoma Department of Securities (Department) filed a recommendation under the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011), alleging that Rodney Larry Watkins, Jr. (Watkins) violated a previous order of the Administrator of the Department (Administrator) by transacting business in and/or from the state of Oklahoma as an agent without the benefit of registration under the Act and that Frank H. Black (Black) and Southeast Investments, N.C. Inc. (Southeast) failed to supervise Watkins in violation of 660:11-5-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules), Okla. Admin. Code §§ 660:1-1-1 through 660:25-7-1 (2013 Recommendation).

On April 30, 2014, the Department entered into an agreement with Watkins, leaving only Southeast and Black as parties. In discovery, Southeast and Black provided the Department with copies of Southeast's Written Supervisory Procedures dated August 2013 (WSPs). The Department, in April and May of 2014, deposed Black, Watkins, and Lamar Guillory (Guillory), another agent of Southeast who is located in Oklahoma. On June 20, 2014, the Department supplemented its 2013 Recommendation to allege that Southeast failed to establish, maintain and enforce written procedures that enable Southeast to properly supervise the activities of Southeast's registered agents and associated persons to assure compliance with applicable securities laws, rules, and regulations (Supplemental Recommendation). Black and Southeast (collectively, Respondents) filed their response to the Supplemental Recommendation on July 15, 2014 (Response). The parties have filed various additional pleadings but ultimately agreed to submit the case on the documentary record and waived their rights to appear at a hearing.

NOW, THEREFORE, the Administrator hereby enters this Order:



FINDINGS OF FACT

1. Southeast became registered as a broker-dealer on May 8, 2009, under the Act, and has been a member of the Financial Industry Regulation Authority (FINRA) since July 1, 1997.

2. Black, a South Carolina resident, is the owner and control person of Southeast. In addition to these duties, Black is Southeast's Chief Compliance Officer, Financial and Operations Principal, and "Designated Supervisory Principal" (the title used to designate particular authority and responsibilities in Southeast's WSPs). Black is not and has not been registered under the Act in any capacity.

3. Watkins was first registered as an agent under the Act in December 1998. From March 2009 until October 2011, Watkins was registered as an agent of Ameriprise Financial Services, Inc. (AFS). Watkins was allowed to resign as a result of an internal AFS investigation. AFS filed a Uniform Termination Notice for Securities Industry Registration (Form U-5) with CRD stating that Watkins had violated the firm's policies relating to "discretionary power; unacceptable activities/transactions; pre-signed forms and applications; forgery; signature stamps; and other signature issues and annuity overview." Watkins became an agent of Southeast in February of 2012 and designated an address in Tulsa, Oklahoma as his business address.

4. Southeast's principal place of business located in Charlotte, North Carolina is designated as Guillory's and Watkins' office of supervisory jurisdiction.

5. Black is responsible for directly supervising all of Southeast's approximately one hundred and forty-five (145) agents as well as its associated persons from Southeast's principal place of business.

6. The Southeast agents are geographically dispersed throughout the United States, mostly in one- or two-agent offices. Many of the agents are held out to be independent contractors who conduct outside business activities.

7. For purposes of supervision, Southeast does not maintain a system of branch offices or regional offices of supervisory jurisdiction, but instead relies entirely on Black, individually, to supervise all agents other than himself.

8. The WSPs provide that Southeast and Black must report to CRD any disclosable event, including administrative actions, within ten (10) days of the event.

9. Southeast and Black did not timely report the proceeding on the 2013 Recommendation on CRD with regards to Watkins.

10. When Southeast and Black did report the 2013 Recommendation, the filing was inaccurate as to the date, the basis and the conditions of the action.

11. In June 2013, Watkins directed Southeast to update his business and residential addresses on CRD. Neither Southeast nor Black updated Watkins' business and residential addresses until November 2013, leaving Watkins' CRD profile inaccurate during this period.

12. The WSPs provide that the agent shall complete order tickets and submit them to Black for approval.

13. Contrary to the WSPs, agents do not complete order tickets, but instead call in orders over the phone to one or more of Southeast's employees in the firm's Charlotte, North Carolina office.

14. The WSPs provide that Southeast will conduct annual compliance interviews with each of its agents and maintain a record of all interviews. Respondents have not submitted any record of compliance interviews with Watkins and Guillory even though there were two separate discovery requests for such records.

15. On August 6, 2014, the Administrator conducted a pre-hearing conference wherein the parties agreed to waive their right to an oral hearing and to have this matter submitted on the documentary record as provided for by Section 660:2-9-2(g) of the Rules. Therein the Administrator directed that the parties submit any additional evidence or argument to be considered as part of the documentary record no later than August 29, 2014.

16. Attached as Exhibit A is a listing of the contents of the Hearing Notebook that serves as the Designation of Record for use in consideration of the instant matter.

17. To the extent any of these Findings of Fact are more properly characterized as Conclusions of Law, they should be so considered.

AUTHORITIES

1. 660:11-5-42 of the Rules states in pertinent part:

(a) Purpose. This rule is intended to set forth the standards of ethical practices for broker-dealers and their agents. Any noncompliance with the standards of ethical practices specified in this section will constitute unethical practices in the securities business; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of broker-dealers, and their agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) Standards.

(1) A broker-dealer and his agents, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and his agents shall not violate any federal securities statute or rule or any rule of a national securities exchange or national securities association of which it is a member with respect to any customer, transaction or business effected in this state.

* * *

(22) The following standards shall apply to supervisory procedures:

(A) Each broker-dealer shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each registered agent and associated person to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Final responsibility for proper supervision shall rest with the broker-dealer, the principal(s) of the broker-dealer registered in accordance with 660:11-5-11, and the principal(s) of the broker-dealer in each OSJ, including the main office, and the registered representatives in each non-OSJ branch office designated by the broker-dealer to carry out the supervisory responsibilities assigned to that office by the broker-dealer pursuant to the rules and regulations of the NASD [now FINRA]. A copy of the written supervisory procedures shall be kept in each office of supervisory jurisdiction and each non-OSJ branch office.

(C) Each broker-dealer shall be responsible for keeping and preserving appropriate records for carrying out such broker-dealer's supervisory procedures. Each broker-dealer shall review and endorse in writing, on an internal record, all transactions and all correspondence of its registered agents pertaining to the solicitation or execution of any securities transaction.

(D) Each broker-dealer shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses and conduct at least an annual inspection of each office of supervisory jurisdiction.

(E) Each broker-dealer shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications and experience of any person prior to making such a certification in the application of such person for registration under the Securities Act.

2. Section 1-406 of the Act states in pertinent part:

A. A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application that contains:

1. The information required for the filing of a uniform application, a consent to service of process complying with Section 49 of this act [Section 1-611 of this title], the fee specified in Section 50 of this act [Section 1-612 of this title] and any reasonable fees charged by the designee of the Administrator for processing the filing; and

2. Upon request by the Administrator, any other financial or other information that the Administrator determines is appropriate.

B. If the information contained in an application that is filed under subsection A of this section is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file a correcting amendment.

3. Section 1-604 of the Act states in pertinent part:

A. If the Administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or constituting a dishonest or unethical practice or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or constituting a dishonest or unethical practice, the Administrator may:

1. Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this act;

2. Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under subparagraph d or f of paragraph 1 of subsection B of Section 18 of this act [Section 1-401 of this title] or an investment adviser under subparagraph c of paragraph 2 of subsection B of Section 20 of this act [Section 1-403 of this title]; or

3. Issue an order under Section 9 of this act [Section 1-204 of this title].

* * *

D. In a final order under subsection C of this section, the Administrator may impose a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for

a single violation or up to Two Hundred Fifty Thousand Dollars (\$250,000.00) for multiple violations in a single proceeding or a series of related proceedings.

