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

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| **TENNESSEE SECURITIES DIVISION** | ) | |
| **Petitioner,** | ) | |
| | ) | |
| **VS.** | ) | **Order No.: 12-002** |
| | ) | |
| **PELHAM HUMPRIES ESTATE,** | ) | |
| **PELHAM HUMPRIES HEIRS ASSOCIATION,** | ) | |
| **PELHAM HUMPHRIES LEGAL TRUST FUND** | ) | |
| **(A.K.A. PELHAM HUMPHRIES HERIS** | ) | |
| **LITIGATION TRUST FUND),** | ) | |
| **ARNOLD WAYNE HODGE AS ADMINISTRATOR** | ) | |
| **OF THE PELHAM HUMPRIES ESTATE,** | ) | |
| **WILLIAM TATE AS TRUSTEE OF THE PELHAM** | ) | |
| **HUMPHRIES LEGAL TRUST FUND AND** | ) | |
| **RICHARD SLAYDON AS TRUSTEE OF THE** | ) | |
| **PELHAM HUMPHRIES LEGAL TRUST** | ) | |
| **FUND** | ) | |
| **Respondents.** | ) | |

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## ORDER TO CEASE AND DESIST

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This Order issues as the result of a Petition, and its Exhibits attached hereto, filed by the Tennessee Securities Division ("TSD") of the Department of Commerce and Insurance ("Department"). This Order is predicated upon the following Findings of Fact and Conclusions of Law.

## FINDINGS OF FACT

1. Title 48 of the Tennessee Code Annotated, the Tennessee Securities Act of 1980 ("Act"), as amended, TENN. CODE ANN. §§ 48-2-101, *et seq.* places the responsibility for the administration of the Act on the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). The TSD is the lawful agent through which the Commissioner discharges this responsibility. TENN. CODE ANN. § 48-2-115.

2. The TSD is authorized to bring this action based on a finding by the Commissioner that the action is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act. TENN. CODE ANN. § 48-2-116(b).

3. Respondent the Pelham Humphries Estate ("Estate") is the legal estate of the late Pelham Humphries as established by the Chancery Court for Carter County, Tennessee at Elizabethton on August 24, 1994. [Exhibit 1]

4. Respondent the Pelham Humphries Heirs Association ("PHHA") was a Tennessee corporation incorporated on February 24, 1986, that became inactive due to being administratively dissolved on October 8, 2007. [Exhibit 2]

5. Respondent the Pelham Humphries Legal Trust Fund, a.k.a. the Pelham Humphries Litigation Trust Fund, ("Trust Fund") was a DBA designation for the PHHA used for capital and fundraising efforts to support the Estate litigation.

6. Respondent Arnold Wayne Hodge ("Hodge"), current Administrator of the Estate, is a citizen and resident of Smith County, Tennessee, residing at 101 Gills Branch Lane, Gordonsville, Tennessee 38563. Hodge was co-administrator along with Roy Feathers ("Feathers") of the Estate beginning on August 7, 2000 [Exhibit 3] and became sole administrator of the Estate upon the death of Feathers in 2006. [Exhibit 4] (Feathers had previously been co-administrator, along with Nadine Decker ("Decker") and B. Vandenberg Hall, Esq., ("Hall") of the original Pelham Humphries Estate in Washington County, Tennessee, from its inception in 1988 until 1994 when the Estate was reestablished in Carter County, Tennessee. [Exhibit 5])

7. Respondent William Tate ("Tate"), investor and Trustee of the Trust Fund, is a citizen and resident of Davidson County, North Carolina, residing at 121 Lee Smith Road, Lexington, North Carolina 27292.

8. Respondent Richard Slaydon ("Slaydon"), investor and Trustee of the Trust Fund, is a citizen and resident of Forsyth, North Carolina, residing at 206 Barney Road, High Point, North Carolina 27265.

9. At all times relevant to the current investigation, Tate and Slaydon conducted the capital and fundraising efforts on behalf of the Estate through the Estate, the PHHA and the Trust Fund.

