

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

IN THE MATTER OF)	
)	
EDUARDO G. DIAZ)	Administrative CD Order
)	Number LS-18-3005
<i>Respondent</i>)	

**ORDER TO CEASE AND DESIST, TO PAY
DISGORGEMENT, AND TO PAY
ADMINISTRATIVE PENALTY**

WHEREAS, the Securities Division of the Mississippi Secretary of State (“Division”), has the authority to administer and provide for the enforcement of all provisions of the Mississippi Securities Act (“Act”) codified at Mississippi Code Annotated Sections 75-71-101, *et seq.*; and

WHEREAS, Respondent has violated the Act by selling unregistered securities in the State of Mississippi without being registered to sell securities, and has given investment advice without being registered to do so; and

WHEREAS, the Division is authorized to issue an order requiring a person to pay restitution for any loss or disgorge any profits arising from violations of the Act or a rule adopted or order issued under the Act; to impose a civil penalty for violations of the Act or a rule adopted or order issued under the Act; and to direct any person to cease and desist from engaging in the act, practice, or course of business when the Administrator determines a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act; and

WHEREAS, action by the Division in this instance is necessary and appropriate in the public interest and for the protection of investors, and is consistent with the purposes fairly intended by the policy and provisions of the Act;

NOW, THEREFORE, the Division, as Administrator of the Act, hereby enters its Order to Cease and Desist, to Pay Disgorgement, and to Pay Administrative Penalty:

I. PARTIES

1. The Secretary of State (“Administrator”) has the authority, pursuant to the Act, to administer and enforce the Act and regulate the offer and sale of securities in Mississippi, including the firms and persons who offer or sell securities or who provide investment advice regarding securities.
2. Respondent Eduardo G. Diaz (“Respondent”) is currently in the custody of the Federal Bureau of Prisons and is located at Butner Federal Correctional Institute at Old NC Highway 75, Butner, North Carolina 27509.

II. FINDINGS OF FACT

3. Respondent was formerly a member of FINRA and an investment adviser registered with the Division. Respondent’s Central Depository Registry number is 1621873.
4. On or about April 30, 2014, FINRA barred Respondent from association with any FINRA member in any capacity, and Respondent was no longer authorized to effect securities transactions.
5. On January 27, 2015, the Division barred Respondent from seeking any further securities registration in any capacity in Mississippi.
6. On or about October 6, 2015, Respondent was indicted by a grand jury for federal mail and wire fraud. Respondent pled guilty to wire fraud on March 22, 2016 and was sentenced to 70 months in federal prison; ordered to pay a fine; and ordered to make restitution to victims in the amount of \$641,435.88.
7. On September 7, 2016, the SEC also permanently barred Respondent from securities industry activities.

8. After his bar by the Division in January 2015, but prior to his conviction and sentencing in March 2016, Respondent met with a former client "CC" sometime in 2015 to discuss CC's investments. At the time of the meeting, CC did not know that Respondent had been barred by FINRA and the Division from offering securities or investment advice, nor that Respondent had already been indicted for mail and wire fraud and was facing trial.

9. At the meeting with CC, Respondent told CC and CC's daughter who was also at the Meeting, about investing in a company called Woodbridge Group of Companies, LLC ("Woodbridge") and offered two investment scenarios: in one, CC could invest a certain amount for a 7% return; in the other, CC could invest a greater amount and receive a 10% return.

10. On Respondent's advice, CC opted to invest an amount providing a 10% return in Woodbridge Mortgage Investment Fund 3. Respondent then liquidated three of CC's annuities to fund the investment in Woodbridge. One of these annuities with Voya, was only three days from its contract anniversary date. Because Respondent caused the Voya annuity to be liquidated immediately, rather than waiting three days, CC paid 5% in surrender charges, instead of 3%.

11. CC did not complete any of the application to purchase Woodbridge. Respondent and his employee completed all the paperwork, including the attestation that CC was an accredited investor. CC was only told to sign the signature page of the transaction.

12. CC does not meet the income or net worth requirements to qualify as an accredited investor, and did not meet those requirements at the time Respondent sold her investments in Woodbridge.

