

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)
)
Plaintiff,)
)
v.)
)
Greater Midwest Agency, Inc., an Oklahoma)
corporation, Greater Midwest Investment Trust,)
Special Care Marketing, Inc., an Oklahoma)
corporation, Jerry Thane Davis, an individual,)
and Max O. Davis, an individual,)
)
Defendants.)

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.
DEC 30 1999
PATRICIA PRESLEY, COURT CLERK
By Deputy
Case No. 62-99-9293

PETITION FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF

COMES NOW the Plaintiff, Oklahoma Department of Securities ex rel. Irving L. Faught ("Department"), and for its claims against the above-named Defendants alleges and states:

OVERVIEW

1. This case involves violations of the Oklahoma Securities Act (the "Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (1991 and Supp. 1999), by Greater Midwest Agency, Inc., Greater Midwest Investment Trust, Special Care Marketing, Inc., Jerry Thane Davis and Max O. Davis ("Defendants"). Specifically, the Department alleges Defendants offered and sold unregistered securities in violation of Section 301 of the Act, failed to register as broker-dealers and agents in violation of Section 201 of the Act,

and perpetrated fraud in connection with the offer, sale or purchase of securities in violation of Section 101 of the Act.

JURISDICTION

2. The Administrator of the Department brings this action pursuant to Section 406.1 of the Act and is the proper party to bring this action against the Defendants.

3. Pursuant to Sections 2 and 413 of the Act, Defendants, in connection with their activities and the offer, sale, and purchase of securities, are subject to the provisions of the Act. By virtue of their transaction of business by contract and otherwise and commission of other acts in this state, Defendants are subject to the jurisdiction of this Court and to service of summons within or outside of this state.

4. Defendants have engaged and are engaging in acts and practices in violation of the Act. Unless enjoined, they will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object.

DEFENDANTS

5. Greater Midwest Agency, Inc. ("GMA") was incorporated in the state of Oklahoma on April 9, 1971. At all times material hereto, GMA offered and sold securities in and/or from Oklahoma as described herein.

6. Greater Midwest Investment Trust ("GM Trust") is an unincorporated association. At all times material hereto, GM Trust offered and sold securities in and/or from Oklahoma as described herein.

7. Special Care Marketing, Inc. ("SCM") was incorporated in the state of Oklahoma on August 2, 1989. Its corporate charter was suspended by the Oklahoma

Secretary of State on January 29, 1999. At all times material hereto, SCM offered and sold securities in and/or from Oklahoma as described herein.

8. Jerry Thane Davis ("Jerry Davis") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of SCM. At all times material hereto, SCM acted under the control of Jerry Davis.

9. Max O. Davis ("Max Davis") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of GMA, GM Trust and/or SCM. Max Davis was, at all times material hereto President and Director of GMA and controlled all acts of GM Trust.

NATURE OF THE CASE

SPECIAL CARE MARKETING, INC.

10. In or around April, 1998, Defendants SCM, Jerry Davis and Max Davis ("SCM Defendants") offered and sold securities to Oklahoma residents ("Bank Debenture Investors") in the nature of interests in a bank debenture trading program. The purchase of interests in the bank debenture trading program was evidenced by the execution of a joint venture agreement ("Agreement") prepared by the SCM Defendants. The Agreement states that the Bank Debenture Investors were "venture partners" who were contributing principal into a "small Capital Participation/Appreciation Trade Program." The principal was to be managed and invested by the SCM Defendants to give an annual return of 400-800% to the Bank Debenture Investors.

11. The SCM Defendants represented that there was no risk of losing the investment in the bank debenture trading program as the investment was guaranteed by the banking institutions in which the Bank Debenture Investors' funds were deposited. The banking institutions were represented by the SCM Defendants to be the largest in the world and worth billions of dollars. The SCM Defendants represented that Bank Debenture Investor funds would be used by the banking institutions to make loans to foreign countries to help them recover from disasters or economic crises at extremely high rates of interest.

12. The SCM Defendants required Bank Debenture Investors to make a minimum investment of \$100,000 to participate in the investment and receive the promised return. The SCM Defendants promised to pay to Bank Debenture Investors a 15% commission for new Bank Debenture Investors introduced to the SCM Defendants by existing Bank Debenture Investors and/or a commission on the growth earned by new Bank Debenture Investors introduced to the SCM Defendants by existing Bank Debenture Investors. The SCM Defendants' representations were made through the use of oral communications and sales materials.

13. The Agreement gave SCM the authority to "place directly, leverage, and/or secure credit lines against collateral for funding purposes." Bank Debenture Investors had no control or responsibility for their funds once the funds were provided to the SCM Defendants. The Agreement also gave SCM the authority to execute any and all instruments on behalf of the Bank Debenture Investors. Bank Debenture Investors had no authority over their investments. SCM represented to Bank Debenture Investors in the Agreement that it would secure financial guarantees equal to or greater than the

principal invested and would hold such guarantee until such time as the principal is returned to the Bank Debenture Investors.

