

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
SECURITIES AND CHARITIES DIVISION**

In the Matter of:)	
)	
Marshall Wolfe and Jack Harrington)	Administrative Proceeding
)	Number S-09-0187
)	
<i>Respondents</i>)	

**SUMMARY CEASE AND DESIST ORDER AND NOTICE OF INTENT
TO IMPOSE ADMINISTRATIVE PENALTY**

Comes now Melanie Thomas, Senior Attorney for the Securities and Charities Division of the Mississippi Secretary of State’s Office (“Division”), on behalf of Mississippi Secretary of State C. Delbert Hosemann, Jr., and issues this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty against Respondents Marshall Wolfe (“Wolfe”) and Jack Harrington (“Harrington”). In support of this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty (“SCDO”), the Division respectfully submits as follows:

JURISDICTION

To ensure the protection of the public, the Mississippi Legislature mandates that persons dealing in securities follow explicit legal requirements. The Division is charged with the responsibility of administering and regulating securities under the Mississippi Securities Act, Miss. Code Ann. Sections 75-71-101 (2000), *et. seq.*, (“Act”), which governs persons who operate in the securities industry. Upon due consideration of the subject matter of this action, and having confirmed the use of misleading information in the offer, sale or purchase of securities, and the omission of material information in the offer, sale or purchase of securities,

the Division finds Respondents have submitted to the jurisdiction and regulatory authority of the Secretary of State.

RESPONDENTS

1. At all times pertinent hereto, Marshall Wolfe was Chief Executive Officer of Steadivest, LLC.
2. At all times pertinent hereto, Jack Harrington was President and Chief Operating Officer of Steadivest, LLC. Harrington also informed Division investigators that he served as Chief Financial Officer of Steadivest, LLC; this fact was confirmed by Steadivest, LLC financial controller Scott Smith.

FINDINGS OF FACT

3. Steadivest, LLC (“Steadivest”), is a Mississippi Limited Liability Company located at 4 Country Place, Pearl, Mississippi 39208. It is the principal of the following subsidiary corporations: Steadivest Development, Steadivest Capital, LLC, Steadivest Contrarian Fund, Steadivest Properties, Steadivest Lending, and Steadivest Resources. These entities collectively report to the Internal Revenue Service as one entity—Steadivest, LLC—under EIN 26-1455425.
4. On March 23, 2009 Steadivest filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of Mississippi (Case No. 09-01013-NPO).
5. Steadivest is in the real estate business. It is a holding company that offers real estate investment property (primarily residential), property management and bridge loan lending.
6. Prior to the issuance of a Final Cease and Desist Order against Steadivest, which Order was executed on January 5, 2010, and at all times pertinent hereto, Steadivest was properly notice filed with the Division to offer and sell certain securities in Mississippi pursuant to Regulation D, Section 506 of the Securities Act of 1933.

7. In January 2008, Steadivest began selling membership units in Steadivest, LLC. These membership units were offered pursuant to a Private Placement Memorandum and subscription documents (“PPM”) (see Exhibit “A”) entitled “The Steadivest, LLC Equity Offering” (“Offering”). These units were sold pursuant to a Regulation 506-D offering, which notice was filed with the Division on March 5, 2008.

8. The PPM included a signed letter from Wolfe encouraging investors to purchase securities through the Offering. The PPM also stated that all questions or requests for information regarding the Offering were to be directed to Harrington’s attention.

9. Steadivest raised approximately One Million, Five Hundred Eighty-Five Thousand Dollars (\$1,585,000.00) pursuant to the Offering.

10. Based on consumer complaints, on May 26, 2009, the Division initiated an investigation into the conduct of Steadivest, as well as the conduct of Wolfe and Harrington.

11. As a result of that investigation, the Division discovered the following violations of the Mississippi Securities Act and the Mississippi Securities Act Rules (“Rules”) with respect to Respondents:

ESCROW ACCOUNT

12. Respondents failed to abide by the terms of the PPM; indeed, they never had any intention of abiding by the terms of the PPM.

13. According to the PPM:

Subscription payments will be held in escrow until the earlier to occur of acceptance of subscriptions for 10 Units (\$1,000,000) or September 30, 2008. Assuming the minimum number of Units is sold, the offering will continue until September 30, 2009 (unless extended by the Company for an additional 180 days).

