

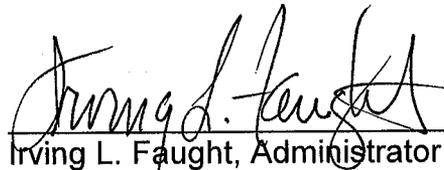


5. That this Affidavit is declared filed of record as of the date set forth below in compliance with Section 818 of the Act.

FURTHER AFFIANT SAYETH NOT.

Dated this 5th day of ~~September~~  
October, 2005.

(SEAL)

  
Irving L. Faught, Administrator

Subscribed and sworn to before me this 5th day of ~~September~~  
October, 2005.

(NOTARY SEAL)

  
Notary Public

My Commission Expires: December 21, 2007  
My Commission No.: 99019517

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



In the Matter of:

Issac Sheppard Funderburk and  
Home Alert, Incorporated,

Respondents.

ODS File No. 05-096

**NOTICE OF OPPORTUNITY FOR HEARING**

1. Pursuant to his authority under Section 813 of the Oklahoma Business Opportunity Sales Act (Act), Okla. Stat. tit. 71, §§ 801-829 (2001), the Administrator of the Oklahoma Department of Securities (Department) authorized an investigation into the activities of Issac Sheppard Funderburk (Funderburk) and Home Alert, Incorporated (Home Alert), in connection with the offer, sale, and/or purchase of business opportunities in and/or from the state of Oklahoma.

2. On the 16th day of September, 2005, the attached Enforcement Division Recommendation (Recommendation) was left in the office of the Administrator.

3. Pursuant to Section 814.B of the Act, the Administrator hereby gives notice to Respondents of their right to request a hearing to show why an order based on the Recommendation should not be issued.

4. The request for a hearing on the Recommendation must be received by the Administrator within fifteen (15) days after service of this Notice. Pursuant to Section 814.B of the Act, failure to request a hearing as provided for herein shall result in the issuance of an order against Funderburk and Home Alert to cease and desist from the offer and sale of business opportunities in violation of Sections 806 and 808 of the Act.

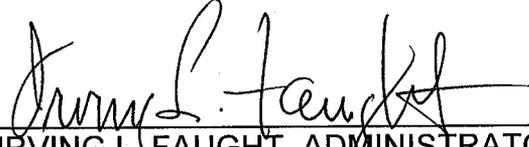
5. The request for hearing shall be in writing and Respondents shall specifically admit or deny each allegation made in the Recommendation as required by 660:2-9-1(c) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules).

6. Upon receipt of a written request, pursuant to 660:2-9-2 of the Rules, a hearing on this Notice shall be set within sixty (60) days or a written order denying hearing shall be issued.

7. Notice of the date, time, and location of the hearing shall be given to Respondents not less than ten (10) days in advance thereof pursuant to 660:2-9-3(a) of the Rules. Additionally, the notice may contain matters to supplement this Notice and the Recommendation attached hereto.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 5th day of ~~September~~  
October, 2005.

(SEAL)

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

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 5th day of October, 2005, a true and correct copy of the above and foregoing Notice of Opportunity for Hearing and attached Enforcement Division Recommendation was mailed by certified mail, return receipt requested, delivery restricted, with postage prepaid thereon addressed to:

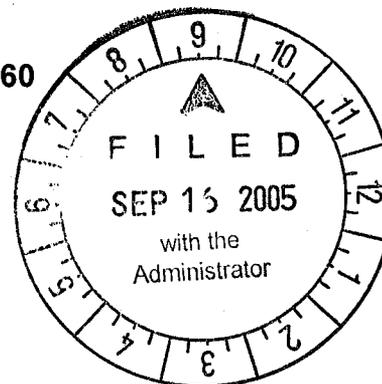
Home Alert, Incorporated  
1327 Linwood Boulevard  
Oklahoma City, OK 73106

Issac Sheppard Funderburk  
1327 Linwood Boulevard  
Oklahoma City, OK 73106



Brenda London  
Paralegal

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



In the Matter of:

Issac Sheppard Funderburk and  
Home Alert, Incorporated,

Respondents.

