

IRVING L. FAUGHT
ADMINISTRATOR



MARY FALLIN
GOVERNOR

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES

MEMORANDUM

To: *Irving L. Faught, Administrator*

From: *Melanie Hall, Deputy Administrator*

Date: *November 6, 2012*

Re: **ENFORCEMENT REPORT**

Attached is the report of the enforcement activities of the Department for the months of September and October, 2012.

Attachment

h/home/londonb/EnforcementReports/12_Enf-Reports_Sep-Oct-2012.doc

**OKLAHOMA DEPARTMENT OF SECURITIES
ENFORCEMENT ACTIVITIES
SEPTEMBER and OCTOBER 2012**

		FY-13		FY-12
		YTD		YTD
I.	Enforcement Files			
	a. Enforcement Files Opened during the reporting period	27		29
	1. Securities Act	25		25
	2. Business Opportunity Sales Act	1		2
	3. Other	1		2
	b. Enforcement Files Closed during the reporting period	31		40
	c. Active Enforcement Files	247		254
II.	Actions Taken during the reporting period			
	a. Orders Initiating Investigation	2		0
	1. Securities Act	2		0
	2. Business Opportunity Sales Act	0		0
	b. Summary Orders	0		0
	1. Securities Act	0		0
	2. Business Opportunity Sales Act	0		0
	c. Notices of Opportunity for Hearing Served	4		7
	1. Securities Act-Notices	4		7
	i. Hearing Set	0		2
	ii. Hearings Held	0		0
	2. Business Opportunity Sales Act Notices	0		0
	i. Hearing Set	0		0
	ii. Hearings Held	0		0

		FY-13	FY-12
		YTD	YTD
d. Other Orders		16	13
1. Securities Act		16	13
2. Business Opportunity Sales Act		0	0
e. Public Undertakings/Agreements		9	6
1. Securities Act		9	6
2. Business Opportunity Sales Act		0	0
f. Confidential Settlement Agreements		0	1
1. Securities Act		0	1
2. Business Opportunity Sales Act		0	0
g. Letters of Caution		3	0
1. Securities Act		3	0
2. Business Opportunity Sales Act		0	0
g. Appeals from Final Orders		2	0
1. Securities Act		2	0
2. Business Opportunity Sales Act		0	0
h. Civil Penalties - Amounts Collected		\$2,500	\$4,074.44
1. Securities Act		\$2,500	\$4,074.44
2. Business Opportunity Sales Act		\$0	\$0
i. Administrative Costs - Amounts Collected		\$0	\$0
1. Securities Act		\$0	\$0
2. Business Opportunity Sales Act		\$0	\$0

		FY-13	FY-12
		YTD	YTD
	j. Civil Enforcement Activities		
	1. Securities Act		
	i. Subpoenas Issued	0	0
	ii. Civil Petitions Filed	1	0
	iii. Civil Trials Held	0	0
	iv. Criminal Referrals	1	0
	v. Civil Appeals Filed	0	0
	vi. Administrative or other Court Appearances (including pleadings filed)	0	3
	2. Business Opportunity Sales Act		
	i. Subpoenas Issued	0	0
	ii. Civil Petitions Filed	0	0
	iii. Civil Trials Held	0	0
	iv. Criminal Referrals	0	0
	v. Civil Appeals Filed	0	0
	vi. Administrative or other Court Appearances (including pleadings filed)	0	0
	k. Miscellaneous Activities		
	1. Public Information/Press Releases (copy attached)	0	0
	2. Trainings/Seminars Attended		6
	3. Coordinated Activities	0	0
	III. Inquiries and Complaints		
	a. Inquiries	25	17
	b. Referrals from Other Oklahoma Agencies	4	0
	c. Referrals from Out of State Agencies	4	1

Administrative Actions

SUMMARY

In the Matter of: Geary Securities, Inc. *fka* Capital West Securities, Inc.;
Keith D. Geary; Norman Frager; and CEMP, LLC
ODS File No. 09-141

During the month of September 2012, Frager filed his reply in support of his motion for a ruling on his previously filed motion to dismiss. Frager also filed his response to the Department's motion to amend its final witness list. On September 10, the Hearing Officer issued an order granting the Department's motion to amend its final witness list. On September 17, the Hearing Officer issued an order granting the Department's motions for reconsideration and for summary decision as to the February 2010 net capital violations and denying Frager's cross motion. On September 19, the Hearing Officer issued an order denying Frager's motion to dismiss.