13. Woodbridge paid respondent \$7,300.00 in commissions for Respondent's sales of Woodbridge to CC.

14. From the time FINRA barred Respondent on April 30, 2014, Respondent was paid

\$324,053.28 in commissions by Woodbridge for sales of its securities.

15. On Respondent's advice, CC invested \$83,000 in Woodbridge. CC received a monthly distribution on the investment of \$691.67 for 20 months, at which time Woodbridge went into bankruptcy and the payments stopped. CC has not received any further payments on the investment.

16. After Woodbridge declared bankruptcy in December 2017, the SEC charged Woodbridge, its owner, and several promoters of the Woodbridge securities with operating a \$1.2 billion Ponzi scheme.

III. APPLICABLE LAW

17. Miss. Code Ann. § 75-71-102 sets forth:

Definitions.

- (1) "Administrator" means the Secretary of State.
- (2) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities. The term does not include an individual excluded by rule adopted or order issued under this chapter. The term does not include an associated person of an issuer who is deemed not to be a broker under Securities and Exchange Commission Rule 3a4-1.

- (16) "Investment adviser representative" means an individual employed by or associated with an investment adviser or federal covered investment adviser and who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds herself or himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing.

- (28) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or

subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. The term includes both a certificated and an uncertificated security. The term does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a sum of money either in a lump sum or periodically for life or other specified period; or an interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974. An "investment contract" includes, among other contracts, an investment in a limited partnership, an interest in a limited liability company, an investment in a viatical settlement or similar agreement, and an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor and a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors.

18. Miss. Code Ann. § 75-71-301 sets forth:

Securities registration requirement.

It is unlawful for a person to offer or sell a security in this state unless:

- (1) The security is a federal covered security;
- (2) The security, transaction, or offer is exempted from registration under Sections 75-71-201 through 75-71-203; or
- (3) The security is registered under this chapter.

19. Miss. Code Ann. § 75-71-402 sets forth:

Agent registration requirement and exemptions.

- (a) Registration requirement. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection (b).

20. Miss. Code Ann. § 75-71-404(b) sets forth:

Investment adviser representative registration requirement and exemptions.

- (b) Registration requirement. It is unlawful for an individual to transact business in this state as an investment adviser representative unless the individual is

registered under this chapter as an investment adviser representative or is exempt from registration as an agent under subsection (b).

21. The Division may employ remedies set out in Miss. Code Ann. § 75-71-604 of the Act:

Administrative enforcement.

- (a) Issuance of an order or notice. If the Administrator determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter, the Administrator may:

- (1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

- (3) Issue an order:

- (B) Imposing a civil penalty in the case of an issuer of registered securities, broker-dealer, investment advisor, agent, investment adviser representative, or other person who violated this chapter;

- (D) Barring or suspending the person from association with a broker-dealer or investment advisor registered in this state; or requiring the person to pay restitution for any loss or disgorge any profits arising from the violation, including interest.

- (g) Enforcement by court; further civil penalty. If a person does not comply with an order under this section, the administrator may petition a court of competent jurisdiction to enforce the order and collect administrative civil penalties and costs imposed under the final order. The court may not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount set forth in Section 75-71-613

for each violation and may grant any other relief the court determines is just and proper in the circumstances.

22. Miss. Code Ann. § 75-71-613(d) sets forth:

(d) Amount of civil penalty and further civil penalty under Section 75-71-604--administrative enforcement.

- (1) The amount of the civil penalty described in Section 75-71-604(d) is a maximum of Twenty-five Thousand Dollars (\$25,000.00) for each violation, provided that an additional civil penalty may be imposed up to a maximum of Fifteen Thousand Dollars (\$15,000.00) for violations of the chapter committed against elders or disabled persons.
- (2) The amount of the further civil penalty described in Section 75-71-604(g) is a maximum of Twenty-five Thousand Dollars (\$25,000.00) for each violation.

IV. ACTION NECESSARY TO PROTECT THE PUBLIC

23. The previous paragraphs are incorporated by this reference.

24. Action by the Division is necessary and appropriate in the public interest and for the protection of investors, and is consistent with the purposes fairly intended by the policy and provisions of the Act.

