OHIO SECURITIES BULLETIN

A QUARTERLY PUBLICATION OF THE OHIO DIVISION OF SECURITIES

Bob Taft Governor of Ohio | **Doug White** Director of Commerce | **Dale A. Jewell** Commissioner of Securities

Financial Adviser Whose Businesses Faced Injunction is Indicted

On the heels of an injunctive action initiated by the Ohio Division of Securities, a Summit County grand jury handed down a 56-count indictment against Harold Hopkins, a financial adviser who, until September 2004, operated his business out of Hudson, Ohio. Hopkins was indicted on 39 counts of selling unregistered securities, 11 counts of securities fraud, four counts of false statements in the sale of securities, one count of aggravated theft and one count of securing writings by deception.

In September 2004, the Division filed a civil injunction in the Summit County Common Pleas Court that resulted in a preliminary injunction against Hopkins and the four companies he controlled: Vista Financial Group, Flagship Administration, Ltd., Vista Financial Services Corporation and Horizon Benefit Administration Corporation. The criminal indictments, as well as the earlier civil action, deal with sales of stock issued by two of Hopkins' companies, Vista Financial Group, Inc. and Flag-

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Division Wraps Up Another Securities Conference

The Division held its annual Securities Conference on October 21st at the Vern Riffe Center in Columbus. The conference was attended by various industry professionals, as well as Division personnel. Topics included issues related to the state's Venture Capital/ Third Frontier efforts, as well as updates on securities litigation and the SEC's new offering rules. The Division's advisory committees also met at lunchtime. Below are summaries of the meetings of the licensing and enforcement advisory committees. Meeting summaries of the remaining committees will be included in the next issue of the Ohio Securities Bulletin (Issue 05:4).

Members of the Licensing Advisory Committee discussed variable annuities as an emerging focus of the NASD and SEC. The Committee fur-

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ship Administration, Ltd., in the amount of approximately $700,000. The Division alleged that Hopkins fraudulently sold stock to investors by misrepresenting the degree of risk and liquidity of the stock.

Concerning the civil injunction, the Division also alleged that Hopkins and his wife, Linda, misappropriated more than $300,000 in pension funds that were managed by their company, Flagship Administration, Ltd. In granting the injunction, the court appointed Akron attorney Marc B. Merklin as Special Master to oversee the operations of the businesses. As a result of the civil action, nearly 90 percent of missing proceeds, approximately $9 million, were returned to the various pension funds administered by Flagship Administration, Ltd. Most of these funds were retirement accounts managed for employees of school districts across the country. Merklin was recently released from his position as special master, and all the Hopkins' companies were liquidated.

Securities Conference

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ther discussed the issue of surrender charges and suitability issues in connection with variable annuities. The Division addressed a new development in the area of investment adviser custody as a result of the recent issuance by the SEC of the <u>American Skandia</u> No-Action Letter. The <u>American Skandia</u> No-Action Letter provided that under certain fact patterns, an insurance company can act as a "qualified custodian," as that term is used in the custody rules under the Investment Adviser Act of 1940. The Committee explored the possibility of the Division adopting a risk-assessment criteria for examinations, as opposed to the current cyclical exam criteria. Industry representatives further raised the issue of increasing exam efficiency through permitting the same examiner to review the same investment adviser, each time an exam is conducted. They felt this would facilitate the exam process. They further suggested that if a different examiner is assigned to an exam, that the examiner review the previous exam reports to expedite the current exam. An industry member raised concerns about access to capital for a new corporation being better overseas than in Ohio. He felt that the current tax environment is driving business out of Ohio, and that the state and the Division needed to invest in practical ways to get new companies to develop their businesses in Ohio. Following this discussion, the Advisory Committee meeting was adjourned.

OHIO SECURITIES BULLETIN

Desiree T. Shannon, Esq., Editor

The Ohio Securities Bulletin is a quarterly publication of the Ohio Department of Commerce, Division of Securities. The primary purpose of the Bulletin is to (i) provide commentary on timely or timeless issues pertaining to securities law and regulation in Ohio, (ii) provide legislative updates, (iii) report the activities of the enforcement section, (iv) set forth registration and licensing statistics and (v) provide public notice of various proceedings.