On October 2, 2012, Frager filed a petition to appeal the Hearing Officer's order granting partial summary decision. On October 5, the Administrator adopted the Hearing Officer's order granting the Department's motions for reconsideration and for summary decision as to the February 2010 net capital violations and issued an order to cease and desist against Frager. Thereafter, on October 19, Frager filed a petition to appeal the Administrator's cease and desist order. The May 2009 violations of the Rules by Frager, as alleged in the Recommendation, remained undecided (Remaining Allegations). On October 23, Frager and the Administrator entered into an agreement wherein the Administrator agreed to dismiss the Remaining Allegations with prejudice and Frager agreed to withdraw his pending appeals. On October 24, the Administrator issued an order dismissing the Remaining Allegations. On October 26, Frager withdrew his appeals.

In the Matter of: Anthony L. Cross and The O.N. Equity Sales Company
ODS File No. 11-017

Anthony Cross is an Edmond agent and investment adviser representative of O.N. Equity Sales Company (ONESCO). ONESCO is based in Ohio. On January 25, 2012, the Enforcement Division recommended sanctions against the Respondents in connection with the purchase by a widow, living only on social security, of interests in an investment company that invests in floating-rate bank loans. The monies invested were the proceeds from the mortgage of her paid-in-full house at the age of 76. Cross was alleged to have recommended an unsuitable investment and to have falsified information on the new account form, specifically, that the proceeds for the investment were from savings. He also overstated her net worth. While the trade appeared on an exception report, the firm did not investigate. The value of the investment has dramatically decreased. Without admitting or denying a violation of the Act, Cross subsequently entered into an agreement in settlement of the matter. Cross agreed to complete certain training requirements and to make partial restitution to the victim. The Administrator issued an agreed order on August 23 in which Cross was ordered to pay the sum of \$4,900 to the victim.

In September, without admitting or denying a violation of the Act, ONESCO entered into an agreement in settlement of the matter. ONESCO agreed, *inter alia*, to review its supervisory procedures and revise all provisions thereof that do not conform with its actual practices relating to the review of transactions or proposed transactions for suitability; to provide an alert to all registered representatives on the suitability of floating rate funds including, but not limited to, the credit and liquidity risks associated with floating rate funds and the customers for whom such funds may be suitable; to identify all of Cross's customers who own a mutual fund that contains the term "floating" in the fund name, and determine whether reasonable grounds exist for believing the position in such a fund is suitable for said customer(s); and to verify the accuracy of the personal information of all customers of Cross. ONESCO agreed to make restitution in the amount of \$10,000 to the victim.

In the Matter of: Richard W. Possett Sr.
ODS File No. 11-076

Richard W. Possett Sr. is a former resident of Jenks, Oklahoma. On April 30, 2012, Possett was ordered by the Administrator to cease and desist from transacting business in and/or from the state of Oklahoma as an unregistered broker-dealer. Acting *pro se*, Possett requested a hearing.

During the month of September 2012, the Department received and responded to restated discovery requests from Possett. The Department also filed its objection to the inclusion of the Department's attorney on Possett's witness list. On September 28, Possett filed motions to compel discovery; and to vacate the cease and desist order; a request for an exemption from registration as a broker-dealer; and his response to the Department's objection to the inclusion of the Department's attorney on Possett's witness list.

On October 11, an agreement was entered into between Possett and the Administrator of the Department wherein Possett agreed to refrain from, directly or indirectly, engaging in the following activities in and/or from this state in his individual capacity or otherwise, unless approved by the Administrator in advance: (a) transacting business as a broker-dealer; (b) taking custody of a security for someone other than himself or a family member; and (c) holding himself out to be a "Registered Securities Representative" or an "Accredited Financialist." On October 22, the Administrator issued an order vacating the order to cease and desist issued on April 30, 2012.

In the Matter of: Strategic Development Corp.
ODS File No. 12-005

In August 2012, subpoenas were issued to two banks for records believed to be relevant and material to the Department's investigation. On September 12, 2012, Kent S. Ghahremani, attorney for Ameracorp Capital Group Corporation and The Free Enterprise Foundation, Inc., faxed to the Department a *Motion to Quash Subpoena Duces Tecum, Objection to Jurisdiction and Request for Hearing* (Motion to Quash). On September 26, the Department filed its

response to the motion to quash. On September 27, the Administrator issued an order denying the motion to quash.

In the Matter of: John Johanning, Inc. and John Arnold Johanning
ODS File No. 12-070

On September 26, 2012, the Administrator issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against John Johanning, Inc. (JJI) and John Arnold Johanning (Johanning) (collectively, the "Respondents") both of Oklahoma City, Oklahoma. The recommendation alleged Respondents impeded representatives of the Administrator from conducting an investment adviser examination by failing to provide access to the business's books, documents and other records, in violation of Section 1-410 of the Act and 660:11-7-45 of the Rules.