14. While the PPM guaranteed that investment funds would be held in escrow for a set period of time, Respondents failed to hold these funds in escrow. Moreover, Respondents, as CEO, President and CFO of Steadivest, never even opened an escrow account for these funds, clearly showing they had no intention of complying with the escrow terms of the PPM.

15. Instead of placing the funds in an escrow account, upon receipt of a new subscription, Respondents immediately and directly deposited the funds into a Steadivest checking account at Regions Bank, where they commingled with Steadivest's nominal operating cash.

16. Respondents used these investment funds, earmarked for escrow, to pay the bills and support the daily operations of what was admittedly a failing enterprise. Thus, not only did Respondents fail to inform subscribers that it was not placing their investments in an escrow account; they also (personally and through the PPM) misrepresented the placement of these funds, leaving the terms of the offering unmet.

SOURCE AND USE OF PROCEEDS

17. With respect to how the Steadivest investment proceeds would be used, not only were the PPM and Respondents' statements contrary to each other, as it turned out neither was the truth.

18. According to the "Source and Use of Proceeds" section of the PPM, upon meeting the minimum financial requirement of \$1,000,000.00 raised, the investment funds were to be distributed as follows: Fifty Thousand Dollars (\$50,000.00) of the offering were to be used to pay sales commissions; Five Hundred Thousand Dollars (\$500,000.00) were to be used to reduce existing promissory notes of Steadivest; and Four Hundred Fifty Thousand Dollars (\$450,000.00) were to be held in the bank as "working capital". The PPM concedes that Steadivest may " earmark more or less to the line items reflected above, in its sole discretion."

19. According to Wolfe, the investor funds were to be used in a slightly different manner than that outlined in the PPM. Wolfe stated that investors were told their money would be used to make loans to purchase residential real property, which property would then generate income. Respondents informed subscribers their investment was always directly tied to a piece of real property, and was collateralized by that property. Thus, investors were led to believe their money was secure because it was linked to a tangible asset.

20. Neither the PPM nor Respondents' statements to investors turned out to be true. In fact, Respondents' disbursed the money prior to meeting the requirements for distribution (raising \$1,000,000.00 or until September 30, 2008, whichever occurred first) as outlined in the PPM. Moreover, Respondents had no system of allocation for these investment funds because Steadinvest had no escrow account from which to allocate.

21. Additionally, it is undisputed that the promised \$450,000.00 was never set aside for working capital—despite the fact that, ultimately, the offering raised more than \$1,000,000.00 (to trigger the working capital allocation warranted in the PPM).

22. In fact, although Steadinvest did have the authority “ earmark more or less” to the particular usage categories outlined in the PPM (commission, promissory note reduction, working capital) Respondents failed to disclose that they set aside no working capital whatsoever. Beginning in January of 2008 (when the PPM was first issued), Respondents maintained zero dollars in escrow (in that there was no escrow account). Additionally, while the investment funds were deposited into the Steadinvest checking account at Regions Bank, after January 2008, Steadinvest maintained a balance exceeding \$450,000.00 for only three (3) days before filing for bankruptcy protection fourteen (14) months later, in March of 2009.

23. Further exemplifying the fraudulent nature of Respondents' representations (including the PPM) is the fact that Respondents never allocated the investor funds as outlined in the PPM. Steadinvest, LLC checking account records from just three months into the offering show that immediately upon receipt of funds from a new subscriber, Respondents used the money to pay for operating expenses of the company (which expenses Scott Smith classifies to Division investigators as "out of control"):