14. From at least May, 1998, the SCM Defendants received substantial sums of money from the Bank Debenture Investors for the purported purchase of the interests in the bank debenture trading program.

GREATER MIDWEST AGENCY, INC. AND
GREATER MIDWEST INVESTMENT TRUST

15. In or around December, 1999, it came to the attention of the Department that Defendants GMA, GM Trust and Max Davis ("GMA Defendants") were offering and selling securities to Oklahoma residents ("CD Investors") in the nature of certificates of deposit. CD Investors learned of the investment opportunity through newspaper advertisements placed by the GMA Defendants. The advertisements promised specified rates of return and stated that the investments were "FDIC Insured."

16. The CD Investors were offered certificates of deposit that the GMA Defendants represented to be insured by the Federal Deposit Insurance Corporation ("FDIC") and to involve no risk. In return for their money, CD Investors were given certificates of deposit issued by GM Trust. The certificates of deposit state "Your money is deposited in an FDIC Insured Institution." CD Investor checks were made payable to GMA. The GMA Defendants further represented that there was no risk of losing the investment in the certificates of deposit as the investment was guaranteed by a multi-million dollar insurance policy.

17. The GMA Defendants received substantial sums of money from the CD Investors for the purchase of the certificates of deposit.

FIRST CAUSE OF ACTION

(Violation of Section 301 of the Act: Failure to Register Securities)

18. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 17 above.

19. The bank debenture bonds evidenced by the execution of the joint venture agreements with SCM are securities as defined by Section 2 of the Act.

20. The certificates of deposit of GM Trust are securities as defined by Section 2 of the Act.

21. The securities offered and sold by Defendants are not and have not been registered under the Act as required by Section 301 of the Act nor offered or sold pursuant to an exemption from registration pursuant to Section 401 of the Act. By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate, Section 301 of the Act.

SECOND CAUSE OF ACTION

(Violation of Section 201 of the Act: Failure to Register as Broker-Dealer and Agents and Employing Unregistered Agents)

22. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding cause of action.

23. Defendant SCM is the issuer of the interests in the bank debenture trading program. Defendants Jerry Davis and Max Davis, by virtue of their efforts and activities in effecting and attempting to effect sales of such interests, are agents of the Defendant issuer, SCM, as defined in Section 2 of the Act. Defendants Jerry Davis and Max Davis are not, and have not been, registered under the Act as agents as required by Section 201 of the Act. By reason of the foregoing, the SCM Defendants have violated, and unless enjoined, will continue to violate, Section 201 of the Act.

24. Defendant GM Trust is the issuer of the certificates of deposit. Defendant GMA is engaged in the business of effecting transactions in the certificates of deposit for the account of others and /or for its own account and as such is a broker-dealer as defined in Section 2 of the Act. Defendant Max Davis, by virtue of his efforts and activities in effecting and attempting to effect sales of the certificates of deposit, is an agent of the Defendant GMA as defined in Section 2 of the Act. In the alternative, Defendant Max Davis, by virtue of his efforts and activities in effecting and attempting to effect sales of the certificates of deposit, is an agent of the Defendant issuer, GM Trust, as defined in Section 2 of the Act. Defendant GMA is not, and has not been, registered under the Act as a broker-dealer as required by Section 201 of the Act. Defendant Max Davis is not, and has not been, registered under the Act as an agent as required by Section 201 of the Act. By reason of the foregoing, the GMA Defendants have violated, and unless enjoined, will continue to violate, Section 201 of the Act.

THIRD CAUSE OF ACTION

**(Violation of Section 101(2) of the Act:
Untrue Statements of Material Fact and Omissions of Material Fact**

in Connection with Offer, Sale or Purchase of Securities)

25. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

26. The SCM Defendants, in connection with the offer, sale or purchase of securities, directly and indirectly, made untrue statements of material facts, including, but not limited to, the following:

- a. that there was no risk of losing the investment;
- b. that Bank Debenture Investors would earn an annual return of 400-800% on the investment;
- c. that the Bank Debenture Investors would receive periodic interest payments and reports;
- d. that the investment was guaranteed by the largest banking institutions in the world; and
- e. that the SCM Defendants would invest the funds for or on behalf of the Bank Debenture Investors.

27. The SCM Defendants, in connection with the offer, sale or purchase of securities, directly and indirectly, 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, including, but not limited to, the following:

- a. that Defendant Jerry Davis had been convicted in Oklahoma County District Court of criminal felony charges filed in 1985 for conspiracy to distribute cocaine, distribution of cocaine, possession of

cocaine, and possession of a weapon while committing a felony, and was sentenced to serve five years in prison.

28. The GMA Defendants, in connection with the offer, sale or purchase of securities, directly and indirectly, made untrue statements of material facts, including, but not limited to, the following:

- a. that there was no risk of losing the investment;
- b. that CD Investors would earn specified rates of return on the investment;
- c. that the investment was FDIC insured; and
- d. that the investment was guaranteed by a multi-million dollar insurance policy.