ODS File No. 05-096

**ENFORCEMENT DIVISION RECOMMENDATION**

Pursuant to the Oklahoma Business Opportunity Sales Act (Act), Okla. Stat. tit. 71, §§ 801-829 (2001), an investigation was conducted into the activities of Issac Sheppard Funderburk (Funderburk) and Home Alert, Incorporated (Home Alert), in connection with the offer and/or sale of business opportunities in and/or from the state of Oklahoma. Based thereon, the following Findings of Fact, Authorities and Conclusions of Law are submitted to the Administrator, or his designee, in support of the issuance of an order to cease and desist against Funderburk and Home Alert.

**Findings of Fact**

1. On the 24<sup>th</sup> day of October, 2002, Home Alert was incorporated under the laws of the state of Oklahoma. Home Alert's principal place of business is 1327 Linwood Bouvelard, Oklahoma City, Oklahoma. On March 19, 2003, Home Alert's corporate charter was suspended by the Oklahoma Tax Commission for non-payment of franchise tax. To date, Home Alert's corporate charter has not been reinstated.

2. Issac Sheppard Funderburk (Funderburk), a resident of Oklahoma, represents himself to be Vice President of Marketing of Home Alert.

3. During June 2004, Funderburk telephoned D. Hundt, doing business as GTS Sales, Inc. (Hundt), at his residence in Tucson, Arizona. Funderburk told Hundt that Home Alert was seeking distributors in Arizona to sell two-way communication alarm systems providing 24 hour a day communications. Funderburk further represented that the Home Alert system provides constant

access to emergency assistance through a remote activation device at a cost of \$32.95 per month.

4. Shortly after the telephone conversation, Funderburk traveled to Tucson, Arizona, to further explain the distributorships that Home Alert was offering for sale. Funderburk referred Hundt to a web site at <http://www.securealertgroup.com/aboutus.htm> for information describing the Home Alert system and distributorships.

5. According to Funderburk, distributors of the Home Alert alarm system will generate income through the purchase of sales kits. Each sales kit contains an alarm unit; a remote activation unit enabling a live demonstration of the alarm system to potential purchasers; promotional literature; and an application for purchase of the Home Alert alarm system, to be placed at various health related retail locations. Funderburk recommended that Hundt use Excel Location Service to identify retail locations for placement of the demonstration units and marketing materials. Home Alert will also pay retailers \$100 for each alarm system application forwarded to Home Alert.

6. Upon receipt of a completed application, Home Alert will fax the application to a distributor who is responsible for shipping an alarm unit from inventory provided to the distributor by Home Alert. The distributor will be paid \$50 for each order shipped. Additionally, the distributor will receive \$8 per month for each month that a customer stays connected to the communication system.

7. On or about July 19, 2004, Hundt signed a purchase contract with Home Alert for a distributorship and six (6) sales kits, for a total cost of \$10,788. Hundt mailed the purchase contract and a personal check in the amount of \$500 as a deposit on the distributorship to the office of Home Alert in Oklahoma City, Oklahoma. On or about July 30, 2004, Hundt mailed two personal checks in the amount of \$10,288 for the remaining cost of the distributorship.

8. The Home Alert distributorship described above is not registered under the Act.

9. Respondents omitted to disclose the following facts in connection with the offer and sale of the distributorship to Hundt:

(a) that Home Alert's corporate charter is suspended; and

(b) that the Home Alert distributorship is not registered under the Act. The Home Alert distributorship described above is not registered under the Act.

10. The disclosure materials provided to Hundt were not filed with the Administrator as required by Section 808 of the Act.

**Authorities**

1. Section 802 of the Act provides in pertinent part:

\* \* \*

3.a. "*Business opportunity*" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, wherein it is agreed that the seller or a person recommended by the seller shall provide to the purchaser any products, equipment, supplies or services enabling the purchaser to start a business and the seller represents directly or indirectly, orally or in writing, that:

\* \* \*

(3) The seller or a person recommended by the seller will provide or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases or other similar devices, on premises neither owned nor leased by the purchaser or seller;

\* \* \*

(6) The seller will provide a marketing plan.