The Division encourages members of the securities community to submit for publication articles on timely or timeless issues pertaining to securities law and regulation in Ohio. If you are interested in submitting an article, contact the Editor for editorial guidelines and publication deadlines. The Division reserves the right to edit articles submitted for publication.

Ohio Division of Securities

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The Enforcement Advisory Committee held an informal meeting in which the main topics of discussion were the jurisdictional reach of the Division as viewed by *State v. George*, the guiding case that defines what instruments may be deemed investment contracts under the Ohio Securities Act. Also discussed were compliance concerns regarding investment advisers. Attendees also requested guidance in how to approach the Division when their clients had concerns regarding complaints and registration issues.

Criminal Updates

After his conviction by guilty plea to one count of securities fraud**, Keith W. Dominick** of Lorain, Ohio was sentenced on September 23, 2005, in U.S. District Court in Cleveland to 51 months imprisonment and ordered to pay $912,298.90 in restitution. The case arose from his sale of promissory notes in the principal amount of approximately $1,588,000 through his company, KNR Marketing, Inc. Dominick fraudulently represented that the investments were risk-free and guaranteed rates of return from between 20%-100% compounded on a quarterly basis. Dominick also represented to investors that the proceeds from the sale of the notes would be used to conduct trades in a NASDAQ Index Tracking Stock known as QQQ. However, investment proceeds were used to promote an illegal Ponzi scheme and to support Dominick's personal expenses. Dominick was not licensed to sell securities with the Division and the securities were not registered. Moreover, Dominick had a previous federal conviction for securities fraud that he did not disclose to the investors of promissory notes. The Division contributed to the federal investigation leading to the indictment, plea and sentence. In addition, the Division issued Cease and Desist Orders against Dominick and KNR Marketing for the following violations of the Ohio Securities Act: R.C. 1707.44(B)(4), R.C. 1707.44(C)(1), and R.C. 1707.44(G), which deal with registration and anti-fraud provisions.

Philip A. Regano was indicted on August 4, 2005 by a federal grand jury in U.S. District Court, Western District of Pennsylvania, on one count of mail fraud. Regano allegedly sold clients, including Ohio residents, a gold product scheme in which he promised high rates of return and issued promissory notes while a licensed securities salesperson with the Division. Regano allegedly converted the investors' funds to his own use. The Division issued a Cease and Desist Order against Regano of Boardman, Ohio, on August 2, 2005 for securities fraud, false representations in the sale of securities and selling products not authorized by his securities dealer. Regano was arraigned in Cleveland on October 5, 2005, at which time he entered a guilty plea. Regano's sentencing is set for December 21, 2005. *(See Enforcement Section Reports, this issue.)*

enTerra Energy, LLC/LOT Development Wells, L.L.P./ David G. Rose

On July 11, 2005, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 05-118, to enTerra Energy, LLC, LOT Development Wells, L.L.P. and David G. Rose of Tulsa, Oklahoma.

Mr. Rose and his company, enTerra Energy, operated a website. Through their website they solicited individuals to invest in limited partnership interests in oil and gas properties. A Form D was filed with the Division, marking Rule 506 as the federal exemption for the offering of $3,094,000 of limited partnership interests in LOT Development Wells, L.L.P. The website solicitation negated the exemption, resulting in the sale of unregistered securities and a violation of Revised Code 1707.44(C)(1). The Form D also contained false statements, resulting in a violation of Revised Code 1707.44(B)(6).

The Division notified Respondents of their right to an administrative hearing pursuant to Chapter 119 of the Revised Code with the issuance of a Notice of Opportunity for Hearing on June 6, 2005. Respondents first requested a hearing, then withdrew the request and entered a Consent Agreement.

enTerra Energy, LLC/Pennsylvania 3 Well Development, L.L.P./ Great Oklahoma Oil Deal, L.L.P./David G. Rose

On July 11, 2005, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 05-119, to enTerra Energy, LLC, Pennsylvania 3 Well Development, L.L.P., Great Oklahoma Oil Deal, L.L.P. and David G. Rose of Tulsa, Oklahoma.