4. Section 1-411 of the Act states in pertinent part:

C. If the Administrator finds that the order is in the public interest and paragraphs 1 through 6, 8, 9, 10, 12 or 13 of subsection D of this section authorizes the action, an order under this act may censure, impose a bar, impose a civil penalty in an amount not to exceed a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or Two Hundred Fifty Thousand Dollars (\$250,000.00) for multiple violations on a registrant, and/or recover the costs of the investigation from a registrant and if the registrant is a broker-dealer . . . , from any partner, officer, or director, any person having a similar function or any person directly or indirectly controlling the . . . broker-dealer.

D. A person may be disciplined under subsections A through C of this section if the person:

* * *

2. Has willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years;

* * *

8. Has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individuals was subject to the person's supervision and committed a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous ten (10) years;

* * *

13. Has engaged in dishonest or unethical practices in the securities . . . business within the previous ten (10) years[.]

CONCLUSIONS OF LAW

1. Southeast failed to establish, maintain and/or enforce supervisory procedures to enable the firm to assist compliance with applicable securities laws in violation of 660:11-5-42(b)(22) of the Rules.

2. Black failed to enforce supervisory procedures to assure compliance with applicable securities laws in violation of 660:11-5-42(b)(22) of the Rules.

3. Southeast and Black failed to promptly file a correcting amendment of Watkin's change of address and the filing of the 2013 Recommendation on March 26, 2013.

4. Southeast and Black willfully failed to comply with the Act and with a rule adopted under the Act. Such conduct constitutes dishonest and unethical practices in the securities business.

5. The Administrator is authorized, pursuant to Section 1-604 of the Act, to issue an order directing Respondents to cease and desist from engaging in the acts, practices, and courses of business necessary to comply with this act.

6. The Administrator is also authorized, pursuant to Sections 1-411 and 1-604 of the Act, to suspend any registration, impose a censure, impose a bar, and/or impose a civil penalty against Southeast and Black.

7. It is in the public interest for the Administrator to direct that Southeast and Black take the necessary steps to come into compliance with the Act and Rules.

8. It is in the public interest for the Administrator to impose a civil penalty against Black and Southeast.

To the extent any of these Conclusions of Law are more properly characterized as Findings of Fact, they should be so considered.

ORDER

IT IS HEREBY ORDERED Southeast and Black cease and desist from their violations of the act in failing to establish, maintain and/or enforce supervisory procedures to enable the firm to assist compliance with applicable securities law.

IT IS HEREBY FURTHER ORDERED that Respondents Southeast and Black jointly pay a monetary penalty in the amount of \$5,000 to the Department, by cashier's check or money order within ninety (90) days of the date of this order.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 10th day of October, 2014.

(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 13th day of October, 2014, true and correct copies of the above and foregoing *ORDER TO CEASE AND DESIST AND IMPOSING A CIVIL PENALTY* were sent in the following manner to the specified individuals:

By electronic mail and mailed with postage prepaid thereon, addressed to:

Patrick O. Waddel, OBA #9254
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By electronic mail to:

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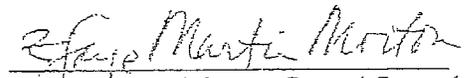

Z. Faye Martin Morton, General Counsel

EXHIBIT A

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER
120 NORTH ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102

In the Matter of:

Rodney Larry Watkins, Jr. (CRD #3091936);
Southeast Investments, N.C. Inc. (CRD #43035); and
Frank H. Black (CRD #22451);

Respondents.

ODS File No. 12-058

HEARING NOTEBOOK

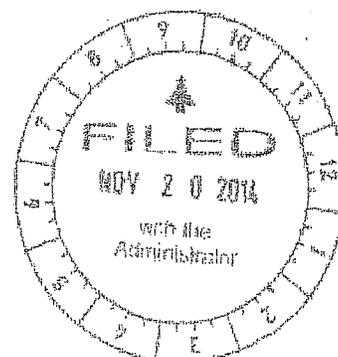
- A. Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (2011)
- B. Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended July 1, 2007)
 1. Enforcement Division Recommendation, *filed with the Administrator on March 26, 2013*
 2. Notice of Request for Hearing by Rodney Larry Watkins, *filed with the Administrator on April 15, 2013*
 3. Notice of Request for Hearing by Southeast Investments, N.C. Inc. and Frank H. Black, *filed with the Administrator on April 15, 2013*
 4. Order Setting Hearing, *filed by the Administrator on May 9, 2013*
 5. Order Striking Hearing, *filed by the Administrator on October 22, 2013*
 6. Order Setting Scheduling Conference, *filed by the Administrator on October 23, 2013*
 7. Respondents' Motion Requesting Rescheduling of Telephone Scheduling Conference, *filed with the Administrator on October 23, 2013*
 8. Order Resetting Scheduling Conference, *filed with the Administrator on October 25, 2013*
 9. Agreed Scheduling Order, *filed by the Administrator on November 4, 2013*
 10. Respondents' Motion for Summary Disposition, *filed with the Administrator on December 2, 2013*
 11. Department's Preliminary List of Witnesses and Exhibits, *filed with the Administrator on December 11, 2013*
 12. Department's Motion to Toll Time to File Response to Respondents' Motion for Summary Disposition, *filed with the Administrator on December 17, 2013*

13. Agreed Order Tolling Time to File Response to Respondents' Motion for Summary Disposition, *filed by the Administrator on December 17, 2013*
14. Respondents' Motion for Order Compelling Response to his Motion for Summary Disposition and for Related Relief, *filed with the Administrator on February 27, 2014*
15. Department's Response to Respondents' Motion for Summary Disposition and Department's Motion for Summary Decision, *filed with the Administrator on February 28, 2014*
16. Respondents' Reply Brief in Support of their Motion for Summary Disposition and in Opposition to the Department's Motion for Summary Decision, *filed with the Administrator on March 6, 2014*
17. Order Denying Respondents' Motion for Summary Disposition and Department's Motion for Summary Decision, *filed by the Administrator on March 10, 2014*
18. Department's Motion for Resolve Discovery Issues and Request for Hearing, *filed with the Administrator on March 26, 2014*
19. Order Setting Hearing, *filed by the Administrator on March 26, 2014*
20. Subpoena Duces Tecum issued to Rodney Watkins, filed by the Administrator on March 31, 2014
21. Department's Notice of Deposition of Rodney Watkins, *filed with the Administrator on April 1, 2014*
22. Order Resolving Discovery Issues, *filed by the Administrator on April 1, 2014*
23. Subpoena to produce documents, appear and testify issued to Lamar Monta Guillory, *filed by the Administrator on April 1, 2014*
24. Subpoena to produce documents issued to Regus Mgmt. Group, LLC, *filed by the Administrator on April 2, 2014*
25. Subpoena to appear and testify issued to Sharmien Watkins, *filed by the Administrator on April 2, 2014*
26. Subpoena to produce documents, appear and testify issued to Lamar Monta Guillory, *filed by the Administrator on April 3, 2014*
27. Department's Notice of Deposition of Frank H. Black, *filed with the Administrator on April 3, 2014*
28. Subpoena to produce documents to CPA Site Solutions, *filed by the Administrator on April 7, 2014*
29. Subpoena to appear and testify issued to Jeanette Roberts, *filed by the Administrator on April 7, 2014*
30. Subpoena to appear and testify issued to Dominique Black, *filed by the Administrator on April 7, 2014*
31. Respondents' Motion to Quash Subpoena Duces Tecum Directed to Rodney L. Watkins, Jr., *filed with the Administrator on April 8, 2014*
32. Respondents' Motion to Compel Production of Documents, *filed with the Administrator on April 11, 2014*
33. Agreement of Rodney Larry Watkins Jr., *filed by the Administrator on April 30, 2014*