\* \* \*

6. "*Marketing plan*" means advice or training, provided to the purchaser by the seller or a person recommended by the seller, pertaining to the sale of any products, equipment, supplies or services and the advice or training includes, but is not limited to, preparing or providing:

a. Promotional literature, brochures, pamphlets or advertising materials[.]

7. "*Offer*" or "*offer to sell*" includes every attempt to dispose of a business opportunity for value or solicitation of an offer to purchase a business opportunity.

\* \* \*

11. "Sale" or "sell" includes every contract or agreement of sale, contract to sell, disposition of a business opportunity or interest in a business opportunity for value.

2. Section 806 of the Act provides:

It is unlawful for any person to offer or sell any business opportunity, as defined in Section 802 of this title, in this state unless the business opportunity is registered under the provisions of the Oklahoma Business Opportunity Sales Act or is exempt under Section 803 of this title.

3. Section 808 of the Act provides in part:

A. It shall be unlawful for any person to offer or sell any business opportunity required to be registered pursuant to the Oklahoma Business Opportunity Sales Act unless a written disclosure document as filed pursuant to Section 807 of this title is delivered to each purchaser at least ten (10) business days prior to the execution by a purchaser of any contract or agreement imposing a binding legal obligation on the purchaser or the payment by a purchaser of any consideration in connection with the offer or sale of the business opportunity.

4. Section 814 of the Act provides in pertinent part:

A. Whenever it appears to the Administrator that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Oklahoma Business Opportunity Sales Act or any rule or order hereunder, the Administrator may:

1. Issue an order directing each person to cease and desist from continuing the act or practice and/or issue an order imposing a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or transaction or of Fifty Thousand Dollars (\$50,000.00) for multiple violations or transactions in a single proceeding or a series of related proceedings[.]

5. Section 818 of the Act provides in pertinent part:

A. The provisions of the Oklahoma Business Opportunity Sales Act concerning sales and offers to sell apply to persons who sell or offer to sell when:

1. An offer to sell is made in this state;
2. An offer to purchase is made and accepted in this state; or
3. The purchaser is domiciled in this state and the business opportunity is or will be operated in this state.

B. For the purpose of this section, an offer to sell is made in this state, whether or not either party is then present in this state, when:

1. The offer originates from this state; or
2. The offer is directed by the offeror to this state and received at the place to which it is directed or at any post office in this state in the case of a mailed offer.

C. For the purpose of this section, an offer to sell is accepted in this state when acceptance:

1. Is communicated to the offeror in this state; and
2. Has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed or at any post office in this state in the case of a mailed acceptance.

6. Section 819 of the Act provides:

It is unlawful for any person, in connection with the offer or sale of any business opportunity in this state, directly or indirectly:

\* \* \*

2. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

3. To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

**Conclusions of Law**

1. The distributorship agreement offered and sold by Home Alert and Funderburk is a business opportunity.

2. Home Alert and Funderburk offered and sold a business opportunity in and from the state of Oklahoma.

3. The offer and sale of the business opportunity by Home Alert and Funderburk without registration of the business opportunity under the Act is a violation of Section 806 of the Act.

4. Home Alert and Funderburk failed to deliver to Hundt a written disclosure document, in violation of Section 808 of the Act.

5. Home Alert and Funderburk omitted to state material facts in connection with the offer and sale of a business opportunity in violation of Section 819 of the Act.

6. Home Alert and Funderburk engaged in acts and practices that operated as a fraud or deceit in connection with the offer and sale of a business opportunity in violation of Section 819 of the Act.

WHEREFORE, it is recommended that the Administrator issue an order against Home Alert and Funderburk to cease and desist the offer and sale of business opportunities in and/or from this state in violation of Sections 806, 808 and 819 of the Act.

Dated this 16<sup>th</sup> day of September, 2005.

Respectfully Submitted,

*Rebecca A. Cryer*

---

Rebecca A. Cryer  
Enforcement Attorney  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, OK 73102