

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
BUSINESS REGULATION AND ENFORCEMENT DIVISION**

In The Matter Of:)	
)	
SUNSET FINANCIAL SERVICES, INC.)	Administrative Proceeding
)	Number: S-06-0396
)	
Respondent)	
)	

CONSENT ORDER

I. JURISDICTION

The Business Regulation and Enforcement Division of the Mississippi Secretary of State's Office (hereinafter "Division") having the authority to administer and to provide for the enforcement of all provisions of the Mississippi Securities Act (hereinafter "Act") and Mississippi Securities Act Rules (hereinafter "Rules"), and SUNSET FINANCIAL SERVICES, INC., Respondent, do hereby enter into this Consent Order in resolution of the following allegations by the Division of violations of certain provisions of the Act and Rules.

II. ALLEGATIONS

A. REGISTERED AND REGULATED PARTY

1. Sunset Financial Services, Inc. (CRD #290651) is a registered broker/dealer firm, who at all times relevant herein, was registered with the Division pursuant to the terms of the Act.
2. James Leon Sanford (CRD #2271987) was formerly a representative of Sunset registered with the Division whose registration terminated on December 18, 2006.
3. Douglas G. Dickey (CRD #4764698) was formerly a representative of Sunset registered with the Division until his registration was terminated in December, 2006.

4. Dennis Basden (CRD #4758882) was formerly a representative of Sunset registered with the Division until his registration terminated in December 2006.

B. EXAMINATION HISTORY

1. SANFORD

- a. On September 26, 2006, Sanford conducted a “free dinner” financial seminar. A member of the Division’s staff received an invitation to the seminar.
- b. On September 27, 2006, the Division performed an examination of Sanford’s office. During this examination it was discovered that Sanford had not received prior approval from Sunset for the September 26, 2006, workshop/seminar. This was a violation of Sunset’s written Supervisory and Compliance Procedures which states as follows:

Prohibited Practices

Certain activities are prohibited under various rules and regulations declared by regulatory agencies, industry standards or firm policies. As a general rule, without written approval from the Sunset Financial President or Chief Compliance Officer...

YOU MUST NOT ...

* * *

- ◆ ***Conduct seminars on investment related topics without prior approval from the Home Office Compliance Department. (Emphasis added)***

* * *

- c. During this examination it was discovered that Sanford had not received prior approval from Sunset for the written materials provided to the public attending the seminar. This was a violation of Sunset’s written Supervisory and Compliance Procedures which states as follows:

General Information

* * *

*Only authorized sales literature, approved or supplied by Sunset Financial, and filed with the appropriate federal, SRO, and/or state authorities can be used and must be preceded by, or accompanied by, a current prospectus. **FAILURE TO FOLLOW THIS RULE WILL BE CAUSE FOR TERMINATION OF YOUR CONTRACT.***
(A-9)

The manual further provides;

Advertising File — *All advertising must be approved by a registered principal at the Home Office **PRIOR** to use. You should keep copies of all Home Office approved advertising in this file, in addition to a log of where the ad was used, and the dates that it was used. Additionally, tear sheets from the newspaper/periodical, or a sample of the completed piece, should be sent to the Home Office for our files. If the advertisement was a direct mail piece or form letter, you should keep a copy of the mailing list in your file and also send one to the Home Office. The following are a few examples of advertising that must have **PRIOR** approval.*

- ◆ *Business Cards and letterhead*

* * *

- ◆ *Seminar scripts, handouts, overheads, videotapes, slides, etc.*

* * *

Remember, an item you are going to use in front of the public, or mail, should be sent in for Home Office review and the approved copy maintained in your file. (A-11 and A-12)

d. Sanford was using business cards and stationary that did not reflect his affiliation with Sunset in violation of Sunset's written Supervisory and Compliance Procedures. This is also a violation of Mississippi Securities Act Rule 523(A)(19).

