

5. That this Affidavit of Compliance is declared filed of record as of the date set forth below in compliance with Section 413(g) of the Act.

FURTHER AFFIANT SAYETH NOT.

Dated this 17th day of April, 2002.

(SEAL)

Irving L. Faught
Irving L. Faught
Administrator

Subscribed and sworn to before me this 17th day of April, 2002.

(NOTARY SEAL)

Brenda London Smith
Notary Public

My Commission Expires:

August 26, 2005

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



In the Matter of:

Southmark of Tulsa, Inc., Wendell D. Belden,
Gertrude M. Edwards, Dieta Brown and
Cannon Ferrell,

Respondents.

File No. ODS 02-156

NOTICE OF OPPORTUNITY FOR HEARING

1. Pursuant to his authority under Section 405 of the Oklahoma Securities Act (Act), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001), the Administrator of the Oklahoma Department of Securities (Department) authorized an investigation into the activities of Southmark of Tulsa, Inc. (STI), Wendell D. Belden (Belden), Gertrude M. Edwards (Edwards), Dieta Brown (Brown) and Cannon Ferrell (Ferrell).

2. On the 17th day of April, 2002, the attached Enforcement Division Recommendation (Recommendation) was left in the office of the Administrator.

3. Pursuant to Section 406(b) of the Act, the Administrator hereby gives notice to STI, Belden, Edwards, Brown and Ferrell 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 406(b) of the Act, failure to request a hearing as provided for herein shall result in the issuance of an order under the Act.

5. The request for hearing shall be in writing and STI, Belden, Edwards, Brown and Ferrell shall specifically admit or deny each allegation in said request 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 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 17th day of April, 2002.

(SEAL)



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

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 18th day of April, 2002, 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:

Southmark of Tulsa, Inc.
5110 S. Yale Ave. Suite 100
Tulsa, OK 74135-7438

Wendell D. Belden
Southmark of Tulsa, Inc.
5110 S. Yale Ave. Suite 100
Tulsa, OK 74135-7438

Gertrude M. Edwards
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Dieta Brown
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5110 South Yale, Suite 100
Tulsa, OK 74135

Cannon Ferrell
Southmark of Tulsa, Inc.
5110 South Yale, Suite 100
Tulsa, OK 74135


Brenda London Smith
Paralegal

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

In the Matter of:

Southmark of Tulsa, Inc., Wendell D. Belden,
Gertrude M. Edwards, Dieta Brown and
Cannon Ferrell,

Respondents.

File No. ODS 02-156

ENFORCEMENT DIVISION RECOMMENDATION

Pursuant to the Oklahoma Securities Act (Act), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001), an investigation was conducted into the activities of Southmark of Tulsa, Inc. (STI), Wendell D. Belden (Belden), Gertrude M. Edwards (Edwards), Dieta Brown (Brown) and Cannon Ferrell (Ferrell), all of Tulsa, Oklahoma. Based thereon, the following Findings of Fact, Authorities and Conclusions of Law are submitted to the Administrator of the Oklahoma Department of Securities (Administrator) in support of the issuance of an order denying the effectiveness of the applications for registration of Belden, Edwards and Brown as investment adviser representatives and for an order for STI and Ferrell to cease and desist from violations of the Act, and/or to impose other appropriate sanctions.

Findings of Fact

1. On November, 19, 2001, the Oklahoma Department of Securities (Department) initiated a formal administrative proceeding (the "Administrative Proceeding") to deny the effectiveness of the registration of STI as an investment adviser and the registrations of Belden and Edwards as investment adviser representatives. The Administrative Proceeding was initiated through the submission of a Recommendation to Deny Effectiveness of Registrations (Recommendation) to the Administrator. A Supplemental Recommendation to Deny or Revoke Effectiveness of Registrations and to Bar from Association with a Broker-Dealer or Investment Adviser and to Impose Other Sanctions (Supplemental Recommendation) was filed on March 8, 2002. A hearing was held on March 26 and 27, 2002. The outcome of the Administrative Proceeding is pending.