- a. On March 19, 2008, Steadinvest, LLC's checking account balance was Eighty-Nine Thousand, Three Hundred Sixty-Two Dollars and Ninety-Seven Cents (\$89,362.97).
- b. Between March 19, 2008 and March 24, 2008, Steadinvest made three deposits of "Members' Equity" into this same checking account. These deposits totaled Four Hundred Ninety-Five Thousand Dollars (\$495,000.00).
- c. On March 24, 2008, Steadinvest transferred Four Hundred Seventy-Five Thousand Dollars (\$475,000.00) to its founding company, MTW Investment Financing, LLC ("MTW"). Steadinvest and MTW had previously operated as one entity.
- d. That same day, MTW used Four Hundred Sixty-One Thousand, Seven Hundred Seventy Dollars and Ninety-Five Cents (\$461,770.95) of that transfer money to return the investment capital and pay off five (5) prior MTW/Steadinvest investors. One of those investors was Steadinvest President, COO and professed CFO Jack Harrington, an insider who received a Three Hundred Six Thousand, Three Hundred Two Dollars and Ninety-Nine Cents (\$306,302.99) payout as a result of this transaction.
- e. Respondents paid off Harrington's promissory notes despite the fact that his promissory notes had not yet matured, but were redeemed pursuant to a demand

provision in the notes. Accordingly, Harrington was not reducing promissory note debt currently due and payable (as represented in the PPM). While Harrington (as CFO and President) was encouraging outside investment in Steadivest, he was failing to disclose that these investments would immediately be used to satisfy the demand features of his own promissory note. It should be noted that the PPM does not identify any criteria by which investors are paid; on the contrary the LLC Agreement included in the subscription documents specifically states that no member “shall have priority over any other Member or Assignee, either for the return of Capital Contributions or for Net Profits, Net Losses or Distributions [...]” Certainly, the PPM did not disclose the preference Harrington afforded himself in favoring his own claims over other investors. And yet, this preferential treatment is exactly what Harrington knew would happen when he solicited for investments pursuant to the Offering.

24. In his deposition given in the Steadivest bankruptcy proceedings¹ Wolfe admits Steadivest “didn’t have the money coming in” to buy out Harrington’s demand. “But again” (according to Wolfe), “we had the ability [to buy out our own CFO] for what we were doing to raise capital.” Respondents knowingly disregarded the fact that buying out Harrington with investors’ escrow money was improper. Harrington, as CFO and an insider in Steadivest, omitted the material fact that he was to be one of the largest beneficiaries of monies designated for “promissory note reduction”.

25. Contrary to the terms of the PPM, and contrary to their own promises to investors, Respondents applied the entirety of these investor funds to reduce promissory note debt (in

¹ In Re: Steadivest, LLC Chapter 11, Case No. 09-01013-NPO, United States Bankruptcy Court for the Southern District of Mississippi. Mr. Wolfe’s deposition was taken on April 28, 2009, and was continued on May 7, 2009.

Harrington's case, debt which was neither due nor payable), to prop up Steadinvest's struggling finances, and for their own personal use. Respondents did so despite written representations in the PPM that none of the investment funds would be spent until a million dollars was raised (or until September 30, 2008), and that the funds, when spent, would be allocated between expenses and working capital.

USE OF INVESTMENT PROCEEDS FOR PERSONAL GAIN

26. Wolfe has conceded that the million plus dollars Steadinvest received in investments between January and June of 2008 went to operating the business, and not to working capital or the payment of current promissory notes. What is clear, however, is that this money also went into Respondents' own pockets.

27. During the time in which Wolfe admits Respondents were soliciting investors solely to raise equity pursuant to the Offering, Respondents also used those investor funds for personal gain. This includes Harrington's salary increasing from One Hundred Thousand Dollars \$100,000.00 to One Hundred Fifty Thousand Dollars (\$150,000.00). Wolfe as well took personal advantage of investor funds, making the following personal charges to the Steadinvest credit card, which expenses were paid from the Steadinvest operating account:

- a. 9/8/07: One Hundred Forty-Nine Dollars and Seventy-Eight Cents (\$149.78) to Kirkland's decorating store;
- b. 9/10/07: One Hundred Thirty-Eight Dollars and Three Cents (\$138.03) to Designer Warehouse (men's clothing);
- c. 12/07: One Thousand, One Hundred Forty-Nine Dollars and Thirty-Five Cents (\$1,149.35) for a family trip to Disney World;
- d. 12/31/07: Twenty-Two Thousand, One Hundred Sixty-Two Dollars and Seventy-Five Cents (\$22,162.75) in miscellaneous personal charges;
- e. 7/08: Five Hundred Ninety-Eight Dollars (\$598.00) for airline tickets;
- f. 9/08: Six Hundred Ninety-Four Dollars (\$694.00) for airline tickets for Norman and Candace Black;