e. Sanford did not have proper SIPC signage displayed in his office in accordance with SIPC Bylaws Article 11(b). A violation of the SIPC rules is a violation of

Mississippi Securities Act Rule 523(A).

f. Mississippi Securities Act Rule 521 requires all broker/dealers to establish and keep current a set of written supervisory procedures. It further requires that a complete set of such procedures shall be kept in all offices located in this state. Sanford had difficulty accessing Sunset's on-line version of its Compliance and Supervisory Procedures Manual. If the supervisory procedures cannot be easily accessed, they cannot be considered "to be kept in all offices located in this state."

g. Sanford failed to cooperate with the Division's examination.

2. **DICKEY AND BASDEN**

On the afternoon of September 28, 2006, the Division performed an examination of Dickey's and Basden's office.

a. Between February 2004, when Dickey began his employment with Sunset and the date of the exam, Dickey had not opened any customer accounts, conducted any securities business as a registered representative, or supervised other registered representatives in the capacity of a registered principal. This is a violation Sunset's written Supervisory and Compliance Procedures which provides as follows:

NASD Rules prohibit members from maintaining registrations for principals or representatives who are not active in the securities business.

This is also a violation of NASD Membership and Registration Rule 1031 as well as NASD Notice to Members 89-49. A violation of NASD Rules is a violation of Mississippi Securities Act Rule 523(A).

b. Between February 2004, when Basden began his employment with Sunset, and the date of the exam, Basden had not opened any customer accounts, conducted any securities business as a registered representative, or supervised other registered representatives in the capacity of a registered principal. This is a violation of Sunset's written Supervisory and Compliance Procedures which provides as follows:

NASD Rules prohibit members from maintaining registrations for principals or representatives who are not active in the securities business.

This is also a violation of NASD Membership and Registration Rule 1031 as well as NASD Notice to Members 89-49. A violation of NASD Rules is a violation of Mississippi Securities Act Rule 523(A).

3. SUNSET

Sunset's failure to supervise is as follows:

a. Sunset's failure to enforce its written policies and procedures regarding unauthorized seminars is a failure to supervise in violation of Miss. Code Ann § 75-71-321(b)(A) and NASD Rule 3010(c). This is also a failure to enforce its written policies and procedures in violation of NASD Rule 3010(b)(1). Violation of NASD Rules constitutes a violation of Mississippi Securities Act Rule 523(A)(23).

b. Sunset's failure to enforce its written policies and procedures regarding the use of unapproved advertising materials is a failure to supervise in violation of Miss. Code Ann § 75-71-321(b)(A) and NASD Rule 3010(c). This is also a failure to enforce its written policies and procedures in violation of NASD Rule 3010(b)(1). Violation of NASD Rules constitutes a violation of Mississippi Securities Act Rule 523(A)(23).

c. Sunset's failure to enforce its written policies and procedures regarding

the use of business cards and stationary that do not reflect Sanford's relationship with Sunset is failure to supervise in violation of Miss. Code Ann § 75-71-321(b)(A) and NASD Rule 3010(c). This is also a failure to enforce its written policies and procedures in violation of NASD Rule 3010(b)(1). Violation of NASD Rules constitutes a violation of Mississippi Securities Act Rule 523(A)(23).

d. Sunset's failure to ensure that Sanford displayed proper SIPC signage in accordance with the SIPC Bylaws is a failure to supervise in violation of Miss. Code Ann § 75-71-321(b)(A) and NASD Rule 3010(c). Violation of NASD Rules constitutes a violation of Mississippi Securities Act Rule 523(A)(23).

e. Sunset's failure to ensure that Sanford could access the on-line version of its written Supervisory and Compliance Procedures is a failure to supervise in violation of Miss. Code Ann § 75-71-321(b)(A) and NASD Rule 3010(c). Violation of NASD Rules constitutes a violation of Mississippi Securities Act Rule 523(A)(23).

f. Sunset's failure to enforce its written policies and procedures regarding registration of principals, Dickey and Basden, who are not active in the securities business is a failure to supervise in violation of Miss. Code Ann § 75-71-321(b)(A) and NASD Rule 3010(c). This is also a failure to enforce its written policies and procedures in violation of NASD Rule 3010(b)(1). Further, this was a violation of NASD Rule 1030. Violation of NASD Rules constitutes a violation of Mississippi Securities Act Rule 523(A)(23).