Mr. Rose and his company, enTerra Energy, operated a website. Through their website, they solicited individuals to invest in limited partnership interests in oil and gas properties. Two Form Ds were filed with the Division, marking Rule 506 as the federal exemption for the offering of $863,750 of limited partnership interests in Pennsylvania 3 Well Development, L.L.P., as well as for the offering of $2,756,250 of limited partnership interests in Great Oklahoma Oil Deal, L.L.P. The website solicitation negated the exemptions, resulting in the sale of unregistered securities and a violation of Revised Code 1707.44(C)(1). The Form D for Great Oklahoma Oil Deal, L.L.P. also contained false statements, resulting in a violation of Revised Code 1707.44(B)(6).

The Division notified Respondents of their right to an administrative hearing pursuant to Chapter 119 of the Revised Code with the issuance of a Notice of Opportunity for Hearing on December 2, 2004. Respondents first requested a hearing, then withdrew the request and entered into a Consent Agreement.

Philip A. Regano dba Financial Center Enterprises

On August 2, 2005, the Division issued a Cease and Desist Order, Division Order No. 05-131, to Philip A. Regano dba Financial Center Enterprises, of Boardman, Ohio.

The Division found that Philip A. Regano dba Financial Center Enterprises violated the provisions of Ohio Revised Code sections 1707.44(B)(4) and 1707.44(G), and Ohio Administrative Code Rule 1301:6-3-19(A)(19). On June 30, 2005, the Division issued a Notice of Opportunity for Hearing, Division Order 05-116, to Philip A. Regano dba Financial Center Enterprises. Regano solicited clients, including Ohioans, to invest in gold products in which he promised high rates of return. He misrepresented that the investment was safe, suitable for IRA funds and the interest was guaranteed. He issued promissory notes totaling approximately $4 million dollars since 1996, and notes totaling approximately $777,600 during the last three years. The gold products were bogus.

The Division notified Philip A. Regano dba Financial Center Enterprises of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code with the issuance of a Notice of Opportunity for Hearing on June 30, 2005. A hearing was not requested. The Division issued a Cease and Desist Order against Philip Regano on August 2, 2005 for securities fraud, false representations in the sale of securities and selling products not authorized by his securities dealer in violation of the code sections listed above.

First Frame Pictures, LLC/ Alchemist Productions, Inc. David Kaye

On August 16, 2005, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 05-134, to First Frame Pictures, LLC, Alchemist Productions, Inc. and David Kaye of Encino, California.

The Respondents are engaged in the business of financing, producing and distributing motion pictures. The Respondents operated a website that solicited investors to purchase a limited liability interest in "a slate of five films". A Form D was filed with the Division, marking Rule 506 as the federal exemption for the offering of $4,000,000 of limited liability interests in First Frame Pictures, LLC. However, the website solicitation negated the exemption, resulting in the sale of unregistered securities and a violation of 1707.44(C)(1).

The Division notified Respondents of their right to an administrative hearing pursuant to Chapter 119 of the Revised Code with the issuance of a Notice of Opportunity for Hearing on December 1, 2004. Respondents first requested a hearing, then withdrew the request and entered a Consent Agreement.

Thomas L. Fair

On August 17, 2005, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 05-131, to Thomas L. Fair of Miamisburg, Ohio.

The Division found that Thomas L. Fair violated the provisions of Ohio Revised Code 1707.44(C)(1) and 1707.44(G). The Division found that Fair, while a licensed insurance agent, approached three senior clients for money. He promised written returns up to 25%, and failed to disclose his financial condition to the investors when he solicited the investments. Fair issued evidence of indebtedness to the investors, which were neither registered nor exempt with the Division. On December 8, 2004, the Division issued a Notice of Opportunity for Hearing, Division Order 04-216, to Thomas L. Fair.

The Division notified Thomas L. Fair of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A request for an adjudicative hearing was received. The request for the hearing was later withdrawn. Thomas L. Fair entered into a Consent Agreement with the Division, and the Cease and Desist Order was issued on August 17, 2005.

Colin Nathanson, et. al.

On August 17 and 18, 2005, the Division issued Cease and Desist Order Nos. 05-136, 05-138 and 05-139 to Colin Nathanson of Ladera Ranch, California. Nathanson sold unregistered securities, did not disclose to investors that enforcement actions had been taken against him in the past and diverted investor money to other entities he controlled without the knowledge of investors. These activities were violations of Revised Code

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1707.44(C)(1), 1707.44(B)(4)

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and 1707.44(G). The Division notified Nathanson of his right to an administrative hearing pursuant to Chapter 119 of the Ohio Revised Code. Nathanson did not request a hearing in a timely matter, resulting in the issuance of the Cease and Desist Orders.