- g. 9/27/08: One Thousand, Nine Hundred Fifty Dollars and Fifty-Five Cents (\$1,950.55) for an Apple computer (for personal use);
- h. 9/08-11/08: Three Thousand, Three Hundred Fifty-Four Dollars and Thirty-Five Cents (\$3354.35) in personal telephone calls made by Wolfe to telephone number 417-866-7355;
- i. 12/9/08: One Hundred Eighty-One Dollars and Seventy-Two Cents (\$181.72) to the Queensboro Shirt Company;
- j. 7/2-12/28/08: Four Thousand, Nine Hundred Sixty-Two Dollars (\$4962.00) in personal restaurant charges.

28. As Chief Financial Officer of Steadivest, Harrington's silence with respect to Wolfe's use of company funds for personal benefit shows not only implicit consent but also endorsement of Wolfe's actions.

29. There was no discretion (as authorized by the PPM) in Respondents' decisions to place escrow funds into a general checking account; spend those funds prior to raising the required \$1,000,000.00 (and prior to the alternate deadline of September 30, 2008); use those funds to keep the company afloat; favor certain investors (including Harrington himself) over others; or bankroll Respondents' personal expenses. These decisions were not in compliance with the "Source and Use of Proceeds" section of the PPM. They were not in compliance with the representations made by Respondents on behalf of Steadivest. They were deceptions on the part of Respondents.

30. Wolfe is candid about the fact that Respondents never disclosed to investors their money was being used improperly. When admitting to paying one investor with another investor's money, Wolfe stated (in his deposition in the Steadivest bankruptcy case), "But we never—I never went out and said, 'Hey, I need money to put in [the general account] to pay someone else out' specifically. It was just a normal course of business."

BOOKS AND RECORDS

31. Despite the fact that Steadivest was a multi-million dollar business with numerous investments and projects, and despite the fact that Steadivest raised nearly two million dollars in its 2008 Offering, Respondents managed the company more along the lines of a small town family business. In no way did their actions reflect a duty to account to the Steadivest investors—a duty which was clearly outlined both in the PPM and by Respondents themselves.

32. According to the PPM:

Books and Records. The Company will maintain full and complete records and books of account showing assets, liabilities and the capital accounts of the Members, revenues and expenditures, and all other aspects of the operations, transactions and financial condition of the Company. The Company's books and records will be maintained at the principal office of the Company, and any Member will have access to the Company's books during ordinary business hours and upon reasonable prior notice in accordance with the LLC Agreement.

33. The PPM—which was endorsed by both Respondents and presented to investors for the sole purpose of soliciting funds for the Offering—stated that full and complete books and records of Steadivest accounts would be maintained and available upon request. Although investors requested this information from Respondents (particularly Wolfe) on numerous occasions, and although Harrington was designated in the PPM as the individual responsible for handling requests for additional information regarding the Offering, Respondents never produced any records to the Steadivest investors. This evidences a clear disregard of the representations made in the PPM.

34. In a January 2009 meeting with investors Mike and Sue Yarbros, Wolfe promised that he would provide the Yarbros with combined financials after Steadivest's accountant finished them. The Yarbros had requested the meeting with Wolfe and specifically asked Wolfe to bring financial documentation of Steadivest and the Offering. When asked for that paperwork, Wolfe replied, "Well, I got some at the office but I just—I wanted to spend most of the time, you know,

getting exact information from you and all.” When asked about providing balance sheets, Wolfe hedged again, noting:

MARSHALL WOLFE: [F]or those who ask for it [...] I want to give monthly income statement at the end of each month showing profitability of the company, because the balance sheet [...] it’s not worth the paper to put it on.

MIKE YARBRO: Have you had anybody doing that for you in the past?

MARSHALL WOLFE: We—we have balance sheets and income statements, but we haven’t had anybody—we had Bobby Isonhood requested it for a long time; but [...] it’s very difficult.