III. APPLICABLE LAW

A. Mississippi Securities Act and Securities Act Rules -

1. Power to Impose Penalty –

Miss. Code Ann. § 75-71-715 provides in pertinent part as follows:

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:

* * *

(2) (a) Issue an order in the case of an issuer of registered securities, broker-dealer, investment advisor, 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 a 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.

2. Denial, suspension or revocation of registration; grounds therefore –

Miss. Code Ann. § 75-71-321 provides in pertinent part:

(b) The Secretary of State may by order deny, suspend or revoke any registration if the Secretary of State finds (1) that the order is in the public interest and (2) that the applicant or registrant:

(A) Has failed reasonably to supervise his agents if he is a broker-dealer or his investment adviser representatives if he is an investment adviser; or

B. Mississippi Securities Act Rules

1. Supervision of broker/dealer agents is governed by Rule 521 which provides as follows:

Supervision: All broker/dealers shall establish and keep current a set of written supervisory procedures and a system for implementing such procedures which may be reasonably expected to prevent and detect any violations of the Act and rules promulgated thereunder. The procedures shall include the designation by name or title of those

persons delegated supervisory responsibility in at least the areas of sales, financial operations, and compliance. A complete set of such procedures and systems shall be kept in all offices located in this state.

2. Rule 523 sets out the standards of conduct for broker/dealers and their agents. It provides in pertinent part:

Standards of Conduct: Each broker/dealer and agent shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business. Acts and practices, including, but not limited to, the following, are considered contrary to such standards and may constitute grounds for denial, suspension, or revocation of registration, imposition of fines, or such other action authorized by statute.

A. Broker/Dealers.

* * *

19. Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material, or presentation based on conjecture, unfounded or unrealistic claims, or assertions in any brochure, flyer, or display by words, pictures, graphs, or otherwise designed to supplement, detract from, supersede, or defeat the purpose or effect of any prospectus or disclosure;

* * *

23. Violating any laws or rules of the SEC or a national securities exchange or national securities association of which it is a member, or violating any federal or state securities law or any rule or regulation promulgated thereunder.

B. Agents.

* * *

6. Engaging in conduct specified in subsection (A)1, 2, 3, 4, 5, 6, 8, 11, 12, 16, 17, 18, 19, 23.

The conduct set forth above is not inclusive. Engaging in other conduct such as forgery, embezzlement, non-disclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension, or revocation of registration, or imposition of fines.

C. NASD RULES -

1. Registration Requirements -

NASD Rule 1030 provides in pertinent part as follows:

(a) All Representatives Must Be Registered

All persons engaged or to be engaged in the investment banking or securities business of a member who are to function as representatives shall be registered as such with NASD in the category of registration appropriate to the function to be performed as specified in Rule 1032. Before their registration can become effective, they shall pass a Qualification Examination for Representatives appropriate to the category of registration as specified by the Board of Governors. A member shall not maintain a representative registration with NASD for any person (1) who is no longer active in the member's investment banking or securities business, (2) who is no longer functioning as a representative, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c). A member shall not make application for the registration of any person as representative where there is no intent to employ such person in the member's investment banking or securities business.

2. NASD Notice to Members 89-49 -

This Notice addressed the need to protect the investing public, by assuring that the registered persons remained knowledgeable about products and services available to investors.

The background and summary provides in pertinent part as follows:

EXECUTIVE SUMMARY

The Securities and Exchange Commission has approved amendments to Parts II and III of Schedule C of the NASD By-Laws that will require a member to submit applications for and maintain the registrations of only such persons who intend to engage or are engaged in the investment banking or securities business for the member. These amendments apply to both principal and representative registration categories.