34. Subpoena to appear and testify issued to Rodney Larry Watkins, *filed by the Administrator on April 30, 2014*
35. Subpoena to appear and testify issued to Jeanette Roberts, *filed by the Administrator on April 30, 2014*
36. Subpoena to appear and testify issued to Dominique Black, *filed by the Administrator on April 30, 2014*
37. Notice of Deposition of Frank H. Black, *filed with the Administrator on April 30, 2014*
38. Department's Motion for Leave to Supplement Recommendation, *filed with the Administrator on June 10, 2014*
39. Southeast Investments, N.C. Inc. and Frank Black Response and Objection to the Department's Motion for Leave to Supplement Recommendation, *filed with the Administrator on June 19, 2014*
40. Order [granting ODS' Motion for Leave to Supplement Recommendation], *filed by the Administrator on June 20, 2014*
41. Department's Supplemental Enforcement Division Recommendation, *filed with the Administrator on June 20, 2014*
42. Southeast Investment's & Frank Black's Motion to Dismiss Supplemental Enforcement Division Recommendation and Alternative Response to the Same of Respondents Southeast Investment, N.C. Inc. and Frank H. Black, *filed with the Administrator on July 15, 2014*
43. Department's Motion for Summary Decision, *filed with the Administrator on July 23, 2014*
44. Department's Response to Respondents' Motion to Dismiss Supplemental Enforcement Division Recommendation, *filed with the Administrator on July 25, 2014*
45. Scheduling Order, *filed by the Administrator on July 29, 2014*
46. Department's Final List of Witnesses and Exhibits, *filed with the Administrator on August 4, 2014*
47. Respondents' Response to Department's Motion for Summary Disposition and Renewed Motion to Dismiss Supplemental Recommendation, *filed with the Administrator on August 4, 2014*
48. Respondents' Motion for Recusal of Administrator and for Appointment of Neutral Hearing Officer, *filed with the Administrator on August 4, 2014*
49. Department's Response to Respondents' Motion for Recusal of Administrator and for Appointment of Neutral Hearing Officer, *filed with the Administrator on August 6, 2014*
50. Order Denying Respondents' Motion for Recusal of Administrator and for Appointment of Neutral Hearing Officer, *filed by the Administrator on August 6, 2014*
51. Respondents' Final List of Witnesses and Exhibits, *filed with the Administrator on August 7, 2014*
52. Pre-Hearing Conference Order, *filed by the Administrator on August 12, 2014*
53. Department's Final Argument, *filed with the Administrator on August 29, 2014*
54. Respondents' Consolidated Response to Department's Motion for Summary Disposition and Renewed Motion for Judgment on Supplemental Recommendation, *filed with the Administrator on August 29, 2014*

55. Southeast Investments, N.C. Inc. Written Supervisory Procedures August 2013, *produced by Respondents, Bates Nos. SE-00087 through SE-00147*

OKLAHOMA DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER
120 NORTH ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102



SOUTHEAST INVESTMENTS, N.C. INC.
and FRANK H. BLACK,

Appellants,

vs.

OSC 15-001

OKLAHOMA DEPARTMENT OF SECURITIES
ex rel. IRVING L. FAUGHT, ADMINISTRATOR,

Appellee.

RESPONDENTS' BRIEF IN SUPPORT OF THEIR PETITION
FOR REVIEW OF ADMINISTRATOR'S ORDER TO CEASE
AND DESIST AND IMPOSING CIVIL PENALTIES

November 19, 2014

Submitted by:

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Investments, N.C. Inc.*



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OKLAHOMA DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER
120 NORTH ROBINSON, SUITE 860
OKLAHOMA CITY, OKLAHOMA 73102

SOUTHEAST INVESTMENTS, N.C. INC.
and FRANK H. BLACK,

Appellants,

vs.

OSC 15-001

OKLAHOMA DEPARTMENT OF SECURITIES
ex rel. IRVING L. FAUGHT, ADMINISTRATOR,

Appellee.

RESPONDENTS' BRIEF IN SUPPORT OF THEIR PETITION
FOR REVIEW OF ADMINISTRATOR'S ORDER TO CEASE
AND DESIST AND IMPOSING CIVIL PENALTIES

This brief is submitted by Respondents Southeast Investments, N.C. Inc. and Frank H. Black (collectively, "Respondents" and, individually, "Southeast" and "Black") in support of Respondents' Petition for Review of the Administrator's "Order to Cease and Desist and Imposing Civil Penalties" filed October 10, 2014 ("Final Order"). A copy of the Final Order is included in the Appendix filed herewith at Exhibit 1. *See* Note 3 *infra* concerning the contents of the record assembled by the Department. Documents in the record of the proceedings from which this appeal is taken (OSC 15-001, Vols. 1 and 2) are cited as "Record" followed by tab numbers and, where appropriate, page numbers.

I. STATEMENT REGARDING JURISDICTION OF THE COMMISSION

The Commission has jurisdiction over Southeast's Oklahoma operations. But, on its face, the cease-and-desist order contained in the Final Order is not so limited. *See* Final Order at p. 7 (first ordering paragraph) and Respondents' discussion of extraterritorial jurisdiction issues in the Record at Tab 10, pp. 4-6 and Tab 16, pp. 7-9. The briefs just cited show that the

Department never had jurisdiction to adjudicate the matters encompassed in the March 26, 2013 Recommendation (Record, Tab 1, hereinafter called “the 3-26-13 Recommendation”), as more fully explicated in the procedural history detailed in Part II.B below. For that very reason, the Department was constrained to find a way to “supplement” the original recommendation to enable it to proceed against these remaining Respondents after the real issues in these proceedings had already been resolved by the settlement agreement of April 30, 2014. Record at Tab 33.¹

II. ISSUES PRESENTED FOR REVIEW

A. Whether the Administrator erred in his ruling that Southeast failed to establish, maintain and/or enforce supervisory procedures.

B. Whether the Administrator erred in his ruling that Black failed to enforce supervisory procedures to assure compliance with applicable securities laws.

C. Whether the Administrator erred in his implied ruling that Southeast and Black were not in material compliance with applicable Oklahoma statutes or regulations when they failed to promptly file a correcting amendment of Watkin's change of address and the filing of the 2013 Recommendation later than March 26, 2013.²

¹ As the record reflects, the original charge against Southeast (in the 3-26-13 Recommendation) was that it failed to supervise Watkins adequately and thereby facilitated his violation of the original Department Recommendation of March 29, 2012. Southeast was not accused of any system-wide failure to “establish, maintain and/or enforce supervisory procedures.” That sweeping allegation surfaced for the first time in the re-invented recommendation that was filed over a year later, on June 20, 2014.