35. As part of its investigation, Division investigators also repeatedly requested financial information from Respondents, who again failed to produce any audited financials. This further suggests that Respondents failed to keep the books and records promised in the PPM (and required by Rule 535 of the Mississippi Securities Act) to be maintained; it was this PPM which Respondents used as part of its push to sell securities. It must be noted that this disorganized informality appears to have been the benchmark of the Steadinvest operation; indeed, Harrington himself admitted to Division investigators there were no minutes of the meetings of the Steadinvest management team, stating that most board meetings (of this multi-million dollar company) were conducted “around the coffee pot” each morning.

FORWARD LOOKING STATEMENTS AND THE STABILITY OF STEADIVEST

36. Respondents also used misleading and deceptive forward-looking statements in the PPM, as well as misleading personal statements to investors. Pursuant to Rule 175 of the Securities Act of 1933, and Rule 3b-6 of the Exchange Act of 1934, forward looking statements in SEC filings are permitted unless the statements are without reasonable basis or are disclosed other than in good faith. This test is subjective, focusing on what Respondents knew or should have known when they looked to the future.

37. And what did Respondents know? Respondents admitted to Division investigators that, at the time they were actively seeking investors, they knew the subprime mortgage crisis had deeply affected Steadivest's profitability. Respondents admitted to Division investigators they knew their business suffered from extremely unfavorable economic conditions.

38. Steadivest's losses began in the late fourth quarter of 2006 and in early 2007; Wolfe attributes these losses to the subprime crisis. In his deposition before the bankruptcy court, Marshall Wolfe agreed that for the two year period beginning in January 2006 through the end of 2007, "the Steadivest companies lost right at One Million, Eight Hundred Sixty-Five Thousand Dollars (\$1,865,000.00)". Wolfe characterizes Steadivest's revenue situation as having been "destroyed" when the subprime "blew up"—an event occurring prior to the issuance of the PPM in 2008.

39. Respondents released the PPM in January of 2008; Respondents had been seeking investments in the Offering since the fall of 2007. Yet also in early 2008, Respondents began using investor funds to buy and sell loans to a company named the InvestLinc/TFS Income Fund, LLC. Respondents began this arrangement, according to Wolfe, because Steadivest—at the time Respondents were circulating the PPM and soliciting investors—"couldn't get financing anywhere else."

40. In his deposition in the Steadivest bankruptcy proceedings, Wolfe painted a grim picture of Steadivest's finances at the time Respondents were attempting to sell securities through the Offering (the same time Respondents were reselling those securities, in the form of "loans", to InvestLinc):

We tried for two years, killing ourselves to find alternative investments to refinance these houses. And because of the economic conditions and the credit markets, it was almost impossible. As late as—I mean as early as a month ago we were turned down again. I tried to personally refinance it, within companies

refinancing and we couldn't do it. The reason initially was we had a very, very good feeling that we could sell these houses. It was just taking time.

[...]

So we had a situation where we created a concept called the SteadiVest concept. We were selling income oriented homes. We went to many, many investors getting their opinion about it, and everybody very much liked the business model. And so that's kind of an aside. But when we were in the process we had the fund [InvestLinc] that had all this cash that we're paying at 12% and we're having a hard time finding third party loans.

And so we were having cash flow problems because our rents weren't covering, and so we had this bridge loan opportunity with InvestLinc where the InvestLinc fund needed bridge loans. So we sold the loans; benefits to both parties because it gave us ready cash and InvestLinc would get the loans. But after the subprime disaster in 2008 [sic] we had the credit crash of 2008 and it killed us.

41. Despite Steadivest's financial straits, Respondents did not disclose these risks, nor did they disclose the company's actual losses—not in the PPM and not personally to investors.

42. Instead, Respondents portrayed Steadivest as a viable holding company with many sources of revenue. According to the PPM, investment products were fully integrated, and “no single product makes or breaks us.”

43. Harrington was primarily responsible for creating the projections contained in the pro forma portion of the PPM and subscription documents. Harrington's job was to review the activities Steadivest was undertaking (including dirt work, home sales, property management, etc.), decide on ways Steadivest could increase its profitability, and from there determine the company's potential for financial success.