BACKGROUND AND SUMMARY

In response to certain recommendations of the NASD Regulatory Review Task Force, the Qualifications Committee of the NASD Board of Governors reviewed the NASD qualification system to consider additional means to maintain an appropriate level of knowledge and professionalism for persons associated with NASD members.

* * *

The amendments specifically prohibit members from maintaining registrations for persons who no longer function as principals or representatives of the firm and who no longer are active in the member's investment banking or securities business, or who wish to avoid the re-examination requirement applicable to Persons who are not registered for more than two years.

* * *

3. Supervision

NASD Rule 3010 provides in pertinent part as follows:

(a) Supervisory System

Each member shall establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules. Final responsibility for proper supervision shall rest with the member. A member's supervisory system shall provide, at a minimum, for the following:

(1) The establishment and maintenance of written procedures as required by paragraphs (b) and (c) of this Rule.

* * *

(b) Written Procedures

(1) Each member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.

D. Securities Investor Protection Corporation (SIPC) -

SIPC Bylaw Article 11, Section 4, ADVERTISEMENT OF MEMBERSHIP, Section b, Mandatory Display by Members provides as follows:

Except as provided in (d) below, effective January 1, 1979, each member of SIPC shall continuously display in a prominent place the official symbol (as prescribed in (a)(6) above) at its principal place of business and at each branch office.

III. STIPULATIONS

Respondent, without admitting or denying the allegations stated herein, does hereby consent to the entry of this Consent Order, and solely for the purpose of resolving the foregoing allegations, stipulates without a hearing to the matters set forth above and hereby consents to the issuance of this Consent Order and further consents to and agrees to the undertakings contained herein, with no formal administrative hearing and determination of wrongdoing by the Respondent. Furthermore, the undersigned agent for the Respondent Sunset acknowledges that she/he has been lawfully vested with the authority to enter into this Consent Order on behalf of the Respondent Sunset.

Respondent stipulates to the jurisdiction of the Division to administer and to provide for the enforcement of the provisions of the Mississippi Securities Act and the Rules promulgated thereunder.

Further, Respondent consents to and agrees to the undertakings contained herein.

THEREFORE, in consideration of a final resolution of the matters set forth herein, the Division and Respondent hereby agree and stipulate as follows:

1. The Division shall impose a penalty upon the Respondent Sunset in the amount of Eighteen Thousand Dollars (\$18,000.00). Respondent shall remit payment to the Division, payable to the "Mississippi Secretary of State" upon execution of this Order.
2. Respondent Sunset agrees to furnish to the Division documentation that Sanford's, Dickey's and Basden's securities registrations have been terminated.
3. This Consent Order is in resolution of the matters contained herein. As a result of this Consent Order, the matters contained herein cannot be used as a basis for action by the Division except in determining any penalty as may be imposed by the Division for any future violations of the Act committed by the Respondent.

In the event Respondent fails or neglects to comply with any of the terms, stipulations or undertakings set forth in this Consent Order, or fails to comply with the provisions of the Mississippi Securities Act, then in effect, and the Rules promulgated thereunder, the Division may, without notice to the Respondent, unilaterally rescind this Consent Order and institute any legal or administrative proceedings it deems appropriate including, but not limited to, proceedings to address the matters set forth herein.

IV. ACKNOWLEDGEMENT

The Respondent hereby acknowledges that it has read this Order in its entirety and fully understands the terms, and its rights and obligations contained herein.

ISSUED, this the 25th day of June, 2007.

ERIC CLARK
Secretary of State

BY: Patricia Melvin
PATRICIA MELVIN
Senior Attorney
Business Regulation and Enforcement

SUNSET FINANCIAL SERVICES, INC.

By: Bruce Oberding
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Date: 6/28/07

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