

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

| | | |
|--------------------------|---|----------------------|
| IN THE MATTER OF: |) | |
| |) | |
| CHEROKEE ENERGY CO., LLC |) | ADMINISTRATIVE ORDER |
| MARTIN RAY TWIST |) | NO. OV-2003-0002 |
| FORREST HAMMOND |) | |
| CHARLES WHITE |) | |
| PAUL MUELLER |) | |
| |) | |
| <u>RESPONDENTS</u> |) | |

ORDER TO VACATE

The Alabama Securities Commission ("Commission"), having the power to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act ("Act"), upon due consideration of the subject matter hereof, has determined as follows:

RESPONDENTS

1. RESPONDENT CHEROKEE ENERGY CO., LLC ("CEC"), is a Indiana corporation, with a business address of 700 Missouri Avenue, Jeffersonville, Indiana 47130. CEC and its entities are not registered as a securities dealer to sell securities in the State of Alabama.

2. RESPONDENT MARTIN RAY TWIST ("TWIST") of 700 Missouri Avenue, Jeffersonville, Indiana 47130, is the President and sole shareholder of CEC, and at all times relevant to violations set forth herein, acted as an agent of CEC and its entities.

3. RESPONDENT FORREST HAMMOND ("HAMMOND") of 700 Missouri Avenue, Jeffersonville, Indiana 47130, is the Assistant Vice President of CEC, and at all times relevant to violations set forth herein, acted as an agent of CEC and its entities.

4. RESPONDENT CHARLES WHITE ("WHITE") of 700 Missouri Avenue, Jeffersonville, Indiana 47130, is the Vice President of CEC, and at all times relevant to violations set forth herein, acted as an agent of CEC and its entities.

5. RESPONDENT PAUL R. MUELLER ("MUELLER") of 1614 Woodlawn Drive, Corpus Christi, Texas 78412, is the President of Mueller Exploration, Inc., as associated entity of CEC and at all times relevant to violations set forth herein, acted as an agent of CEC and its entities.

STATEMENT OF FACTS

6. The Commission is in receipt of information that representatives of CEC, cold called Alabama residents to determine the interest of the residents in the sale of securities to wit: units of limited partnership interests of CEC. In July of 2002, representatives of CEC followed up the initial telephone call and contacted Alabama residents by telephone in order to solicit participation in private placement involving shares of common stock in CEC.

7. Offering materials were also mailed to Alabama residents by representatives of CEC. The materials indicated that TWIST was the Developer/Operator of oil and natural gas wells in Kentucky, Tennessee, West Virginia and Texas.

8. Interviews with the Alabama residents demonstrated that these residents did not initiate these transactions and did not have a preexisting relationship with RESPONDENTS prior to the initial contact by the RESPONDENTS.

9. A review of the files of the Commission disclosed no record of registration or exemption from registration of RESPONDENTS.

10. On February 4, 2003, a Cease and Desist Order was issued to RESPONDENTS alleging violations of *Ala. Code* §§8-6-3(a) and 8-6-4, by transacting business in the state of Alabama as a securities dealer or agent without benefit of registration and for the sale or attempted sale of unregistered, non-exempt securities into, within or from the state of Alabama. Additionally, RESPONDENTS failed to disclose a preexisting Cease and Desist Order issued by the State of Pennsylvania, and violated Rule 502(c) of Regulation D by effecting a general solicitation of their offering.

11. On February 18, 2003, TWIST filed on behalf of himself and CEC a response to the Order in which he alleged that the offerings to the Alabama residents were exempt pursuant to *Ala. Code* §8-6-11(9) and Rule 506 of Regulation D. The Commission is of the opinion, however, that the initial cold calls to the Alabama residents nullified the above-referenced exemptions. RESPONDENTS, through their counsel, also furnished evidence that on February 3, 2003 rescission offers, in the aggregate amount of \$465,000.00, were made to and rejected by two Alabama residents.

12. Counsel for RESPONDENTS stated that RESPONDENTS would not engage in cold calling, that is, a visit or telephone call for sale of securities as defined by the Alabama Securities Act, to a prospective Alabama investor, without a previous introduction or relationship with the investor.

13. Based upon good cause shown, the Cease and Desist Order, Administrative Order No. CD-2003-02, issued to RESPONDENTS on February 4, 2003, is hereby vacated.

Entered at Montgomery, Alabama, this 18th day of April, 2003.

ALABAMA SECURITIES COMMISSION
770 Washington Avenue, Suite 570
Montgomery, AL 36130-4700
(334) 242-2984

BY:



JOSEPH P. BORG
Director