2. The Recommendation and Supplemental Recommendation set forth certain findings of fact and authorities in support of the following conclusions of law:

- a) In the solicitation of advisory clients, STI, Belden, and Edwards failed to disclose material facts and/or omitted to state material facts necessary in order to make the statements made in light of the circumstances under which they were made, not misleading, in violation of Section 102 of the Act;
- b) STI, Belden and Edwards engaged in an act, practice or course of business that operates or would operate as a fraud or deceit upon other persons;
- c) STI transacted business in this state as an unregistered investment adviser, in violation of Section 201 of the Act;
- d) STI employed, supervised, has been represented by and has been associated with unregistered investment adviser representatives, in violation of Section 201 of the Act;
- e) Belden and Edwards transacted business in this state as unregistered investment adviser representatives, in violation of Section 201 of the Act.
- f) Sales literature prepared and distributed by Respondents was not in compliance with Reg. § 275.206(4)-1 under the Investment Advisers Act of 1940;
- g) STI, Belden and Edwards engaged in dishonest or unethical practices in violation of subsection (b) of 660:10-7-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules);
- h) Belden failed to comply with the Administrator's investigational processes; and
- i) STI, Belden and Edwards willfully failed to comply with an order under the Act.

3. STI was initially registered under the Act as an investment adviser on August 5, 1991. STI became registered with the United States Securities and Exchange Commission (SEC) as an investment adviser on March 1, 2002. STI made a notice filing as an investment adviser under the Act that became effective on March 1, 2002.

4. Since January 1, 2002, Respondents have represented to their clients and/or prospective clients that STI is a registered investment adviser although STI was not registered under the Act or with the SEC between January 1, 2002, and March 1, 2002.

5. Belden is Chairman of the Board and the sole shareholder of STI. Belden was initially registered under the Act as an investment adviser representative of STI on August 5, 1991. On January 23, 2002, Belden submitted an application for registration as an investment adviser representative of STI for calendar year 2002. By letter dated March 6, 2002, Belden was notified that his application was deficient. On March 20, 2002, Belden submitted additional information to the Department. Belden's application has not been made effective under the Act. Belden, although not registered under the Act, has provided investment advisory services in this state from January 1, 2002, until the present.

6. Edwards is Vice President of STI and acts in a supervisory capacity. Edwards was initially registered under the Act as an investment adviser representative of STI on August 12, 1993. On January 23, 2002, Edwards submitted an application for registration as an investment adviser representative of STI for calendar year 2002. By letter dated March 6, 2002, Edwards was notified that her application was deficient. On March 20, 2002, Edwards submitted additional information to the Department. Edwards's application has not been made effective under the Act. Edwards, although not registered under the Act, has provided investment advisory services in this state from January 1, 2002, until the present.

7. Brown filed an application to register as an investment adviser representative of STI on January 23, 2002. By letter dated March 6, 2002, Brown was notified that her application was deficient. On March 20, 2002, Brown submitted additional information to the Department to include a letter dated March 6, 2002, stating that she had not "conducted any advisory activity through the firm (Southmark of Tulsa, Inc.)." Brown, while in an unregistered status, has provided investment advisory services in this state from January 1, 2002, until the present.

8. Ferrell is not and has never been registered under the Act as an investment adviser representative of STI. Ferrell has not filed an application to register as an investment adviser representative of STI. Ferrell, although not registered under the Act, has provided, and continues to provide, investment advisory services for STI in this state.

9. Based upon the foregoing, it is in the public interest to deny the effectiveness of the registrations of Belden, Edwards and Brown under the Act and to issue an order for STI and Ferrell to cease and desist from violations of the Act.

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 102 of the Act provides in part:

- (a) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:
 - (1) to employ any device, scheme, or artifice to defraud the other person; or
 - (2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.
- (b) In the solicitation of advisory clients, it is unlawful for any person to make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

2. Section 201 of the Act provides in part:

- (c)(1) It is unlawful for any person to transact business in this state as an investment adviser unless registered under this act or unless exempt from registration as provided in paragraph (2) of this subsection.

* * *

- (d)(1) It is unlawful for any person to transact business in this state as an investment adviser representative unless registered under this act or unless he is exempt from registration as provided in paragraph (3) of this subsection. It is unlawful for any person required to be registered as an investment adviser under this act, or any person exempt from registration as an investment adviser under this act, to employ, supervise, be represented by or be associated with an investment adviser representative unless the investment adviser representative is registered under this act or unless the investment adviser representative is exempt from registration as provided in paragraph (3) of this subsection.

(2) It is unlawful for an investment adviser representative of an investment adviser exempt from registration under subparagraph (D) of paragraph (2) of subsection (c) of this section to transact business in this state as an investment adviser representative as defined by the United States Securities and Exchange Commission in Rule 203A-3 of the Investment Advisers Act of 1940, if such person has a place of business located within this state unless registered under this act or unless the person is exempt from registration as provided in subparagraphs (B) or (C) of paragraph (3) of this subsection.