The Respondents did not request a hearing. On October 31, 2012, the Administrator issued an order revoking the registrations of JJI and Johanning as an investment adviser and investment adviser representative, respectively.

In the Matter of: Blake A. Burkhart
ODS File No. 12-059

The Department conducted an investigation into the activities of Blake A. Burkhart (Burkhart), a resident of Oklahoma City, to determine whether violations of the Act and/or the Rules may have occurred. The investigation revealed that in August of 2011, the money market accounts of several clients of Burkhart at Northwestern Mutual Investment Services were liquidated. Burkhart marked the sale tickets as unsolicited and noted that the "client called and wanted to move out of the fund." However, Burkhart later admitted to the firm that he had recommended the liquidations due to an S&P downgrade. Burkhart has not been registered under the Act since August of 2011. On September 27, 2012, Burkhart and the Administrator entered into an agreement wherein Burkhart agreed not to transact business in this state as a broker-dealer, agent, investment adviser, and/or investment adviser representative.

In the Matter of: Colby Younger Ruth
ODS File No. 12-057

Colby Ruth was formerly a registered agent of Farmers Financial Services LLC in Oklahoma City. Ruth was terminated from Farmers Insurance and Farmers Financial Services after depositing customer checks in payment of insurance policy premiums in his personal account.

On September 28, 2012, an agreement was entered into between Ruth and the Administrator wherein Ruth, without admitting or denying a violation of the Act, agreed to an order barring him from transacting business in this state as a broker-dealer, agent, investment adviser, and/or investment adviser representative and from associating in any capacity with any

broker-dealer and/or investment adviser. On the same date, the Administrator issued an order implementing the provisions of the agreement.

**In the Matter of: First State Bank of Altus, Altus Ventures, Inc., and Paul H. Doughty
ODS File No. 13-002**

On October 25, 2012, the Administrator issued an Order Initiating Investigation against First State Bank of Altus, Altus Ventures, Inc., and Paul H. Doughty (collectively, the "Respondents") in connection with the offer and/or sale of securities by the Respondents.

**In the Matter of: Maxim Global Republic, LLC, MGR Forex Fund, and
Christian G. Alvarado
ODS File No. 12-090**

On October 30, 2012, the Administrator issued an order to cease and desist, and a notice of opportunity for hearing, to Respondents. Respondents Maxim Global Republic, LLC and MGR Forex Fund maintain business addresses in New York. Alvarado is a resident of Florida. Respondents were ordered to cease and desist from engaging in acts, practices or a course of business constituting violations of the Act. Respondents made numerous cold-calls to at least one Oklahoma resident to offer an investment opportunity involving the trading in currency on foreign exchanges (Investment Opportunity). The Investment Opportunity was not registered under the Act and no filing to claim an exemption from registration was filed under the Act.

**In the Matter of: Matthew Lynn Dyer
ODS File No. 10-085**

On October 31, 2012, the Administrator of the Department issued a notice of opportunity for hearing on an Enforcement Division Recommendation (Recommendation) against Matthew Lynn Dyer (Dyer) of Tulsa, Oklahoma. The Recommendation alleged Dyer engaged in unethical practices in violation of 660:11-5-42 of the Rules while acting as a registered agent and/or investment adviser representative. Specifically, Dyer is alleged to have made improper use of a customer's funds and to have failed to disclose his outside business activities. It is recommended that the Administrator issue an order barring Dyer from future registration under the Act in any capacity, barring Dyer from association with a broker-dealer or investment adviser in any capacity, imposing a civil penalty in the amount of \$10,000 and/or imposing such other sanctions as appropriate and authorized by law.

**In the Matter of: William D. McKeever
ODS File No. 12-091**

William D. McKeever, a registered investment adviser representative in Tulsa, was investigated by the Department in connection with his advisory services for a client prior to her death. The investigation revealed that McKeever was named beneficiary in connection with the client's death benefits and executor of her estate, a fact not disclosed to his affiliated investment adviser. The investigation also revealed McKeever's failure to disclose a bankruptcy and two

felony DUI charges on his Form U-4. Suitability issues were also raised. When notified of the disclosure deficiencies, McKeever made the proper disclosures on his Form U-4.

On October 31, 2012, an agreement was entered into between McKeever and the Administrator wherein McKeever consented to take and pass the Uniform Combined State Law Examination, known as the "Series 66" examination, administered by FINRA. McKeever also agreed that his future registration under the Act shall be conditioned upon his successful passage of the Series 66 examination. On the same date, the Administrator issued a Consent Order implementing the provisions of the agreement.

