

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



**In the Matter of:**

Arvest Asset Management, CRD No. 42057, and  
Thomas B. Harps, CRD No. 1551974,

Respondents.

File No. ODS 12-082

**NOTICE OF SERVICE ON THE ADMINISTRATOR**  
**AND**  
**AFFIDAVIT OF COMPLIANCE**

STATE OF OKLAHOMA    )  
                                  )        ss.  
COUNTY OF OKLAHOMA)

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

1. That he is the Administrator of the Oklahoma Department of Securities ("Administrator").
2. That a copy of the *Notice of Opportunity for Hearing* ("Notice") with *Enforcement Division Recommendation* ("Recommendation") attached was delivered to Affiant in the office of the Administrator pursuant to Section 1-611 of the Oklahoma Uniform Securities Act ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2010).
3. That the Administrator has received service of process on behalf of Respondents, pursuant to Section 1-611 of the Act.
4. That a copy of the *Notice*, with the *Recommendation* attached, and a copy of this *Notice of Service on the Administrator and Affidavit of Compliance* are being sent this 8th day of May, 2012, by certified mail, return receipt requested, delivery restricted to addressee, to the last known addresses of Respondents, in compliance with Section 1-611 of the Act.
5. That this Affidavit of Compliance is declared filed of record as of the date set forth below in compliance with Section 1-611 of the Act.

FURTHER AFFIANT SAYETH NOT.

Dated this 15th day of May, 2012.

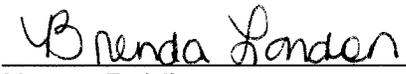
(SEAL)

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

Subscribed and sworn to before me this 15th day of May, 2012.

(SEAL)

 BRENDA LONDON  
Notary Public  
State of Oklahoma  
Commission # 05009046 Expires 09/28/13

  
\_\_\_\_\_  
Notary Public

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**In the Matter of:**

Arvest Asset Management, CRD No. 42057, and  
Thomas B. Harps, CRD No. 1551974,

Respondents.

File No. ODS 12-082

**NOTICE OF OPPORTUNITY FOR HEARING**

1. Pursuant to Section 1-410 of the Oklahoma Uniform Securities Act of 2004 (Act), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2010), the Enforcement Division of the Oklahoma Department of Securities ("Department") conducted an investigation into the activities of Arvest Asset Management ("AAM") and Thomas B. Harps ("Harps") (collectively, "Respondents"), to determine whether certain violations of the Act and/or the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules) may have occurred. Based thereon, the Enforcement Division submits the following Findings of Fact, Authorities, and Conclusions of Law to the Administrator of the Department ("Administrator") in support of sanctions against Respondents.

2. Based thereon, the attached *Enforcement Division Recommendation* (Recommendation) was left in the office of the Administrator of the Department (Administrator) on the 8th day of May, 2012.

3. Pursuant to 660:2-9-1 of the Rules and Section 1-411 of the Act, the Administrator hereby gives notice to Respondents of their obligation to file an answer and their right to request a hearing to show why an order based on the Recommendation should not be issued.

4. The answer must be in writing and received by the Administrator within fifteen (15) days after service of this Notice. As required by 660:2-9-2 of the Rules, the answer shall indicate whether Respondents request a hearing and shall specifically admit or deny each allegation contained in the Recommendation or state that Respondents do not have, and are unable to obtain, sufficient information to admit or deny each allegation.

5. Failure to file an answer in compliance with 660:2-9-2 of the Rules or to request a hearing as provided for herein shall result in the issuance of an order issue an

order suspending Harps' principal registration under the Act for fifteen (15) days; imposing a civil penalty of \$10,000 against Harps; imposing a civil penalty against Arvest Asset Management in the amount of \$50,000; and/or imposing such other sanctions as appropriate and authorized by law.

6. Upon receipt of a written request, pursuant to 660:2-9-2 of the Rules, a hearing on the Recommendation shall be promptly scheduled 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 forty-five (45) days in advance thereof, pursuant to 660:2-9-2 of the Rules.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 15th day of May, 2012.