10. Pelham Humphries is a long-deceased Tennessee resident who obtained a land grant from the Mexican government in the year 1835 in what is now the State of Texas. In 1901, one of the richest reserves of oil in the world was discovered on this property, which is currently known as the Spindletop Oil Field. Despite a long history of legal precedent holding that Pelham Humphries lost title to the property as a result of adverse possession, Feathers, Hodge and other heirs and purported heirs of Pelham Humphries believe that they are still the true owners of the property and are therefore seeking to have their rights to the property and its' attendant mineral rights recognized and restored to them by a court of law. The Investigation revealed that Feathers solicited money to fund litigation of this matter from Pelham Humphries heirs, purported heirs and others, promising an excessive rate of return. [Exhibit 6, paragraph 4 – page 2]

11. From its inception in 1988 until 1992, Feathers, Decker and Hall, utilizing Feathers' home, raised money for the funding of the Estate administration and litigation by selling interests in the litigation to heirs of the Estate, potential heirs and others. The interests in the litigation constitute an investment contract and therefore a security that under the Act must

either be a covered security, registered for sale in or into Tennessee or must be exempted. The TSD's analysis of the offerings established that the litigation interests being sold by the Estate were not covered securities, were not registered and were not exempted. [Exhibit 6, paragraph 7-page 3]

12. On December 11, 1992, the Estate, through Feathers, entered into a Consent Order ("Order") with the TSD. The Order addressed violations of the Act for the unregistered selling of unregistered securities from and in Tennessee and was binding on the Estate and any representatives or agents thereof. [Exhibit 7]

13. Hodge was not individually a party to the 1992 Order as referenced in paragraph 11 above. On October 17, 2011, the TSD issued a Warning Letter to Hodge as the current, sole Administrator of the Estate. The Warning Letter was hand delivered to Hodge at his deposition on November 1, 2011. [Exhibit 8] At the November 1, 2011 deposition, Hodge denied being told anything about the Order by Feathers or having any knowledge of the Order, even after he became co-administrator of the Estate in 2000. In 2002, after Hodge became a co-administrator, he was told by Feathers that the selling of the certificates in Tennessee had to be stopped. Feathers then arranged for the capital and fundraising to be done from North Carolina.

14. On May 25, 2011, based on a complaint received by the TSD an investigation was commenced into whether or not the Estate was violating the Order that it entered into with the TSD in 1992 by continuing to sell investment certificates representing a financial interest in the outcome of any litigation initiated on behalf of the heirs of the Estate involving the Spindletop Oil Field in Nueces County, Texas.

15. Tate and Slaydon were appointed, in February 2002, by the Board of Directors ("Board") of the PHHA to be co-Trustees of the Trust Fund. [Exhibit 9, paragraph 4 – page 2 and Exhibit 10, paragraph 6 – page 2]

16. During the time period of February 2002 to July 2011, both Tate and Slaydon solicited and collected money from heirs of and donors to the Estate and deposited the money into bank accounts set up in the name of the Trust Fund. From July 2011 until December 5, 2011, Tate was the sole Trustee due to Slaydon's retirement and conducted the solicitations and deposits by himself. [Exhibit 9, paragraph 6 – page 2 and Exhibit 10, paragraph 7 – page 2]

17. In exchange for investment money submitted to the Trust Fund ranging from $25.00 to $200.00, the heirs, potential heirs and donors received either an "Investor's Agreement and Certificate" [Exhibit 11], a "Certificate of Donation" [Exhibit 12], a "Participation Certificate" or a "Donor Certificate" (collectively "Certificates") which promised a return ranging from $2,500.00 to $30,000.00 for each billion dollars recovered by the Estate as a result of the distribution of the proceeds from the proposed litigation.

18. The Certificates were not registered with the TSD as securities for sale in or into Tennessee at any time. [Exhibit 13, paragraph 5 – page 2]

19. From 1988 until 1992, the Estate raised approximately two hundred and ninety-four thousand dollars ($294,000.00) from the selling of the Certificates and "donations" to/from heirs, potential heirs and others. [Exhibit 7, paragraph 8 – page 2]

20. On or about late 2000/early 2001, a genealogist hired by the Estate to establish the identity of the legitimate heirs of Pelham Humphries filed his official report with the Chancery Court in Carter County, Tennessee, setting out his findings. At this time the lineage and

identities of the heirs of the Estate were finalized and their number was set at three hundred and thirteen (313). [Exhibit 6, paragraph 15 – page 5]