² Respondents characterize the stated ruling as “implied” because, on its face, the Administrator’s Conclusion of Law No. 3 (*See* Appendix hereto, Ex. 1 at page 7, numbered paragraph “3”)(hereinafter cited as “Resp. App.”) is a statement of fact that may or may not have legal significance. *See* Summary and Analysis of the Final Order, Part III.C *infra*.

III. STATEMENT OF THE CASE

A. Abstract of the Dispositive Procedural Events (Nature of the Case)

This matter was commenced by the Oklahoma Department of Securities (hereinafter “ODS” or the Department) on the recommendation of its Enforcement Division on March 29, 2012 styled as follows: In the Matter of: Rodney Larry Watkins, Jr. (CRD #3091936) (the “3-29-12 Recommendation”). Resp. App., Ex. 2. The 3-29-12 Recommendation recommended a suspension for Watkins based on his actions while a broker-dealer agent and an investment advisor representative with Ameriprise Financial Services, Inc. (“AFS”). The original file number of ODS 12-058 was carried forward in all of the proceedings before the Administrator.³ The proceeding initiated by the 3-29-12 Recommendation culminated in an agreement and six-month suspension. *See* Resp. App. Exs. 3 (agreement) and 4 (related order).

The Department named Southeast and Black as additional Respondents in the “supplemental” 3-26-13 Recommendation (Record, Tab 1). The 3-26-13 Recommendation alleged that Watkins had violated the August 29, 2012 agreement by executing securities orders from the State of Oklahoma on behalf of customers in Kansas and Texas. The Department and Watkins settled the issues raised in the 3-26-13 Recommendation on April 30, 2014 (Record, Tab 33).

³ The record assembled by the Department includes only filings from and after the Enforcement Division Recommendation of March 26, 2013 (Record, Tab 1). Filings referred to herein that predate that date are included in the Resp. App. *See* Commission Rule 660:1-5-1(d)(5). In addition, the Final Order is included in the appendix as Exhibit I because it was not included in the record. *See* Commission Rules 660:1-5-1(c) and 660:2-9-7(b)(1) concerning required content of the record. To facilitate review of the entire procedural history of these proceedings (there have been three different Recommendations filed over a two-and-a-half year period), Respondents have included a Timeline of Case Proceeding in their appendix at Exhibit 6.

On June 20, 2014, the Department submitted a third recommendation styled "Supplemental Enforcement Division Recommendation" (the "6-20-14 Recommendation") seeking (i) permanent suspension of Southeast and Black and (ii) levying of a \$65,000.00 fine. Record at Tab 41. The 6-20-14 Recommendation alleged system-wide failures by Southeast to supervise its agents adequately and failure to update information to the Central Registration Depository ("CRD") maintained by the Financial Industry Regulatory Authority ("FINRA"). The Administrator ruled on the 6-20-14 Recommendation in the Final Order appealed from here. He ordered Respondents to "cease and desist from their violations of the [Oklahoma Securities Act]" and levied a \$5,000.00 fine.

B. Factual Background and Detailed Procedural History
(Course of Proceedings)

As noted in Part III.A immediately above, these proceedings commenced with the filing of the 3-29-12 Recommendation. The background facts that gave rise to that filing and the events that have transpired since are recounted below.

Watkins' employment with Ameriprise Financial Services

Watkins was registered as a broker-dealer agent and an investment adviser representative with Ameriprise Financial Services, Inc. ("AFS") from March 2009 to October 2011. Before his employment with AFS, Watkins had worked as broker-dealer agent for Merrill Lynch for approximately twelve years and had never been the subject of any disciplinary action. In August 2011, AFS conducted a series of investigatory interviews of Watkins at which time he admitted to exercising time discretion in multiple client accounts without having written discretionary trading authority. (Under then-existing AFS rules, Watkins was able to take orders on Monday through Wednesday and place them on Thursday). Further investigation by AFS revealed inconsistent client signatures, which caused AFS to conclude that Watkins had used "recycled"

signatures. Thereafter, AFS suspended Watkins and he resigned from AFS, notwithstanding the fact that he was operating under an Office of Supervisory Jurisdiction at the time and had been for the previous two years. So far as Respondents can determine, no FINRA, ODS or other sanctions were ever imposed on AFS.

The original Department suspension recommendation

Subsequent to Watkins' resignation from AFS, he was employed by Southeast Investments, N.C. Inc., and on February 24, 2012, he filed an application for broker-dealer agent registration under the Oklahoma Securities Act of 2004 ("Act"), Okla. Stat. tit. 71 §§ 1-101 through 1-701 (2011). Upon review of Watkins' application, the ODS Examinations Division discovered the AFS Form U-5 amendment outlining the reasons for his suspension by AFS. This review apparently triggered the commencement of the original 2012 proceeding, with the ODS Enforcement Division recommending that (a) the Administrator bar Watkins from future registration under the Act in any capacity, (b) bar him from association with a broker-dealer or investment adviser in any capacity, and/or (c) impose a civil penalty against him. Resp. App., Ex. 2. While his application was pending with the ODS, Watkins was approved as a broker-dealer agent by FINRA and the States of California, Kansas and Texas.

Watkins responded to the Enforcement Division's allegations and recommendations. In mitigation of the Enforcement Division's Recommendation, Watkins asserted that the Recommendation of an absolute bar was not in the public interest considering (a) that no customer/client funds or securities were ever misappropriated by him; (b) that there was never any customer complaint filed against him; (c) that his cooperation and forthrightness in the AFS investigatory process was duly noted by AFS personnel; and (d) that an *absolute* bar would be unduly harsh and punitive. See Record, Tab 54, Ex. "A."

The agreed, retroactive suspension

By Agreement entered into by the ODS and Watkins on August 29, 2012, Watkins represented that he had not offered or sold a security or transacted securities business in and/or from the State of Oklahoma "as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, and/or investment adviser representative, as such terms are defined in Section 1-102 of the Act, since November 25, 2011." Resp. App., Exs. 3 and 4 (Agreement and Order incorporating Agreement) and Record at Tab 10, pp. 2-3 (quoting the August, 2012 order). Watkins was ordered to pay a monetary penalty of \$2,500.00 to be paid prior to "his registration under the Act as a broker-dealer, broker-dealer agent, issuer agent, investment adviser and/or investment adviser representative." Watkins' registration was further conditioned upon his agreement to operate under an approved heightened supervision plan which included on-site supervision. See Resp. App., Exs. 3, 4 and Record at Tab 54, Ex. "B."

Watkins' association with Southeast and non-Oklahoma activities

Watkins joined Southeast in the first quarter of 2012. His association with Southeast as its agent received FINRA approval on February 14, 2012, California Securities Commission approval on February 27, 2012, Kansas Securities Commission approval on February 28, 2012, and Texas Securities Commission approval on March 8, 2012. Watkins has never been suspended or disciplined by any state regulators other than the ODS.⁴

As set forth in more detail in Respondents' Motion for Summary Disposition filed December 2, 2013 (Record at Tab 10), Watkins worked out of his sister's home in Texas -- a state where he was duly licensed at all relevant times -- between May 11, 2012 and September 9,

⁴ The facts stated in this paragraph were included in Respondents' August 29, 2014 brief (Record, Tab 54 at p. 4), but not verified by affidavit. Respondents understand and believe that the Department does not contest such facts.