(SEAL)

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

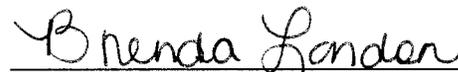
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of May, 2012, 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:

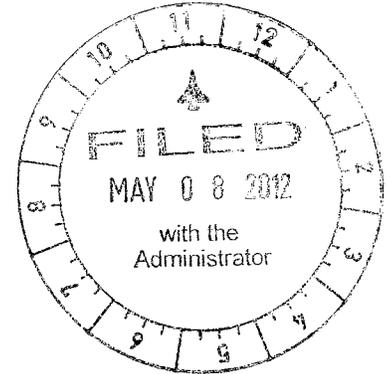
Arvest Asset Management  
PO Box 1515  
Lowell AR 72745-1515

Thomas B. Harps  
PO Box 1515  
Lowell AR 72745-1515

Bruce Day  
Day Edwards Propester & Christensen PC  
2900 Oklahoma Tower  
210 Park Ave  
Oklahoma City OK 73102-5605

  
\_\_\_\_\_  
Brenda London, Paralegal

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**In the Matter of:**

Arvest Asset Management, CRD No. 42057, and  
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Respondents.

File No. ODS 12-082

**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 (Supp. 2009), the Enforcement Division of the Oklahoma Department of Securities ("Department") conducted an investigation into the activities of Arvest Asset Management ("AAM") and Thomas B. Harps ("Harps") (collectively, "Respondents"), to determine whether certain violations of the Act and/or the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules) may have occurred. Based thereon, the Enforcement Division 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. AAM is, and has been at all times material hereto, a broker-dealer and investment adviser registered under the Oklahoma Securities Act ("Predecessor Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 and Supp. 2003), and the Act. AAM's main office is designated as an Office of Supervisory Jurisdiction ("OSJ") and is located at 921 West Monroe Avenue, Lowell, Arkansas.

2. Harps became registered under the Act as an agent of AAM on January 28, 2004. His registration terminated on December 31, 2004. He became re-registered under the Act as an agent of AAM on April 21, 2008. At all times material hereto, Harps was registered as a General Securities Principal with FINRA. He became the chief compliance officer of AAM in June of 2007. Harps operates from the main office of AAM in Lowell, Arkansas.

3. Section 5.5 of AAM's written policies and procedures reads in part:

B. Verbal Complaint Process

1. Determine if the customer is expressing a concern or a complaint. If in doubt contact your Designated Principal or Compliance Department for assistance in making a determination.
2. Complete a Verbal Complaint Form and fax it to your Designated Principal and the Compliance Department within 2 days.
3. Retain a copy of all documents for your records.
4. Compliance and your Designated Principal may request additional information necessary to research the complaint.
5. After evaluating the documentation, Compliance will recommend the course of action to the Designated Principal responsible for the area where the complaint originated. Both Parties will determine the corrective action and Compliance will send the appropriate response to the client.
6. A copy of the completed Verbal Complaint Form, with resolution noted will be provided to the individual who originally received the complaint for their complaint file.
7. Compliance will report disciplinary actions and customer complaints to FINRA as required by FINRA regulations.

4. Harps failed to comply with and to enforce Section 5.5 of the written policies and procedures of AAM requiring the completion of the AAM Verbal Complaint Form as to Customer Smith, Customer Lang and Customer Mitchell as more fully set forth below.

#### **CUSTOMER SMITH**

5. In July of 2008, Ms. Smith ("Customer Smith"), then a 90-year-old Oklahoma resident and customer of Arvest Bank, wanted to invest her money in a conservative investment. Customer Smith's previous investments included certificates of deposit (CDs) and government bonds. Customer Smith inquired about the investment options offered by Arvest Bank and a bank employee referred her to an agent of AAM.

6. Customer Smith met with a registered agent and investment adviser representative of AAM ("Agent A") about how she could invest her money.

7. Customer Smith liquidated CDs and informed Agent A that she wanted to invest Thirty Thousand Dollars (\$30,000) in short-term U.S. Treasury bonds for a period of no more than three (3) years.

8. Contrary to Customer Smith's wishes, Agent A invested her money in Class B shares of a mutual fund. The term of this investment was six (6) years.