25. Based upon the foregoing Findings of Fact, the Division makes the following:

V. CONCLUSIONS OF LAW

26. The previous paragraphs are incorporated by this reference.

27. The Administrator, after consideration of the facts set forth above, finds and concludes that the Secretary has jurisdiction over the Respondent and this matter and that the following is in the public interest, necessary for the protection of public investors, and consistent with the purposes intended by the Act.

28. The investments in Woodbridge that Respondent offered to CC are securities within the meaning of Miss. Code Ann. § 75-71-102(28) and were not registered with the Division or exempt from registration. Respondent violated Miss. Code Ann. § 75-71-301 when he sold unregistered, non-exempt securities to CC.

29. Respondent was not registered as a broker-dealer agent at the time he sold investments in Woodbridge to CC. Respondent violated Miss. Code Ann. § 75-71-402 by selling securities without being registered as a broker-dealer agent.

30. Respondent was not registered as an investment adviser representative at the time he advised CC to invest in Woodbridge. Respondent violated Miss. Code Ann. § 75-71-404 by giving investment advice without being registered as an investment adviser representative.

31. All sales of securities made by Respondent after Respondent was barred by FINRA were in violation of the Act and all commissions paid to Respondent for these unlawful sales of securities are subject to the disgorgement provision of Miss. Code Ann. § 75-71-604.

VI. ORDER

IT IS HEREBY ORDERED:

1. That Respondent immediately CEASE AND DESIST from offering for sale and selling any security in Mississippi;

2. It is FURTHER ORDERED that Respondent immediately PAY DISGORGEMENT of profits to an estimated eighty clients or investors identified by the Division in the amount of \$324,053.28 for the commissions received from Woodbridge for unlawful sales of securities; with the sum to be held in trust by the Division once collected until the claims of the estimated eighty victims are substantiated, then distributed to them by the Division; and

4. It is FURTHER ORDERED that Respondent immediately PAY AN ADMINISTRATIVE PENALTY of Fifteen Thousand Dollars (\$15,000.00) for the violations of the Act set forth above.

VII. RIGHT TO AN ADMINISTRATIVE HEARING

If the Respondent wishes to contest the allegations set forth above, or offer evidence and arguments to mitigate the allegations, then the Respondent must file a request for hearing. Such request shall be made in writing to Jeffrey L. Lee, Senior Attorney, Securities Division of the

Mississippi Secretary of State's Office, Post Office Box 136, Jackson, Mississippi 39205, within thirty (30) days from the date of receipt of this Order to Cease and Desist, to Pay Disgorgement, and to Pay Administrative Penalty. In the event such a hearing is requested, the Respondent may appear, with or without the assistance of an attorney, on a date and at a time and place to be specified and cross-examine witnesses, present testimony, evidence, and argument 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 the Respondents' behalf at the hearing relating to the matters contained herein. 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. If a request for hearing is not timely filed, this Order becomes final, without any further action, by operation of law.

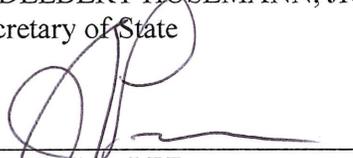
VIII. RIGHT TO AMEND

The Secretary of State hereby reserves the right to amend this Order to Cease and Desist, to Pay Disgorgement, and to Pay Administrative Penalty, for activities in violation of the Act.

ISSUED, this the 10th day of December, 2018.

C. DELBERT HOSEMANN, JR.
Secretary of State

BY:



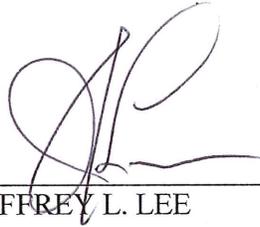
JEFFREY L. LEE
Senior Attorney
Securities Division

CERTIFICATE OF SERVICE

I, Jeffrey L. Lee, do hereby certify that I have this day, mailed a true and correct copy, via certified mail, return receipt requested, of the Order to Cease and Desist, to Pay Disgorgement, and to Pay Administrative Penalty to the following:

Eduardo G. Diaz
c/o Federal Bureau of Prisons
Butner Federal Correctional Institute
Old NC Highway 75
Butner, North Carolina 27509

This the 10th day of December 2018.



JEFFREY L. LEE
Senior Attorney
Securities Division
Mississippi Secretary of State's Office

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