44. That “potential” was reflected in these examples of unreasonable, bad faith, forward-looking statements in the PPM:

a. The PPM contained a document entitled “Portfolio Sale”, estimating figures and profits derived from flipping a house located at 2632 Shannon Drive, in Jackson, Mississippi and purchased on August 22, 2007. Those estimates are as follows:

Appraisal Discount:	72.6%
Appraised Value:	\$73,000
Selling Price:	\$53,000
Initial Property Cost:	\$20,500
Rehab/Renovation:	\$16,450
Total Cost:	\$36,950
Steadivest Gain:	\$17,850
% gain:	48.3%

- i. According to the figures presented in the PPM (which, incidentally, do not add up), Steadivest purchased this home for \$20,500.00; they planned to spend an additional \$16,450.00 renovating the house.
- ii. Respondents' representation that the house, after renovation, would appraise for \$73,000.00 and sell for \$53,000.00 was designed to lead investors to believe the house would sell quickly (and therefore, increase the probability of a quick return on investment).
- ii. Respondents' representation that the estimated profits from the sale of the house would be \$17,850.00 represents a more than Two Hundred Percent (200%) return on Steadivest's renovation budget.
- iii. Respondents presented this Portfolio Sales document without financials or evidence to support its estimated profits, sales price or appraisal value of the home. The figures—implausible compared to the original purchase price and location of the home, and the economic conditions for real estate in 2008—were engineered solely for the purpose of fraudulently enticing investors.
- iv. Respondents also were not qualified to estimate (via the PPM) the value of the properties sold. Wolfe identified three employees (Joel Travelstead, Nick Thompkins and Blaine Adams) who he qualified as having "significant experience in the investment market." However, none are licensed appraisers by

the Mississippi Real Estate Commission. Wolfe admits that, in determining the potential value of a house, Steadinvest limited itself to looking up comps on MLS and reviewing the “competitive market analysis”, which Wolfe classified as “slightly less diligent”. It should be noted that Wolfe is not an appraiser either, although when asked by an investor if a Ninety-Three Thousand Dollar \$93,000.00 appraisal on one of the Steadinvest investment homes was a “good, strict, honest appraisal,” Wolfe replied, “Oh, it’s excellent.”

b. The PPM also included documentation estimating profits from the operation of a dirt pit in Canton, Mississippi. According to the PPM, this dirt pit would bring an estimated yield of “\$30,000 [Thirty Thousand] + per month.” Again, however, Steadinvest had never engaged in dirt work and had no prior history and no prior financials on which to base these numbers. Wolfe later admitted that the dirt work was not “a significant revenue stream for the company.” P.131.

c. The PPM contained exaggerated revenue projections that failed to account for those admittedly poor economic conditions of which Respondents had knowledge. According to the PPM, and to the Revenue Forecast provided to investors, “The Company will derive revenues through the sale of its products and services.” Those revenues, in the midst of the housing crisis, were expected to jump from approximately Eight Million Dollars (\$8,000,000.00) in “year one” (2008), to approximately Eighty-Four Million Dollars (\$84,000,000.00) in “year five”. The sales increases were expected to jump One Hundred Ninety point Three percent (190.3%) between “year one” (2008) and “year two” (2009).

45. Respondents presented these glowing profit estimates to investors despite conceding to Division investigators that Steadivest's profitability was deeply and negatively affected by the housing crisis. Respondents also presented these estimates without any audited financials or history to support the projected earnings. Indeed, when Division investigators requested copies of audited financials of Steadivest, the company was unable to produce such documents.

46. The PPM was not the only source of fraudulent statements regarding the present or future stability of Steadivest. Despite the admitted "destruction" of Steadivest's finances, in 2007, Harrington told future investors Alex Breeland and Lee Breeland that Steadivest was doing "very well" and insisted that the financial condition of the company was "very good." Harrington claimed that with the new ventures Steadivest was entering the company would be even more profitable. Harrington and Wolfe both met with investors Rick Lacey and Hal Parker in June of 2008. Wolfe told these future investors they were "real excited" about the Steadivest opportunity.

47. Danny Gray informed Division investigators that when the Offering was being initially presented, both Wolfe and Harrington met with investors at Primos restaurant. Gray was asked to bring as many friends and associates as he could to hear about an "exciting new opportunity" that was unfolding. Mike Yarbrow also met with both Wolfe and Harrington prior to investing in Steadivest; according to Yarbrow, Wolfe and Harrington both led him to believe that Steadivest was profitable, doing well and starting new ventures that would be even more profitable.