3. Section 202 of the Act provides in part:

(a)(1) A broker-dealer, agent, investment adviser or investment adviser representative required to be registered under this title may obtain an initial or renewal registration by filing in such form and in such manner as prescribed by rule or order of the Administrator an application, the filing fee set forth in Section 412 of this title and any other information determined to be necessary by the Administrator.

* * *

(b) If no denial order is in effect and no proceeding is pending pursuant to the provisions of Section 204 of this title, registration becomes effective at noon of the thirtieth day after a complete application is filed and proper payment is made. The Administrator may specify, by rule or order, an earlier effective date, and may defer, by order, the effective date until noon of the thirtieth day after the filing of any amendment.

4. Section 204 of the Act provides in part:

(a) The Administrator may issue a final order denying effectiveness to, or suspending or revoking the effectiveness of, any registration or impose any sanction authorized by Section 406 of this title if the Administrator finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

- (1) has filed an application for registration which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;
- (2) has willfully violated or willfully failed to comply with any provision of the Oklahoma Securities Act or a predecessor act or any rule or order under this act or a predecessor act;

* * *

- (12) has failed to exercise reasonable supervision of its agents if a broker-dealer or a designated principal, or of its investment adviser representatives if an investment adviser to ensure compliance with the Oklahoma Securities Act[.]

5. Section 403 of the Act provides in pertinent part:

It is unlawful for any person to make or cause to be made, in any document filed with the Administrator or in any proceeding under this act, any statement which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect.

6. Section 406 of the Act provides in pertinent part:

- (a) If the Administrator reasonably believes, whether or not based upon an investigation conducted under Section 405 of this title, that a person has violated the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or has engaged in dishonest or unethical practices in the securities business, the Administrator, in addition to any specific power granted by any other section of the Oklahoma Securities Act, may:

- (1) issue an order against the person to cease and desist from engaging in such violation or dishonest or unethical practices or doing any act in furtherance thereof[.]

7. Rule 660:10-7-42 provides in pertinent part:

- (b) An investment adviser or investment adviser representative shall not engage in dishonest or unethical practices including, although not limited to, the following:

* * *

- (8) To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser or an investment adviser representative or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

Conclusions of Law

1. STI transacted business in this state as an unregistered investment adviser, in violation of Section 201 of the Act.

2. The applications for registration as investment adviser representatives for Belden, Edwards and Brown became complete on March 20, 2002. Due to the administrative proceedings that are pending in connection with Department file numbers ODS 01-150 and/or ODS 02-156, the registrations will not automatically become effective by provision of law.

3. Belden, Edwards, Brown and Ferrell transacted business in this state as unregistered investment adviser representatives, in violation of Section 201 of the Act.

4. STI employed, supervised, has been represented by and has been associated with unregistered investment adviser representatives, in violation of Section 201 of the Act.

5. STI failed to exercise reasonable supervision of STI investment adviser representatives to ensure compliance with the Act.

6. Brown filed a document with the Administrator containing a statement which was, at the time and in light of the circumstances under which it was made, false or misleading, in violation of Section 403 of the Act.

7. Between January 1, 2002, and March 1, 2002, STI misrepresented to its clients and/or prospective clients that STI was a registered investment adviser, in violation of Section 102 of the Act and 660:10-7-42 of the Rules.

8. Belden, Edwards, Brown and Ferrell misrepresented to STI clients and/or prospective clients that STI was a registered investment adviser, in violation of Section 102 of the Act and 660:10-7-42 of the Rules.

9. Belden, Edwards, Brown and Ferrell failed to disclose to STI clients and/or prospective clients that they were not registered as investment adviser representatives, in violation of Section 102 of the Act and 660:10-7-42 of the Rules.

10. It is in the public interest to deny the effectiveness of the registrations of Belden, Edwards and Brown under the Act.

11. It is in the public interest to issue an order against STI and Ferrell to cease and desist from violations of Sections 102 and 201 of the Act and 660:10-7-42 of the Rules.

12. The Administrator of the Department is authorized to deny the registrations of Belden, Edwards and Brown as investment adviser representatives under the Act, pursuant to Section 204 of the Act.

13. The Administrator of the Department is authorized to issue an order for STI and Ferrell to cease and desist from violations of Sections 102 and 201 of the Act and 660:10-7-42 of the Rules, pursuant to Section 406 of the Act.

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 effectiveness of the registrations of Belden, Edwards and Brown under the Act, issue an order against STI and Ferrell to cease and desist from violations of Sections 102 and 201 of the Act and 660:10-7-42 of the Rules and/or imposing any other sanctions(s) as deemed appropriate and as authorized by the Act.

Dated this 17th day of April, 2002.

Respectfully Submitted,



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