21. From 2000 until 2011, the Estate raised an additional estimated amount of three hundred and fifty thousand dollars ($350,000.00) from continued sales of the Certificates and donations to/from the Estate heirs and previous donors. Of the three hundred and thirteen (313) established heirs, one hundred and seventy-nine (179) of them are Tennesseans. According to Slaydon, most of the investors/donors were either heirs or at least at some point thought they were heirs of the Estate and many of them were from Tennessee. The investigation established that at least one Tennessean had been issued a Certificate as recently as 2010, and it is believed that there are many more that will not come forward due to their absolute belief that the litigation is going to be successful and they do not want to jeopardize their investment nor do they believe that the cause is futile. [Exhibit 6, paragraph 15 – page 5 and paragraph 14 – pages 4 - 5]

22. As of the appointment in February 2002 of Tate and Slaydon as co-Trustees, the monies received from investors/donors were used to pay the expenses of the administration of the Estate and the expenses of the litigation. Estate and litigation expenses were either: paid by the administrators up front and then reimbursed to the administrators from the Trust Fund; or the invoices for fees/services were submitted to Tate or Slaydon and paid out of Trust fund monies directly to the service provider. On or about late 2006/early 2007 the PHHA approved service payments to Hodge as Administrator of the Estate and to Tate and Slaydon as co-Trustees of the Trust Fund in the amounts of three thousand five hundred dollars ($3,500.00) per month and five hundred dollars ($500.00) each per month, respectively. [Exhibit 9, paragraph 8 – page 2 and Exhibit 10, paragraph 10 – pages 2 - 3]

23. In January 2011, Hodge instructed Tate and Slaydon to stop issuing Certificates of any kind in exchange for investments/donations, but also instructed them that they could continue accepting donations. Both men continued accepting donations to the Trust Fund until July 2011 when Slaydon retired and Tate continued thereafter until December 5, 2011, when he was notified by Hodge to stop accepting donations, close the Trust Fund bank account and remit all documents and funds back to Hodge. [Exhibit 9, paragraphs 9 - 10 – pages 2 - 3 and Exhibit 10, paragraphs 11 – 12 – page 3]

## CONCLUSIONS OF LAW

### *The Violation by the Pelham Humphries Estate, Hodge, Tate and Slaydon of the December 11, 1992 Consent Order Warrants the Issuance of a Cease and Desist Order*

1. The facts as stated above demonstrate that even after the entry of the Consent Order in 1992, the Estate through Respondents, its agents, continued soliciting heirs, potential heirs and others to invest in the litigation involving the Spindletop Oil Fields in Nueces County, Texas. The only things that changed were the identity and location of the individuals doing the majority of the soliciting. The solicitations continued to be: (1) made from Tennessee by Feathers until 2002; (2) made to Tennesseans by Hodge, Tate and Slaydon from 2002 to 2011; (3) made under the auspices of the Estate, a Tennessee court created entity, during the entire period of time; and (4) the money collected by the solicitations continued to be spent by the Estate, located in Tennessee.

2. The Commissioner finds that the TSD is authorized to bring this action based on her finding that the action is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act. In addition, the Commissioner has determined that prior notice of this Cease and Desist Order is not in the

public interest and would be detrimental to the protection of investors. TENN. CODE ANN. §§ 48-2-116(b) and 48-2-116(e)(2)(A). Respondents' continued unlawful conduct necessitates an order to cease and desist all such unlawful activity to prevent the Respondents from simply moving the operation to another location by putting the current Administrator of the Estate and Trustees of the Trust Fund publicly on notice as to the unlawful nature of their conduct on behalf of the Estate.

3. The Respondents's willful violations of the December 11, 1992 Consent Order with the TSD provides adequate grounds under TENN. CODE ANN. § 48-2-116 for the entry of a Cease and Desist Order requiring them to stop soliciting and selling securities in or into Tennessee in violation of the December 11, 1992 Consent Order with the TSD and the Act.

***The Pelham Humphries Estate, Hodge, Tate and Slaydon Sold Unregistered Securities***

4. The facts as stated demonstrate that the Respondents offered to sell and sold securities in and into Tennessee that were not registered under the Act, were not covered securities and were not exempted from registration requirements. It is unlawful to sell any security in or into Tennessee unless it is registered under TENN. CODE ANN. §§ 48-2-101 *et seq.,* or the transaction is exempted under § 48-2-103, or it is a covered security.