48. In a meeting with investor Mike Yarbrow, Marshall Wolfe acknowledged telling potential investors that Steadivest was a solid investment:

MIKE YARBROW: When we first started this deal, from day one, you were gonna lend this money to people fixing up houses. You were saying, we're going to lend 60-65% of the value of the property. And then later we were talking about if

all the investors were invested at 60-65% even if everything went bad we were still in great shape.

MARSHALL WOLFE: Right.

49. Respondents' "pep talks" to investors continued even while Steadinvest was imploding². In the spring of 2008, Steadinvest began to drop interest rates for its investors. Harrington personally contacted investor Bobby Isonhood on the date his promissory note was set to renew, informing him that Steadinvest was going to drop his interest rate to ten percent (10%). Isonhood refused, telling Harrington that he could earn a better return elsewhere and requesting his principal and interest via the demand feature of his promissory note. To persuade Isonhood not to withdraw his money (which wasn't there anyway), and in an effort to renegotiate and renew Isonhood's original purchase of the security (and prevent Steadinvest from having to repurchase that security), Harrington agreed to maintain Isonhood's interest rate at fourteen percent (14%). Harrington never told Isonhood that Steadinvest did not have the money to satisfy either a full payout or the promised 14% interest rate.

50. In simplest terms, from 2006 to 2009, Steadinvest was losing money, and Respondents had knowledge of that fact. Nevertheless, when soliciting individuals to invest via the 2008 Offering, Respondents did not disclose to investors the financial problems Steadinvest was experiencing. Nor did Respondents disclose to potential investors the terms of the InvestLinc deal, in which Respondents were selling investor assets to a third party—thereby jeopardizing the value and security of those assets—in order to beef up Steadinvest's empty bank account. Little did the investors know their investments were merely collateral in a desperate (and ultimately unsuccessful) scheme to keep Steadinvest out of bankruptcy.

² For example, indeed, on November 24, 2008, Wolfe sent a letter to the Steadinvest investors which described the current credit markets as "extremely turbulent," and informed investors of an additional cut in the interest rate. Nevertheless, Wolfe's letter maintained that Steadinvest found itself "in the sweet spot of this very volatile economy."

APPLICABLE LAW

51. Miss. Code Ann. Section 75-71-501 states as follows:

It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly, (1) to employ any device, scheme or artifice to defraud; (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 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.

52. Mississippi Securities Act Rule 535 requires issuers to keep books and records:

A. Every issuer selling its own securities shall make and keep current the following books and records:

1. Stockholders' ledgers or other records reflecting alphabetically the names and addresses of all stockholders, stock certificates issued to each, dates paid, and full details as to transfers or cancellations;
2. Copies of all promotional and sales materials used in connection with the sales of the issuer's securities;
3. Copies of all confirmations of sales of securities;
4. Stock Certificate Books.

53. Miss. Code Ann. Section 75-71-715 states in pertinent part:

Whenever it appears to the Secretary of State that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, he may, in his discretion, seek any or all of the following remedies:

- (1) Issue a cease and desist order, with or without a prior hearing against the person or persons engaged in the prohibited activities, directing them to cease and desist from further illegal activity;
- (2) Issue an order in the case of an issuer of registered securities, broker-dealer, investment adviser, agent, investment adviser representative, or other person who violated this chapter, imposing an administrative penalty up to a maximum of Twenty-five Thousand Dollars (\$25,000.00) for each offense and each violation shall be considered as a separate offense in a single proceeding or series of related proceedings; to be paid to the Secretary of State and requiring reimbursement to the Secretary of State for

all costs and expenses incurred in the investigation of the violation(s) and in the institution of administrative proceedings, if any, as a result thereof [...]

