BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
OF THE STATE OF TENNESSEE AT NASHVILLE

TENNESSEE SECURITIES DIVISION	)	
	)	
Petitioner,	)	12.06-036544J
	)	**Docket No.:** ~~12.05-018393J~~
vs.	)	
	)	
ALAN LEON BYRD,	)	
	)	
Respondent.	)	

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DEPT. OF COMMERCE & INSURANCE
OFFICE OF LEGAL COUNSEL

AGREED ORDER

The Tennessee Securities Division ("Division"), and Alan Leon Byrd ("Byrd" or "Respondent") agree to the entry of this Agreed Order in accordance with Tenn. Code Ann. § 48-2-116 of the Tennessee Securities Act of 1980, as amended, Tenn. Code Ann. § 48-2-101, et seq. ("Act"), which states that the Commissioner of Commerce and Insurance ("Commissioner") from time to time may make such orders as are necessary to carry out the provisions of the Act.

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Agreed Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this

Agreed Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. Respondent fully understands that this Agreed Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Agreed Order for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreed Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Agreed Order by the Commissioner.

FINDINGS OF FACT

4. The Tennessee Securities Act of 1980, as amended, Tenn. Code Ann. § 48-2-101, et seq. (the "Act"), places the responsibility for the administration of the Act on the Commissioner of Commerce and Insurance ("Commissioner"). The Division is the lawful agent through which the Commissioner discharges this responsibility. Tenn. Code Ann. § 48-2-115.

5. The Respondent, Alan Leon Byrd is a citizen and resident of Tennessee residing at 170 Holiday Drive, Jackson, Tennessee 38305. Byrd was an agent of Cardinal Investments, Inc. ("Cardinal Investments") and was registered in Tennessee from January 5, 1996 through July 2, 2001. Byrd completed his application for registration as an agent of William E. Hopkins & Associates, Inc. on September 17, 2002, and became registered by operation of law on October

17, 2002. Byrd is registered with this Division as an agent of William E. Hopkins & Associates, Inc. under CRD number 2079693.

6. On or around October 22, 2001, Ms. Cheryl Davis ("Davis"), a citizen and resident of the State of Tennessee, opened a brokerage account with Cardinal Investments procured through agent Byrd. Davis went to Byrd in or around July of 1998 for financial advice with respect to a forty-one thousand dollar ($41,000) disability settlement check and requested an investment that would provide income.

7. On the Correspondent New Account Form, Davis stated she had an annual income of thirteen thousand dollars ($13,000) and a net worth of one hundred thousand dollars ($100,000). The New Account Form also shows that Davis had never participated in options trading and that her risk tolerance was low to moderate. Davis also informed Byrd that she was disabled.

8. Byrd initially invested Davis' funds in an Oppenheimer mutual fund. In October of 1999, despite Davis' disabled status, and limited earnings potential and net worth, Byrd began investing Davis' funds in a number of highly speculative and risky technology stocks. Byrd invested Davis' funds in unsafe options trading programs which he did not fully explain, and Davis did not understand. Byrd also continually leveraged the account through the use of margin trading.

9. The total amount invested by Davis totaled twenty-seven thousand seven hundred six dollars and seventy one cents ($27,706.71). Between October of 1999 and December of 2000, Byrd executed the purchase of two hundred fifty nine two hundred seventy eight dollars

and ninety five cents ($259,278.95) worth of securities and executed the sale of two hundred fifty nine two hundred seventy eight dollars and ninety five cents ($259,278.95) worth of securities within the Davis account. For the period, there was a market loss of eight thousand seven hundred sixty seven dollars and fifty seven cents ($8,767.57). The turnover ratio in the account for a twelve (12) month period was 9.67.

10. On or around November 22, 2001, Mr. Lonell Theus, Jr., a citizen and resident of the State of Tennessee, and Ms. Vernetta Theus, a citizen and resident of the State of Tennessee, (collectively hereinafter "Theus'") opened a brokerage account with Cardinal Investments procured through agent Byrd. The Theus' went to Byrd in or around September of 1998 for financial advice with respect to the rollover of a profit sharing plan. The Theus' explained that they did not wish to invest in high risk investments.

11. On the Correspondent New Account Form, the Theus' stated they had an annual income of thirty-five thousand dollars ($35,000) and a net worth of sixty thousand dollars. ($60,000). The Theus' had never participated in options trading and that her risk tolerance was low to moderate. The initial investment was thirty thousand dollars ($30,000).