9. After receiving her first monthly account statement, Customer Smith learned her account value had declined by One Thousand Dollars (\$1,000).

10. Customer Smith asked a third-party financial advisor to make a verbal complaint on her behalf to AAM in September of 2008.

11. Customer Smith's financial advisor contacted Harps and told him that Customer Smith had written a letter to AAM summarizing her complaint. Harps asked that the letter not be sent because it would "tarnish [Agent A], a new young broker."

12. Harps failed to complete the AAM Verbal Complaint Form as to Customer Smith.

### **CUSTOMER LANG**

13. In November of 2007, Ms. Lang ("Customer Lang"), then a 74-year-old Oklahoma resident, had a brokerage account that she wanted to transfer to AAM. Customer Lang met with Agent A about her investment options.

14. Customer Lang's investment objectives were moderate income and growth. Customer Lang told Agent A that she could not afford to lose any money. Agent A invested Twenty Thousand Dollars (\$20,000) of Customer Lang's money in a variable annuity with a death benefit equal to the amount invested less any withdrawals of principal.

15. The following month Customer Lang called Agent A to complain about the One Thousand Six Hundred Dollars (\$1,600) decline in her account. Customer Lang understood she would be earning 8% interest like a CD. Instead, the product had an 8% income stream rider that reduced her principal.

16. Customer Lang verbally complained to Agent A. Customer Lang was later contacted by Harps. Lang voiced her complaint to Harps who told her he wished he could have gotten in on the investment deal that she did. Harps also told her that he knew Agent A and that "he's nice and I don't think he'd do you any wrong."

17. Agent A and Harps failed to complete the AAM Verbal Complaint Form as to Customer Lang.

### **CUSTOMER MITCHELL**

18. In December of 2008, Ms. Mitchell ("Customer Mitchell") transferred her Edward Jones brokerage account to AAM upon the advice of an AAM agent ("Agent B").

19. In 2009, Customer Mitchell complained to Agent B that he had liquidated her account at the bottom of the market. Agent B then referred the complaint to Harps.

20. Harps told Customer Mitchell to not put anything in writing and that all contact between them should be by phone.

21. The investigation took four (4) months. Harps concluded the investigation by explaining to Customer Mitchell that Agent B had done nothing wrong and that she was “just another investor frustrated by the markets and that we were all in the same boat.”

22. Agent B and Harps failed to complete the AAM Verbal Complaint Form as to Customer Mitchell.

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

### **Authorities**

1. Rule 660:11-5-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (“Rules”) provides 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 660:10-5-11, 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.

2. Section 1-411 of the Act provides in part:

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;

\* \* \*

13. Has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance or insurance business within the previous ten (10) years[.]

### **Conclusions of Law**

1. Harps and AAM failed to enforce the written policies and procedures of AAM, in violation of NASD Conduct Rule 3010 and Section 660:11-5-42 of the Oklahoma Rules.

2. Harps and AAM engaged in unethical practices in the securities business, in violation of 660:11-5-42 of the Oklahoma Rules.

3. The Administrator is authorized to impose any sanction set forth in Section 1-411 of the Act including, but not limited to, suspension of registration and imposition of a civil penalty.

4. It is in the public interest to suspend Harps' principal registration and to impose a civil penalty against Harps.

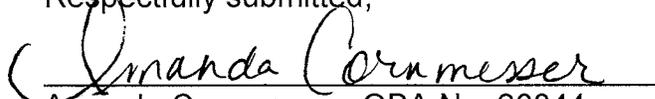
5. It is in the public interest to impose a civil penalty against AAM.

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 suspending Harps' principal registration under the Act for fifteen (15) days; imposing a civil penalty of \$10,000 against Harps; imposing a civil penalty against Arvest Asset Management in the amount of \$50,000; and/or imposing such other sanctions as appropriate and authorized by law.

Dated this 8<sup>th</sup> day of May, 2012.

Respectfully submitted,



Amanda Cornmesser, OBA No. 20044

Oklahoma Department of Securities

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Oklahoma City, OK 73102

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