5. The Respondents' offers to sell and sales of unregistered securities provide adequate grounds under TENN. CODE ANN. §§ 48-2-104 and 48-2-116 for the entry of a Cease and Desist Order requiring them to stop soliciting and selling securities in or into Tennessee in violation of the Act.

## ORDER

**NOW, THEREFORE,** in consideration of the foregoing, it is **ORDERED** that:

1. Respondents the Pelham Humphries Estate, the Pelham Humphries Heirs Association, Inc., the Pelham Humphries Legal Trust Fund (a.k.a. the Pelham Humphries Litigation Trust Fund), Arnold Wayne Hodge, William Tate and Richard Slaydon **SHALL COMPLY** with the Act and all rules promulgated thereunder;

2. Respondents the Pelham Humphries Estate, the Pelham Humphries Heirs Association, Inc., the Pelham Humphries Legal Trust Fund (a.k.a. the Pelham Humphries Litigation Trust Fund), Arnold Wayne Hodge, William Tate and Richard Slaydon **SHALL CEASE AND DESIST** in any further conduct in violation of the December 11, 1992 Consent Order entered by the Commissioner.

3. Respondents the Pelham Humphries Estate, the Pelham Humphries Heirs Association, Inc., the Pelham Humphries Legal Trust Fund (a.k.a. the Pelham Humphries Litigation Trust Fund), Arnold Wayne Hodge, William Tate and Richard Slaydon **SHALL CEASE AND DESIST** in any further conduct in violation of the Act's prohibition on the offer or sale of unregistered securities in or into Tennessee.

4. All entities or persons in any way assisting, aiding, or helping the aforementioned Respondents in any of the aforementioned violations of the Tennessee Securities Act of 1980, as amended, TENN. CODE ANN. §§ 48-2-101 *et seq.,* **SHALL CEASE AND DESIST** all such activities in violation of the Act.

5. This Order to Cease and Desist is not intended to prohibit any lawful conduct in which Respondents might be engaged.

6. Entry of this Order to Cease and Desist shall not in any way restrict the Tennessee Securities Division or the Commissioner of the Tennessee Department of Commerce and

Insurance from taking further action with respect to these or other possible violations of the Act, or any of the Rules promulgated thereunder, by Respondents.

7. You are advised that you have the right to an informal hearing before the agency within seven (7) business days of the issuance of this Order to Cease and Desist. The sole issue to be considered is whether the public health, safety or welfare imperatively required emergency action by the agency. If you wish to exercise your right to this informal hearing, please notify:

**DAPHNE D. SMITH**
**ASSISTANT COMMISSIONER FOR SECURITIES**
**STATE OF TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**
**DAVY CROCKETT TOWER, 8TH FLOOR**
**500 JAMES ROBERTSON PARKWAY**
**NASHVILLE, TENNESSEE 37243**

8. Such request must be received within seven (7) business days from the date of entry of this Order to Cease and Desist.

9. You are advised that you have the right to a hearing as to all matters raised in this Order to Cease and Desist. If you wish to exercise your right to a hearing, please notify:

**DAPHNE D. SMITH**
**ASSISTANT COMMISSIONER FOR SECURITIES**
**STATE OF TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**
**DAVY CROCKETT TOWER, 8TH FLOOR**
**500 JAMES ROBERTSON PARKWAY**
**NASHVILLE, TENNESSEE 37243**

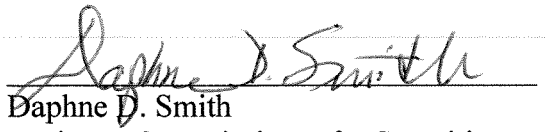
10. Such request must be received within thirty (30) days from the date of entry of this Order to Cease and Desist. This Order to Cease and Desist shall become a Final Order thirty (30) days from the date of its entry, unless written notification requesting a hearing is made within that thirty (30) day period.

**ENTERED** this 10th day of September, 2012.

Julie Mix McPeak

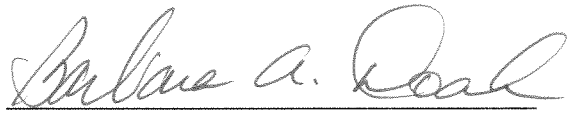
Julie Mix McPeak, Commissioner

**APPROVED FOR ENTRY:**



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

**ISSUANCE REQUESTED BY:**



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