2012. During that five-month period, Watkins placed a total of nineteen buy or sell orders for seven clients who resided in either Texas or Kansas. Watkins conducted *no* securities business anywhere from September 9, 2012 until April 30, 2014, when he was reinstated in Oklahoma. See Record at Tab 54, Ex. "C," at deposition pages 90-117 (customer Alprin); Vol. 2, pp. 22-28 (customer Lewis); 33-40 (customer Payne); 41-46, 49-50 (customer Walker); 52, line 11 to 53, line 23 (customer Williams); 58-60 (customer Ronica Watkins) and 65-67 (Watkins' affidavit regarding non-Oklahoma customers generally); Record at Tab 10, Ex. "D" (Southeast customer affidavits, showing the latest securities transaction in September, 2012) and Record at Tab 33 (April 30, 2014 Agreement).

Acting on a mistaken assumption, the Enforcement Division filed a Supplemental Recommendation on March 26, 2013 ("3-26-13 Recommendation"), which named Southeast and Black as additional Respondents. Record at Tab 1. That assumption was this: because Watkins resided in Tulsa and maintained a general financial services office there, securities transactions consummated during Mr. Watkins' Oklahoma suspension necessarily occurred in Oklahoma. Confronted with overwhelming evidence that the assumption was in fact mistaken – the testimony of Mr. Watkins himself, of his wife and office-mate Sharmien Watkins, of his Southeast Securities colleague Lamar Guillory and, especially, the affidavits of the customers themselves⁵ – the Department settled its claims with Mr. Watkins. See generally, Record, Tabs 10 and 16 (Respondents' briefs relating to extraterritorial jurisdiction). The settlement requires, most significantly, that Watkins facilitate periodic reviews of his practice by a third-party consultant. No additional suspension or fine was imposed. Record at Tab 33 (the Settlement

⁵ The Department would have borne the burden of proof at hearing, a burden that Respondents respectfully suggest the Department could not meet. See Part IV.A *infra*.

Agreement).⁶ *There is no evidence in the record and no suggestion in the Final Order of October 10, 2014 that Watkins has failed to comply with the terms of the Settlement Agreement with the Department.*

The Department's slender reed: an Oklahoma "nexus"

The Department's response to the Respondents' motion for summary disposition of the 3-26-13 Recommendation was dominated by argument about the existence of a "nexus" between the subject transactions and the State of Oklahoma, notwithstanding these stubborn facts: no securities transactions handled by Watkins actually occurred in this state. That argument is a testament to just how clear it was that the 3-26-13 Recommendation rested on the slenderest of reeds. Here is a sample:

Section 413(e) [of the former Oklahoma Securities Act] provided in pertinent part as follows: 'For the purpose of this section, an offer to sell or, to buy is made in this state, whether or not either party is then present in this state, when the offer: (1) originates from this state[.]' While recognizing there is little guidance as to the meaning of "originates," the *Nuveen* court concluded that some sort of nexus between the "sale" and the state is required. The court found the presence of a sufficient nexus to warrant application of this state's securities laws due to, *inter alia*, an employee's involvement in the preparation of certain of the offering documents and his research activities while in Oklahoma.

Record at Tab 15, pp. 15-16.

Respondents respectfully suggest that, when a regulatory agency sets out in search of "some sort of nexus" so it can revoke a broker's license and confiscate his livelihood, the agency

⁶ As is so often the real-world case, Watkins had little choice at the end of the day but to capitulate to the Department's demands. Absent such capitulation, he faced the potential of many more months, or years, of *practical* suspension while the internal and external appeals processes played out. Unlike litigants in private civil actions, a party to a proceeding like this one cannot post a supersedeas bond to stay enforcement of an agency action. Such is the power of government licensing regulators.

ought to take a moment and re-examine its priorities.⁷ Yet the allegations against *Southeast and Black* in the 3-26-13 Recommendation were even more attenuated: those respondents stood accused of failing to prevent the slender-reed, putative violations by Watkins.

Almost fourteen months after commencement of this proceeding against Black and Southeast, the Department found time to take Southeast's deposition through its principal, Black. Some three weeks after the Black deposition (on June 10, 2014), the Department announced that it had discovered startling new evidence of independent violations by Southeast. The actions that the Department "discovered" at the eleventh hour are neither startling, nor momentous, nor (most importantly) unlawful. Nevertheless on the strength of the supposed new discoveries, the Department filed what amounts to *an entirely new proceeding against Southeast and Black* on June 20, 2014 styled "Supplemental Enforcement Division Recommendation." Record at Tab 41. Over the Respondents' unequivocal objection, the Supplemental Recommendation was allowed by order of the Administrator less than twenty-four hours after Respondents' objection was filed with the Administrator. Record at Tabs 39 (Objection) and 40 (Order).

The events described above represent a continuation of the bootstrap character of these proceedings that has permeated the same from the outset: if the original allegations turn out to be contradicted by the facts, just argue "some sort of nexus;" if the Department's vicarious liability theory against the broker-dealer falls with the failure of the underlying misconduct allegation (as necessarily it must), just "discover" some entirely *new* violations to keep the broker-dealer in the dock.

⁷ And in Watkins' case, of course, there were no "offering materials" and no "research," much less which occurred in Oklahoma. Watkins sold listed securities to existing clients, so even the attenuated "nexus" of the *Nuveen* case did not exist. The truth is that the Department never had a valid suspension case against Watkins. Not only did the statutes (and the United States Constitution) undermine the Department's actions, so too did the original suspension order itself. That order explicitly limited its geographic reach to Oklahoma.

C. Summary and Analysis of the Final Order

The Final Order rejects the Enforcement Division's recommendation in the 6-20-14 Recommendation that the licenses of Southeast and Black be revoked permanently and that Southeast be fined \$65,000.00. But the Administrator -- rather than dismissing the gossamer, eleventh hour proceeding that remained after the original charges were settled -- fined Southeast \$5,000.00 and issued a cease and desist order.

1. *The Administrator's Dispositive Findings of Fact*

The Final Order makes four fact findings that putatively support the Administrator's conclusions that Respondents violated Oklahoma securities laws and regulations: (1) Southeast failed to report timely and accurately the instant proceedings to FINRA's CRD (Final Order at p. 2, ¶¶ 9-10); (2) Southeast failed to timely report change of address information to the CRD (Final Order at p. 2, ¶ 11); (iii) Southeast permits its agents to call in orders to Southeast rather than "complet[ing]" and "submit[ting]" written orders to Southeast for approval (Final Order at p. 2-3, ¶¶ 12-13); and (iv) Southeast failed to show the Administrator that it conducted compliance interviews with Watkins and agent Lamar Guillory (Final Order at p. 3, ¶ 14).

2. *The Administrator's Conclusions of Law*

Aside from the conclusory statement that "Southeast and Black willfully failed to comply with the Act and with a rule adopted under the Act," the Administrator articulates three conclusions of law: (1) "Southeast failed to establish, maintain and/or enforce supervisory procedures," citing Okla. Dept. of Securities Rule 660:11-5-42(b)(22), but no Oklahoma statute; (2) "Black failed to enforce supervisory procedures to assure compliance with applicable securities laws," citing Rule 660:11-5-42(b)(22), but no Oklahoma statute; and (3) "Southeast

and Black failed to promptly file a correcting amendment of Watkin's change of address and the filing of the 2013 Recommendation on March 26, 2013," citing no authority.⁸

D. Numbered Statement of Dispositive Facts

The significant procedural facts are recounted in Part III.B hereinabove along with related, underlying transaction facts. A numbered statement of the dispositive facts follows, in accordance with ODS Rule 660:1-5-1(d)(1)(D). *See* also Part III.C above (summary and analysis of Administrator's findings and conclusions).