29. By reason of the foregoing, Defendants, directly and indirectly, violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

FOURTH CAUSE OF ACTION

(Violation of Section 101(3) of the Act: Engaging in any Act, Practice, or Course of Business which Operates or would Operate as a Fraud or Deceit upon any Person)

30. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

31. Defendants, in connection with the offer, sale or purchase of securities, and through the use of the untrue statements of material facts and the omissions of material facts described in paragraphs 26 through 29 above, engaged in an act,

practice, or course of business which operated as a fraud or deceit upon the Bank Debenture and CD Investors.

32. By reason of the foregoing, Defendants, directly and indirectly, violated, and unless enjoined, will continue to violate Section 101(3) of the Act.

PRAYER FOR RELIEF

Defendants have engaged in acts and practices in violation of the Act and have, as a result of these activities, received a substantial amount of money from numerous Bank Debenture and CD Investors. Unless enjoined, the Defendants will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object. A danger exists that the money received by Defendants from the Bank Debenture and CD Investors or money or securities held by Defendants on behalf of the Bank Debenture and CD Investors will be lost, removed or transferred. A temporary restraining order to issue instanter and temporary and permanent injunctions and other equitable relief to issue against Defendants are necessary to preserve these funds, securities and the records relating thereto and to prevent further violations of the Act.

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 406.1 of the Act, the Department prays that this Court:

1. Enter a temporary restraining order instanter, a temporary injunction during the pendency of this action, and permanently thereafter, an order restraining and enjoining the Defendants, their subsidiaries, officers, directors, agents, servants,

employees, assigns, attorneys, and all persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, directly or indirectly, and each of them from:

a. violating Section 301 of the Act by offering and/or selling securities in and/or from this state unless and until the securities are registered by the Defendants under the Act;

b. violating Section 201 of the Act by transacting business in this state as broker-dealers, agents, investment advisers and/or investment adviser representatives unless appropriately registered under the Act;

c. violating Section 101 of the Act by directly or indirectly making untrue statements of material fact in connection with the offer, sale, and/or purchase of securities from and/or in this state;

d. violating Section 101 of the Act by omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, in connection with the offer, sale, and/or purchase of securities from and/or in this state;

e. violating Section 101 of the Act by engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

f. directly or indirectly dissipating, concealing or disposing of any assets, real property or other property of Defendants;

g. directly or indirectly dissipating, concealing or disposing of any funds of Defendants that are in the custody, possession or control of any of the Defendants; and

h. directly or indirectly, tampering with, altering, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks or computer generated data of any type, however created or stored, pertaining to Defendants or any financial or securities transaction by Defendants.

2. Order Defendants, their subsidiaries, officers, directors, agents, servants, employees, assigns, attorneys, and all persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, directly or indirectly, and each of them to rescind any and all transactions involving the sale of securities of Defendants SCM and GM Trust and to make restitution to any and all Bank Debenture and CD Investors who purchased securities from Defendants or who transferred money to Defendants for the purchase of securities on their behalf.

3. Order Defendants, their subsidiaries, officers, directors, agents, servants, employees, assigns, attorneys, and all persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, directly or indirectly, and each of them to disgorge any and all profits, including prejudgment interest, gained through their illegal activities in connection with offers and sales of securities in and/or from the State of Oklahoma.

4. Order the appointment of a receiver pendente lite for Defendants, empowering said receiver to marshal and take possession of the records and assets of

Defendants; to undertake whatever manner of legal or equitable action is required to preserve or maintain the assets of Defendants; and to operate or liquidate said entities or any positions therein for the benefit of the Bank Debenture and CD Investors of Defendants, as equity may require.

5. Order Defendants to produce the identity of any and all bank accounts to which any deposit(s) were made of funds obtained in connection with offers and sales of the securities described in this Petition.

6. Order Defendants to produce all books and records, both corporate and individual, as are necessary to obtain an accounting of the amount, source and disposition of funds received in connection with the sales of the securities described in this Petition.

7. Such other and further relief as this Court may deem just, equitable and necessary in connection with the enforcement of the Act.

Respectfully Submitted,

OKLAHOMA DEPARTMENT OF SECURITIES
IRVING L. FAUGHT, ADMINISTRATOR

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STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

Irving L. Faught, of lawful age, being first duly sworn deposes and says that he is the Administrator of the Oklahoma Department of Securities, that he has read the foregoing Petition and knows the contents thereof, and that the matters and things stated therein have been provided to him by staff members of the Department under his authority and direction, and are true and correct to the best of his knowledge, information and belief.

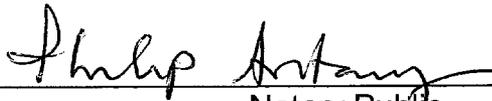
(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102
(405) 235-0230

Subscribed and sworn to before me this 30th day of December,
1999.

(NOTARIAL SEAL)



Notary Public

My Commission Expires:

Sept 18, 2000