**In the Matter of: Breakaway Stocks
 ODS File No. 12-063**

The Department received information indicating that LTS Nutraceuticals, based in Fort Lauderdale, Florida, may have engaged in activities involving the offer and/or sale of securities in and/or from Oklahoma. Specifically, the Department obtained a copy of an advertisement in a newsletter called "Breakaway Stocks" that was received by an Oklahoma resident. The newsletter contained an ad relating to the stock of LTS Nutraceuticals. The matter was closed on September 12, 2012, with a letter cautioning the issuer to review and comply with the applicable provisions of the Act in connection with all offers and/or sales of securities in and/or from Oklahoma.

**In the Matter of: JGreene Financial
 ODS File No. 13-001**

The Department received information about a "Complimentary Dinner & Retirement Workshop" hosted by John Greene of JGreene Financial in Tulsa, Oklahoma. The matter was closed on September 12, 2012, with a letter cautioning Mr. Greene to review and comply with the applicable provisions of the Act in connection with his advisory services in and/or from Oklahoma. Since the workshop related to insurance products, including variable annuities, the matter was also referred to the Oklahoma Insurance Department.

**In the Matter of: Ray Karl Hobbs, Jim M. Rios, Charles H. Havens, Sr.,
 Domestic Development Company, DDC O&G Corporation, and
 Energy Revenue America, LLC
 ODS File No. 12-053**

In August, the Respondents, all of whom are located in Texas, were ordered to cease and desist from engaging in acts, practices or a course of business constituting violations of the Act. Respondents repeatedly offered unregistered securities, in the form of stock, fractional undivided oil and gas interests, and a promissory note, to an Oklahoma resident. Respondents also omitted to state material facts such as the risks associated with the investments.

On October 31, 2012, the Administrator issued a final cease and desist order as to Domestic Development Company, DDC O&G Corporation, and Energy Revenue America, LLC.

Civil Actions

SUMMARY

**U.S. Commodity Futures Trading Commission and the Oklahoma Department of Securities
ex rel. Irving L. Faught, Administrator v.
Prestige Ventures Corp., Federated Management Group, Inc., Kenneth Wayne Lee and
Simon Yang *aka* Simon Chen, Defendants
Sheila M. Lee, David A. Lee and Darren Lee, Relief Defendants
Civil Case No. 09-CV-1284**

The Department and the U.S. Commodity Futures Trading Commission filed a joint complaint in the U.S. District Court for the Western District of Oklahoma against the Respondents for violations of the Commodity Exchange Act and the Oklahoma Securities Act. The Respondents had offered and sold in excess of \$11 million in interests in commodity pools to at least 140 investors. A receiver was appointed at the Plaintiffs' request. In October of 2010, Judge Russell granted summary judgment for the Plaintiffs as to liability and later ordered disgorgement and restitution. Respondents appealed to the Tenth Circuit, which affirmed the summary judgment. In May of 2012, Judge Russell approved a distribution by the Receiver in the amount of \$300,000.

On August 24, 2012, the Receiver filed his final report with the Court. On September 18, 2012, Judge Russell granted the Receiver's final application for compensation and reimbursement of expenses.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v.
David Warren Harris
Civil Case No. CJ-2012-2604**

In May of 2012, the Department filed an action in Oklahoma County District Court seeking to enjoin David Harris from transacting business in and/or from the state of Oklahoma as an issuer, issuer agent, broker-dealer, broker-dealer agent, investment adviser, and/or investment adviser representative or otherwise offering and/or selling securities in and/or from the state of Oklahoma. The action is based on the offer and sale of securities in the nature of working interests in oil and gas wells of a Texas entity. The Department's allegations are that Harris offered and sold unregistered securities and acted as an unregistered issuer agent.

On September 10, 2012, Harris filed a motion to compel in connection with the Department's response to his discovery requests. A hearing date was set. On September 17, Harris filed his answer and objections to the Department's discovery requests.

**Oklahoma Department of Securities *ex rel.* Irving L. Faught, Administrator v.
2001 Trinity Fund, L.L.C. and Robert Arrowood
Civil Case No. CJ-2012-6164**

On October 10, 2012, the Department filed a Petition for Permanent Injunction and Other Equitable Relief in the District Court of Oklahoma County against 2001 Trinity Fund, L.L.C. (2001 Trinity Fund) and Robert Arrowood (Arrowood) of Norman, alleging violations of Sections 1-301, 1-402 and 1-501 of the Act, in connection with the offer and sale of promissory notes to investors. Investor proceeds totaling over \$450,000 were to be used to buy oil and gas leases for eventual resale. The proceeds were not used as represented. On October 23, L. Win Holbrook, bankruptcy trustee, filed his entry of appearance as counsel for Defendant 2001 Trinity Fund and requested an extension of time to file an answer.