TOPIC I: SUPERVISION GENERALLY

1. The Administrator correctly states (a) that Black is responsible for directly supervising all of Southeast's approximately 145 agents as well as its associated persons; (b) that Southeast agents are geographically dispersed throughout the United States; and (c) that many of the agents are "held out to be" independent contractors who conduct outside business activities;" Final Order at p. 2, ¶¶ 5-6.

2. Omitted from fact statements set forth in paragraph 1 above, and from the Final Order, is the fact that by far the majority of Southeast's brokers are financial advisors that sell insurance products and provide other services besides securities trading. Indeed, the majority of these brokers engage in only a handful of securities transactions annually. *See* Record at Tab 54, Ex. "E" (Black deposition testimony at pp. 24-25). There is no evidence in the record that Black or the Southeast personnel in Charlotte, North Carolina are unable to supervise the agents adequately, much less that they cannot supervise the *Oklahoma* agents adequately.

⁸ The third-cited "conclusion of law," on its face, is a statement of fact. In contrast to the first two conclusions, the Administrator does not state what Oklahoma statute or regulation was violated.

TOPIC 2: CRD UPDATES

3. In June 2013, Watkins directed Southeast to update his business and residential addresses on CRD. Neither Southeast nor Black updated Watkins' business and residential addresses until November 2013. *See* Final Order, p. 2, ¶ 1.

4. Regarding the statements set forth in paragraph 3 above, no customer is alleged to have relied upon the incorrect address information or been affected by the reporting delay.

5. Further regarding the statements set forth in paragraph 3 above, for the entire period of September 19, 2012 until April 30, 2014, Watkins refrained completely from any securities activity. This means that, during the entire "failure to report" period respecting Watkins' addresses, Watkins was conducting no securities business at all. *See* Record at Tab 54, Ex. "C" and Ex. "D" and the more detailed record citations at Part III.B, pp. 6-7 above.

TOPIC 3: CUSTOMER ORDER PROCEDURES

6. The Administrator correctly states that (a) "[t]he WSPs provide that the agent shall complete order tickets and submit them to Black [i.e., the Designated Supervisory Principal] for approval" and that (b) "contrary to the WSPs, agents do not complete order tickets, but instead call in orders over the phone to one or more of Southeast's employees in the firm's Charlotte, North Carolina office." Final Order at pp. 2-3, ¶¶ 12-13.

7. Omitted from the statements set forth in paragraph 6 above are these facts: Black, Southeast's president, reviews every single order request and the firm itself actually places the order with Southeast's clearing firm only after Black's review. *See* discussion and Record references at Part IV.C.2.b *infra* (pages 20-22).

8. Southeast's WSP relating to order supervision is based on NASD/FINRA Rule 3010. Neither FINRA nor its predecessor, the NASD, has ever issued any sanction against

Southeast predicated on improper procedures for placing customer orders. *See* discussion at Part IV.C.b (pages 20-21) *infra*.⁹

9. Also omitted from the statements set forth in paragraph 6 above is the fact that Black has knowledge of every Southeast customer's suitability profile, which profiles is taken into account in his consideration of every customer order. *See* Record at Tab 54, Ex. "E" (Black Depo testimony at p. 37, lines 3-18).

TOPIC 4: AGENT COMPLIANCE REVIEWS

10. The Final Order finds that "[t]he [Southeast] WSPs provide that Southeast will conduct annual compliance interviews with each of its agents and maintain a record of all interviews." The Administrator finds further that: "Respondents have not submitted any record of compliance interviews with Watkins and Guillory even though there were two separate discovery requests for such records." Final Order at p. 3, ¶ 14.

11. Regarding the statements set forth in paragraph 10 above, the record shows that both FINRA and Southeast provide compliance training to Southeast representatives. Southeast distributes many compliance materials throughout the year. *See* discussion and Record references at Part IV.C.3 *infra* (page 22).

12. Further regarding the statements set forth in paragraph 10 above, Southeast also requires bi-annual representative declarations. *See*, e.g., Record at Tab 54, Ex. "H" (Lamar

⁹ Copies of the FINRA rules relied upon by the Department (all contained within NASD/FINRA Rule 3010) are at Resp. App., Ex 5, along with NASD/FINRA Rule 1122. *See* Note 11 *infra*. On its face, Rule 3010 is analogous to ODS Rule 660:11-5-42(b)(22), which the Administrator cites as legal authority.

Guillory bi-annual declaration) and Ex. "I" (Watkins bi-annual declaration).¹⁰

13. Still further regarding the statements set forth in paragraph 10 above, Southeast also conducts an annual compliance meeting (interview) as required by FINRA rules. Record at Tab 54, Ex. "E" (Black Depo testimony at 75-76).

14. During the corporate history of Southeast, FINRA has audited Southeast nine (9) times and the SEC has audited Southeast four (4) times. Neither has ever sanctioned Southeast for any training compliance-review or supervisory deficiencies. *Id* at Ex. "F" (Black Affidavit).

IV. ARGUMENT AND AUTHORITIES

A. The Department Bears the Burden of Proof.

The Department bears the burden of proof in these proceedings. That burden has not been satisfied on the record and on the face of the Final Order. *See Thompson v. State ex rel. Bd. of Trustees of Okla. Pub. Empl. Ret. Sys.*, 264 P.3d 1251, 1255-56 (Okla. 2011) and cases collected in 73A C.J.S. PUBLIC ADMIN. LAW AND PROC. § 240 (West update 2013)(the "burden is on the one making the charges in disciplinary proceedings or where the issue is whether the party charged has committed an illegal or improper act, and this rule applies where the charge is made by the administrative body").

¹⁰ The Administrator, repeating the Department's allegation in its briefing, states that Respondents have failed to submit any "record of compliance interviews" to the Department. The Final Order does not find that the interviews *did not occur*. The sworn, uncontroverted testimony is that such interviews, with both Watkins and Lamar Guillory, were conducted. *See* Record, Tab 54 at Ex. "E," deposition pages 75-76. Moreover, Respondents twice have submitted those agents' pertinent bi-annual declarations, signed by the agents, which cover the waterfront of compliance issues. *See, e.g.*, Record, Tab 54, Exs. "H" and "I." During the deposition cited above, Department counsel asked for copies of interview notes. *See id* at p. 76. Through oversight, Respondents' counsel apparently did not deliver the notes, but, for the reasons stated herein, that occurrence should not be dispositive. *See* discussion at pages 22-23 *infra* regarding NASD/FINRA Rule 3010(a) and Southeast's compliance-review procedures.

B. Southeast's delay in reporting address information and the pendency of this proceeding did not violate any statute or regulation.

The Administrator's Conclusions of Law cite no specific Oklahoma statute, but the "Authorities" section of the Final Order quotes verbatim § 1-406 of the Oklahoma Securities Act, 71 O.S. § 1-406. The Final Order relies *directly*, however, upon Rule 660:11-5-42(22) only. According to the Department's brief of July 23, 2014 (apparently relied upon by the Administrator), § 1-406(B) of the Act provides that "if any information filed in a registrant's application becomes inaccurate, he shall promptly file a correcting amendment." *See* Record at Tab 43, p. 15. Here is what the cited statute *actually* provides:

If the information contained in an application that is filed under subsection A of this section is or becomes inaccurate or incomplete *in any material respect*, the registrant shall promptly file a correcting amendment.