On August 18, 2005, the Division issued Cease and Desist Order No. 05-137 to Nathanson and Nathanson Investment Trust. Nathanson Investment Trust has solicited people to invest, through Nathanson Investment Trust, in a purported small, unnamed computer software company. Nathanson and Nathanson Investment Trust sold unregistered securities to Ohio investors, represented that the investment was very safe, did not disclose to investors that enforcement actions had been taken against him in the past and diverted investor money to other entities he controlled without the knowledge of investors. These activities were violations of Revised Code 1707.44(C)(1), 1707.44(B)(4) and 1707.44(G). The Division notified Nathanson and Nathanson Investment Trust of their right to an administrative hearing pursuant to Chapter 119 of the Ohio Revised Code with the issuance of a Notice of Opportunity for Hearing on July 14, 2005. They did not request a hearing in a timely matter, resulting in the issuance of the Cease and Desist Order.

On September 20, 2005, the Division is sued Cease and Desist Order No. 05-153 to Media Info Fund, Ltd. and its general partner, Leafhead Consultants, Inc. Both entities were controlled by Colin Nathanson. Salespeople acting on behalf of Leafhead Consultants, Inc. sold unregistered limited partnership interests in Media Info Fund, Ltd. to Ohio investors, and also represented that the investment was very safe, did not disclose to investors that enforcement actions had been taken against Nathanson in the past and did not tell investors that their money would be diverted to other entities Nathanson controlled. These activities were violations of Revised Code 1707.44(C)(1), 1707.44(B)(4) and 1707.44(G). The Division attempted to notify Leafhead Consultants, Inc. and Media Info Fund, Ltd. of their right to an administrative hearing pursuant to Chapter 119 of the Ohio Revised Code with the issuance of a Notice of Opportunty for Hearing on July 14, 2005. It was unable to attain service. As a result, the Division served the receiver that had been appointed to control Nathanson's entities. He did not request a hearing in a timely matter, resulting in the issuance of the Cease and Desist Order.

On September 20, 2005, the Division issued Cease and Desist Order No. 05-154 to Play Big Enterprises, Inc. and Giant Golf Company. Both entities were controlled by Colin Nathanson. Salespeople acting on behalf of Play Big Enterprises, Inc. and Giant Golf Company sold unregistered shares of stock in the respective companies to Ohio investors, stating that there would soon be an IPO and the investors would see a huge return on their money. No IPOs for either company has ever taken place. Also, the Private Placement Memorandum offered to investors did not disclose that past enforcement actions had been taken against Nathanson. These activities were violations of Revised Code 1707.44(C)(1) and 1707.44(G). The Division attempted to notify Play Big Enterprises, Inc. and Giant Golf Company of their right to an administrative hearing pursuant to Chapter 119 of the Ohio Revised Code with the issuance of a Notice of Opportunity for Hearing on June 30, 2005. It was unable to attain service. As a result, the Division served the receiver that had been appointed to control Nathanson's entities. He did not request a hearing in a timely matter, resulting in the issuance of the Cease and Desist Order.

On September 20, 2005, the Division issued Cease and Desist Order No. 05-155 to Financial Info Fund, Ltd. and its general partner, NetTel Consulting Corp., as well as Media Fund III, Ltd. and its general partner, Whitehawk Consulting Group, Inc. All four of the entities were controlled by Colin Nathanson. Salespeople acting on behalf of NetTel Consulting Corp. and Whitehawk Consulting Group Inc. sold unregistered limited partnership interests in Financial Info Fund, Ltd. and Media Fund III, Ltd. to Ohio investors, and also did not disclose to investors that enforcement actions had been taken against Nathanson in the past and did not tell investors that their money would be diverted to other entities Nathanson controlled. These activities were violations of Revised Code 1707.44(C)(1), 1707.44(B)(4) and 1707.44(G). The Division attempted to notify Financial Info Fund, Ltd, NetTel Consulting Corp., Media Fund III, Ltd. and Whitehawk Consulting Group, Inc. of their right to an administrative hearing pursuant to Chapter 119 of the Ohio Revised Code with the issuance of a Notice of Opportunity for Hearing on July 14, 2005. It was unable to attain service. As a result, the Division served the receiver that had been appointed to control Nathanson's entities. He did not request a hearing in a timely matter, resulting in the issuance of the Cease and Desist Order.