CONCLUSIONS OF LAW

54. The preceding paragraphs are incorporated herein by reference.
55. The Secretary of State has jurisdiction over this matter pursuant to Miss. Code Ann. Section 75-71-107(a).
56. In violation of Miss. Code Ann. Section 75-71-503(a), Respondents mislead and deceived Steadinvest investors in order to pay off mounting debt and keep the company's numerous subsidiaries afloat. Respondents mislead investors through a PPM with which Respondents had no intention of fully honoring; through material misstatements of its CEO, Marshall Wolfe and President and CFO, Jack Harrington; and through material omissions in sales presentations and materials presented to the Steadinvest investors.
57. Respondents, while promising viable, diverse and profitable real estate investments to Mississippi subscribers, instead knowingly and intentionally used those subscribers' investments as ready cash to bankroll a struggling business already at odds with existing investors.
58. Respondents also knowingly and intentionally used those investments for personal gain, resulting in investors unknowingly paying for Respondents' clothes, padded salaries and even a trip to Disney World. Finally, Respondent Harrington, as Chief Financial Officer of a financially bereft corporation, encouraged investors to commit to what he knew was a dying company—going so far as to promise Bobby Isonhood an interest rate he knew Steadinvest couldn't pay—and then walked away from the company, taking \$306,302.99 in investor "escrow" money with him.
59. Respondents provided subscribers with misleading information, and omitted material information, about the use of proceeds invested in the Offering.

60. Respondents knowingly used a forward looking PPM which was unreasonable and, in light of admissions to Division investigators, clearly in bad faith. Respondents did not genuinely believe in the profitability marketed to investors; there was no reasonable basis for that belief; and indeed, all evidence contradicted that belief—making such forward looking PPM statements blatantly, and knowingly, false.

61. In violation of Mississippi Securities Act Rule 535, Respondents failed to keep proper books and records, as evidenced by their failure to produce those records to investors despite repeated requests. This failure also exhibits a misrepresentation on the part of Respondents, both in oral statements made to investors and in the promise to keep books and records as outlined in the PPM.

AMENDMENTS

The Division reserves the right to amend this Summary Cease and Desist Order to allege additional violations.

PUBLIC NOTICE

This Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty is issued in the public interest and for the protection of investors consistent with the purpose of this Act.

RIGHT TO AN ADMINISTRATIVE HEARING

An administrative hearing may be requested in this matter. Any such request shall be made in writing within thirty (30) days from the date of receipt of this Order. Said request shall be addressed to Melanie Thomas, Senior Attorney, Mississippi Secretary of State, Securities and Charities Division, Post Office Box 136, Jackson, Mississippi 39205-0136.

If an administrative hearing is requested, written notice of the date, time and place will be given to all parties by certified mail, return receipt requested. Said notice will also designate a Hearing Officer. In the event such a hearing is requested, Respondents may appear, with or without the assistance of an attorney, at the date, time and place specified and cross-examine witnesses, present testimony, evidence and arguments relating to the matters contained herein.

Upon request, subpoenas may be issued for the attendance of witnesses and for the production of books and papers on Respondents' behalf at the hearing related to the matters contained herein. In the event such written notice is not received within said thirty (30) day period, a FINAL CEASE AND DESIST ORDER may be entered in this proceeding without further notice.

ORDER

IT IS THEREFORE ORDERED, pursuant to the authority set forth in Section 75-71-715 of the Act, that Respondents shall immediately CEASE AND DESIST from further illegal activity. Be advised that, a willful violation of this Summary Cease and Desist Order may be punishable upon conviction by a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or five (5) years imprisonment, or both, in addition to civil and administrative remedies available to the Division.

SO ORDERED this, the 26th day of January, 2010.

C. DELBERT HOSEMANN, JR.
Secretary of State
State of Mississippi

By: Melanie Thomas
MELANIE THOMAS
Senior Attorney
Securities and Charities Division

Melanie Thomas, MSB #101016
Mississippi Secretary of State's Office
P.O. Box 136
700 North Street
Jackson, MS 39205-0136
(601) 359-6366

CERTIFICATE OF SERVICE

I, Melanie Thomas, do hereby certify that I have this day mailed a true and correct copy of the above and foregoing document, via certified mail postage pre-paid, to the following:

Marshall Wolfe
761 Rice Road, Apt. 605
Ridgeland, MS 39157

Clarence T. Guthrie, III
350 Arbor Drive, Suite D
Ridgeland MS 39157

Jack Harrington
125 Lansbury Way
Madison, MS 39110

This the 26th day of January, 2010.



MELANIE THOMAS
Senior Attorney