(emphasis added). It is easy to understand why the Department chose to omit the italicized language in its brief to the Administrator. It undercuts the Department's hypertechnical basis for disciplinary action. Nevertheless the Administrator proceeded to take action against the Respondents, albeit less drastic action than the Department sought.

Like the similar FINRA rule,¹¹ § 1-406(B) on its face incorporates a materiality condition. Perhaps one reason the Legislature included that condition was to prevent the rule's use as a cudgel by overzealous regulators. Southeast's violations of the quoted statute, according to the Department and the Final Order were these: (i) it failed to update Watkins' CRD office

¹¹ The Department quotes FINRA Rule 1122 (included in the Resp. App., Ex. 5) as follows: "No member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate *so as to be misleading*, or which could in any way tend to mislead, or fail to correct such filing after notice thereof" (emphasis added). Record at Tab 43, p. 15.

address and (ii) it failed to report the instant proceedings to the CRD “promptly.” Both eventually were reported.¹² In the meantime, no customer or anyone else was deprived of any information that would, by any realistic assessment, influence any customer. (The Department has not discovered a single customer complaint against Watkins, Southeast or Black, nor has the Department received any such complaint). Indeed there has never been any allegation in any phase of these proceedings that any customer has ever been misled, harmed or even made unhappy, much less that any customer funds have been misappropriated. The CRD filings were not inaccurate or incomplete *in any material respect*.

C. Southeast’s supervisory procedures do not violate any statute, regulation, or NASD/FINRA rule.

1. *No Oklahoma statute or regulation sets forth specific requirements regarding supervision of agents or the contents of written supervisory procedures.*

The Final Order cites a single regulation, Rule 660:11-5-42(b)(22). According to the Department, that regulation “specifically requires a broker-dealer to establish, maintain, and enforce written procedures to supervise the activities of each of its registered agents and associated persons.” Record at Tab 43, page 7. Of course, it is undisputed in these proceedings that Southeast has adopted written procedures. To the extent that the stringency of those procedures exceed legal requirements (including even “incorporated” requirements of

¹² The Department’s complaint about the late change of Watkins’ address is especially trivial and technical. As the record reveals, Watkins did not conduct any securities business at all between September 19, 2012 and his reinstatement in the spring of 2014. See Record at Tab 1 (3-26-13 Recommendation) at p. 4, ¶ 24 and Record at Tab 54, Exhibits “C” (Watkins testimony concerning sales activities) and “D” (customer affidavits). Plainly the address information could not have affected any customer during the year and a half that Watkins was not engaged in the transaction of securities business.

FINRA/NASD rules), “violations” of the WSPs have no legal effect.¹³ The reality, however, is that Southeast has complied with its WSPs in every *material* respect and with the statutes and regulations in all respects. *See* Record at Tab 42 (Respondents’ July 15, 2014 brief and attached exhibits).

Overwhelmingly, the procedural requirements upon which the Department based the 6-20-14 Recommendation for suspension of Respondents are contained in FINRA/NASD requirements incorporated by reference in the statutes and regulations. *See* Record at Tab 43, p. 7 (where the Department invokes NASD/FINRA rules alleged to be incorporated in Commission Rule 660:11-5-42(b)(1)).¹⁴ One might think that FINRA itself would be best suited to understand the underlying intent of, and to see to the enforcement of, its own rules. Of course FINRA (and before it, the NASD) does exactly that. Southeast is regularly examined by FINRA and the Securities & Exchange Commission, each of which sends examiners to the Southeast home office for on-site examinations. Southeast is on a two-year inspection cycle with FINRA and has been since it commenced business on July 1, 1997. Hence Southeast has been subjected to nine (9) FINRA inspections including a 2014 inspection. During the same time period, the

¹³ According to FINRA, that organization is “not part of the government.” *See* <http://www.finra.org/AboutFINRA/>. FINRA is, instead, “an independent, not-for-profit organization authorized by Congress to protect America’s investors by making sure the securities industry operates fairly and honestly.”

¹⁴ Again Rules 660:11-5-42(b)(1), (b)(22)(A) and (b)(22)(B) contain no real specifics. The last cited regulation provides that “responsibility for proper supervision shall rest with the broker-dealer . . . to carry out the supervisory responsibilities assigned to that office by the . . . rules and regulations of the NASD.”

SEC has inspected Southeast four (4) times. None of those inspections has ever resulted in any sanction of Southeast of any kind. *See* Record at Tab 54, "F" (Affidavit of Frank Black),¹⁵

It is not entirely clear why the Administrator has concluded that the Department has a better understanding of the purposes and proper application of FINRA's rules than FINRA itself, especially given the fact that the Department has never conducted an on-site review of Southeast. Be that as it may, the (again purely procedural) FINRA/NASD rules that the Department says Southeast violated are surveyed and discussed below.

2. *Respondents have complied with the applicable FINRA rules relating to supervision generally and to review of broker-submitted securities transactions.*

The NASD/FINRA rules that form the basis for the 6-20-14 Recommendation's complaints about Southeast's supervision generally and about its order procedures -- and which in turn apparently are the bases for the Final Order's findings and conclusion on those subjects -- are discussed below.

- a. Agent supervision generally: NASD Rule 3010(a)(3)

The Department informed the Administrator that "NASD Rule 3010 specifies the minimum requirements of an acceptable supervisory system . . ." Record at Tab 43, p 7. But the FINRA rule is not cookie cutter. Rather, it has the flexibility to take into account the particular scope and peculiarities of a particular broker-dealer's operations. The Department's central criticism of Southeast (which apparently forms the basis of the Administrator's

¹⁵ Indeed in the 17-year history of Southeast and after numerous SEC and FINRA examinations, neither the SEC nor FINRA has ever charged Southeast with a violation of failing to supervise its agents. Moreover, Southeast is registered in all fifty states, yet no other state securities regulator has ever charged Southeast with a failure to supervise its agents. The record establishes that Southeast has complied with all Oklahoma regulations in all material particulars and in keeping with the underlying intent of the Department's and FINRA's regulations.

Conclusion of Law No. 2) appears to be this: Southeast cannot possibly keep up with its far-flung network of agents without additional OSJs and additional day-to-day supervisors.¹⁶ It ignores the facts on the ground: by far the majority of Southeast's brokers are financial advisors that sell insurance products and provide other services besides securities trading. Indeed, the majority of these brokers engage in only a handful of securities transactions annually. *See* Record, Tab 54, Ex. "E" (deposition testimony of Frank Black at pp. 24-25). All securities transactions are in fact reviewed by Black or others in Charlotte, North Carolina (Southeast's home office) and the supervisors are not overwhelmed or even "whelmed." The Department proffered no evidence to the Administrator to the contrary and offered no explanation as to why FINRA itself is unperturbed by Southeast's system. The Administrator has acted against Southeast in the face of the contrary decision by the very entity that wrote the rule that Southeast has supposedly traduced.