Cornerstone Ministries Investments, Inc.

On September 12, 2005, the Division issued a Cease and Desist Order, Division Order No. 05-146, to Cornerstone Ministries Investments, Inc. of Cumming, Georgia.

Cornerstone is a company engaging in the sales of stocks and bonds, whose primary business purpose is to provide income for the company's certificate holders and shareholders, mainly by financing the acquisition and development of facilities for use by churches, their related ministries and other faith-based organizations. From July 22, 2002 to December 1, 2004, Cornerstone sold approximately $1.4 million in stocks and bonds to Ohio investors. The Division became aware of Cornerstone when a Form U-1 was filed with the State of Michigan for the purpose of registering securities. On the Form, Cornerstone claimed they had an exemption from registering the securities in Ohio because the shares were approved for listing on the Chicago Stock Exchange and Ohio has a registration exemption for such shares. However, the stock was not approved for listing on the Chicago Stock Exchange, and even if it was, Ohio has no such exemption. The sales were unregistered and a violation of Revised Code 1707.44(C)(1).

The Division notified Cornerstone of their right to an administrative hearing pursuant to Chapter 119 of the Ohio Revised Code with the issuance of a Notice of Opportunity for Hearing on July 22, 2005. Cornerstone did not request a hearing in a timely matter, resulting in the issuance of a Cease and Desist Order.

Licensing Statistics

License Type	YTD 2005
Dealers	2,417
Salespersons	131,591
Investment Adviser/Notice Filers	1,869
Investment Adviser Representatives	11,111

Capital Formation Statistics*

Because the Division's mission includes enhancing capital formation, the Division tabulates the aggregate dollar amount of securities to be sold in Ohio pursuant to filings made with the Division. As indicated in the notes to the table, the aggregate dollar amount includes a value of $1,000,000 for each "indefinite" investment company filing. However, the table does not reflect the value of securities sold pursuant to "self-executing exemptions" like the "exchange listed" exemption in R.C. 1707.02(E) and the "limited offering" exemption in R.C. 1707.03(O). Nonetheless, the Division believes that the statistics set out in the table are representative of the amount of capital formation taking place in Ohio.

**Categories reflect amount of securities registered, offered, or eligible to be sold in Ohio by issuers.*
***Investment companies may seek to sell an indefinite amount of securities by submitting maximum fees. Based on the maximum filing fee of $1100, an indefinite filing represents the sale of a minimum of $1,000,000 worth of securities, with no maximum. Consequently, for purposes of calculating an aggregate capital formation amount, each indefinite filing has been assigned a value of $1,000,000.*

Filing Type	3rd Qtr 2005	YTD 2005
Exemptions		
Form 3(Q)	$47,492,797	$146,855,693
Form 3(W)	2,775,000	6,795,000
Form 3(X)	93,720,163,287	251,442,663,075
Form 3(Y)	900,000	6,893,000
Registrations		
Form .06	719,296,000	2,383,715,417
Form .09/.091	7,433,985,623	40,085,877,650
Investment Companies		
Definite	115,855,500	347,989,500
Indefinite**	463,000,000	1,586,000,000
TOTAL	**$102,503,468,207**	**$296,006,789,335**

Registration Statistics

The following table sets forth the number of registration, exemption, and notice filings received by the Division during the third quarter of 2005, compared to the number of filings received during the third quarter of 2004. Likewise, the table compares the year-to-date filings for 2004 and 2005.

Filing Type	3rd Qtr '05	YTD '05	3rd Qtr '04	YTD '04
1707.03(Q)	18	98	35	141
1707.03(W)	5	15	4	17
1707.03(X)	340	1453	306	1115
1707.03(Y)	4	9	2	6
1707.04/.041	0	1	2	6
1707.06	17	78	11	74
1707.09/.091	47	182	28	158
Form NF	1117	5420	1008	4301
Total	**1548**	**7256**	**1396**	**5818**