12. Byrd initially invested Theus' funds in an Openheimer mutual fund. In or around May of 2000, despite the Theus' limited earnings potential and net worth, Byrd began investing the Theus' funds in a number of highly speculative and risky technology stocks. Byrd invested the Theus' funds in unsafe options trading programs which he did not fully explain, and the Theus' did not understand. Byrd also continually leveraged the account through the use of margin trading.

13. The total amount invested by the Theus' totaled thirty thousand dollars ($30,000). Between May of 2000 and December of 2000, Byrd executed the purchase of $75,179.39 worth of securities and executed the sale of $57,021.58 worth of securities within the Theus' account. For the period, there was a market loss of eighteen thousand one hundred fifty seven dollars and eighty one cents ($18,157.81). The turnover ratio for the seven (7) month period was 2.50.

CONCLUSIONS OF LAW

14. Pursuant to Tenn. Code Ann. § 48-2-115(a), the responsibility for administration of the Act is upon the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility.

15. Tenn. Code Ann. § 48-2-112(a)(2)(G) states, in pertinent part, that the Commissioner by order may deny, suspend, or revoke any registration under this part if he finds that the order is in the public interest, necessary for the protection of investors, and if he finds that the registrant, or in the case of a broker-dealer or investment adviser, any officer, director, or any person occupying a similar status or performing similar functions has engaged in dishonest or unethical practices in the securities business.

16. Tenn. Comp. R. & Regs. tit. Dep't of Commerce and Ins., chs. 0780-4-3-.02(6)(b)(8), provides that when a broker-dealer or agent recommends to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial

situations and needs, and any other information known by the broker-dealer, it shall be deemed a dishonest or unethical business practice.

17. The averments in paragraph three (3) of this Agreed Order, constitute practices by Mr. Byrd which would provide grounds under Tenn. Code Ann. § 48-2-112(a)(2)(G) for the entry of an order of sanctions against Mr. Byrd.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Alan Leon Byrd's waiver of his right to a hearing and appeal under the Tennessee Securities Act and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 et seq., and Alan Leon Byrd's admission of jurisdiction of the Commissioner, the Commissioner finds that Alan Leon Byrd, for the purpose of settling this matter, admits the matters herein, has agreed to the entry of this Order and that the following Order is appropriate, in the public interest and necessary for the protection of investors.

IT IS ORDERED, pursuant to Tennessee Code Annotated § 48-2-116(a) of the Tennessee Securities Act that:

1. Respondent shall fully comply with the Tennessee Securities Act, as amended, and all rules promulgated thereunder;

2. Respondent current registration as an agent in the State of Tennessee is hereby suspended for two (2) years from the date this Order with respect to any and all matters relating to options trading, and any and all trades made on margin in any form. The suspension of

privileges as to all matters relating to margin and options trading shall not affect the Respondent's ability to continue to make trades and investments not involving margin accounts or options trading.

3. Respondent shall, within six (6) months from the date of this Order, retake and pass the Series 7, General Securities Representative Examination given by NASD, Inc., and the Series 63, Uniform Securities Agent State Law Examination given by the North American Securities Administration Association.

4. Respondent shall amend form U-4, pursuant to the instructions of said form and as required by the NASD, and file the appropriate Disclosure Reporting Page to disclose the details of this filed administrative action.

5. Respondent hereby agrees that his failure to comply with all the requirements and prohibitions contained in this Order shall result in immediate revocation of Respondent's registration.

IT IS ORDERED that this Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Alan Leon Byrd for violations of the Act alleged by the Tennessee Securities Division to have occurred with respect to transactions involving Cheryl Davis, Lonell Theus, Jr., and Vernetta Theus and the facts contained herein.

This Agreed Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signature affixed below, Alan Leon Byrd affirmatively states

that he has freely agreed to the entry of this Agreed Order, that he waives his right to a hearing on the matters underlying this Agreed Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Order, affirmatively state their agreement to be bound by the terms of this Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Agreed Order, are binding upon them.

ENTERED this 22nd day of July, 2003.

Paula A. Flowers
Paula A. Flowers, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Alan L. Byrd
Alan Leon Byrd, Respondent

Daphne D. Smith
Daphne D. Smith
Assistant Commissioner for Securities
Department of Commerce and Insurance

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