The applicable NASD rule – Rule 3010(a)(3) -- actually sets forth a series of nonexclusive factors that the broker-dealer should consider in determining whether multiple OSJs are needed:

. . . Each member shall also designate such other OSJs *as it determines to be necessary* in order to supervise its registered representatives, registered principals, and other associated persons

¹⁶ Given the broad generality of the Administrator's conclusion that "Southeast failed to establish, maintain and/or enforce supervisory procedures to enable the firm to assist compliance with applicable securities laws," it is hard to know what exactly is encompassed in the alleged failure to supervise. Respondents assume that the Administrator's conclusion does *not* encompass any failure to impose "heightened supervision" upon Watkins. Southeast complied with that directive by requiring Watkins to report through Lamar Guillory until the settlement agreement between Watkins and the Department of April 30, 2014 (Record at Tab 33) took effect. Under that agreement, Watkins' activities are monitored by an independent consulting firm approved by the Department. There is no allegation in the record that Watkins has failed to honor the settlement agreement or that Southeast has committed any violation of any kind related to that agreement.

in accordance with the standards set forth in this Rule, taking into consideration the following factors:

- (A) whether registered persons at the location engage in retail sales or other activities involving regular contact with public customers;
- (B) whether a substantial number of registered persons conduct securities activities at, or are otherwise supervised from, such location;
- (C) whether the location is geographically distant from another OSJ of the firm;
- (D) whether the member's registered persons are geographically dispersed; and
- (E) whether the securities activities at such location are diverse and/or complex.

(emphasis added).

Southeast has in fact considered these factors, particularly factor (B), in conjunction with the closely-related fact that the "registered persons" at each nonbranch office themselves engage in only a few securities transactions per year. Southeast has not violated Rule 3010(a). It has instead run afoul of the Department's unilateral conclusion, now enshrined in the Final Order, about how Southeast ought to run its business.

b. Review of transactions: NASD Rule 3010(d)(1)

According to the Department, NASD Rule 3010(d) "specifically requires a broker-dealer to make provisions for the review of all transactions." Record at Tab 43, p. 12. The Department suggests that, in order to comply with the FINRA/NASD rule, the broker-dealer must adhere to its own WSPs to the letter. Again it is helpful to consult the actual language of the rule invoked. FINRA Rule 3010(d)(1) provides in pertinent part:

Each member shall establish procedures for the review and endorsement by a registered principal in writing, on an internal record, of all transactions . . . of its registered representatives with the public relating to the investment banking or securities business of such member. Such procedures should be in writing *and be designed to reasonably supervise each registered representative*. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Association upon request.

(emphasis added).

No reasonable examiner would deem the review procedure that Frank Black has described to contravene the standard quoted above and, of course, no FINRA examiner has ever done so. *See* Record at Tab 39 (Respondents' Objection of June 19, 2014) at p. 5, ¶ 9 (describing Black's detailed review of each broker order)'and Record at Tab 54, Ex. "E" (Black deposition testimony at p. 34, line 22 to p. 39, line 13). The truth is that Southeast's transaction review protocol is far more stringent than most SEC/FINRA-regulated firms. Southeast's president and principal owner reviews every single order request and the firm itself actually places the order only after review by the President, the Chief Compliance Officer and the Designated Supervisory Principal. Neither would an objective examiner find Southeast's suitability review procedures deficient.

The Administrator's Conclusions of Law Nos. 1 and 2 find no support in the record. Indeed the record refutes those conclusions. The actual examiners -- *from the organization that promulgated the subject rule* -- have never issued any sanction against Southeast, for this or any other supposed infraction. That the Oklahoma Department of Securities would do so based on FINRA's own rule -- and in the face of FINRA's own contrary decision -- makes no sense.

c. Maintaining written procedures: NASD Rule 3010(b)

The Department argued to the Administrator that “NASD Rule 3010 also requires that the firm’s supervisory system must be set forth in written supervisory procedures.” Record at Tab 43, p. 11. Southeast has done that. As discussed herein, the Department’s real beef here is not that Southeast has failed to comply with any statute, any regulation, or even any FINRA/NASD rule. It is that Southeast has (allegedly) failed to comply with the letter of its own WSPs. Not only has Southeast’s substantial compliance with the WSPs been shown, the very promulgator of the very rule requiring “establishment and maintenance” of WSPs (FINRA) has conducted on-site reviews of Southeast’s compliance procedures nine times since it commenced business in 1997. The review has encompassed not just compliance with Southeast’s own WSPs, but with the underlying FINRA rules that the WSPs are meant to implement. That agency, FINRA, has taken no action against Southeast. The rule itself -- NASD Rule 3010(b) -- requires only that WSPs be “*reasonably designed to achieve* compliance with applicable securities laws and regulations, and with the applicable Rules of NASD” (emphasis added). The ODS stands alone in its finding that Southeast has failed in its supervisory and other day-to-day procedures.

3. *Southeast has conducted regular and adequate compliance training and reviews.*

Regarding compliance reviews, the Final Order finds:

The WSPs provide that Southeast will conduct annual compliance interviews with each of its agents and maintain a record of all interviews. Respondents have not submitted any record of compliance interviews with Watkins and Guillory even though there were two separate discovery requests for such records.

Final Order (Resp. App., Ex. 1) at p.3, ¶ 14.

The Administrator's fact finding does not support his Conclusions of Law Nos. 1 and 2. Both FINRA itself and Southeast provide compliance training to Southeast representatives. Southeast distributes many compliance materials throughout the year. That is scarcely a basis for *criticism* of Southeast. But Southeast also requires bi-annual representative written declarations. *See* Record at Tab 54, appendix to Respondents' brief of Aug. 29, 2014 at Ex. "H" (Guillory bi-annual declaration) and Ex. "T" (Watkins bi-annual declaration). Southeast also conducts an annual compliance meeting as required by FINRA rules. *Id* at Ex. "E" (Depo of Frank Black at pp. 75-76).

Again FINRA and the SEC, together, have audited Southeast *thirteen times* in its corporate life and neither has ever sanctioned Southeast for any training or compliance-review deficiencies. *Id*. It is easy to see why those results have been achieved when the intent of the NASD/FINRA rules -- an intent revealed on the face of those rules -- is considered.

NASD/FINRA Rule 3010(a) provides that "the member shall establish and maintain a system to supervise the activities of each registered representative . . . and other associated persons that is *reasonably designed to achieve compliance* with applicable securities laws and regulations . . ." (emphasis added). No fair assessment of Southeast's compliance-review procedures would conclude that Respondents have not met the "reasonably-designed-to-achieve-compliance" test that permeates all of the FINRA procedural rules.

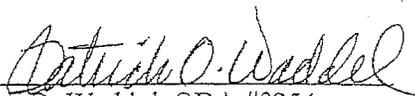
V. CONCLUSION

The Final Order tacitly rejects many of the putative bases for the exceedingly harsh sanctions that the Department urged upon the Administrator (e.g., supposed inadequate monitoring of agent e-mails). That order quite plainly rejects the harsh sanctions themselves in

favor of a cease-and-desist order and a fine one-twelfth of that urged by the Department. But the unfortunate reality remains that the Administrator's actions, if not set aside, will be reported on Respondent's CRD information and will harm their reputations with potential customers and in the marketplace at large. For that reason, and more importantly for the merits reasons advanced herein, the Final Order should be set aside in all particulars and this proceeding, accordingly, should be dismissed with prejudice.

Respectfully submitted,

Dated: November 19, 2014


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CERTIFICATE OF SERVICE

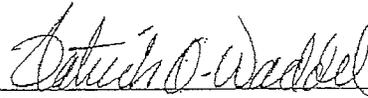
The undersigned hereby certifies that on the 19th day of November, 2014, a true and correct copy of the above and foregoing *Respondents' Brief in Support of their Petition for Review of Administrator's Order to Cease and Desist and Imposing Civil Penalties* was sent in the following manner to the specified individuals:

By FedEx Express for delivery on November 20, 2014 addressed to:

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