

STATE OF ALABAMA  
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:                    )  
  )  
THE META COMPANY, LLC                )  
GARY A. MITCHELL                     )  
  )  
                  RESPONDENTS                  )

ADMINISTRATIVE ORDER  
NO. CO-2005-0019

CONSENT ORDER

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, and having confirmed information of the offers for sale and/or sale of securities, into, within or from the state of Alabama, has determined as follows:

RESPONDENTS

1. THE META COMPANY, LLC ("META") is an Alabama Limited Liability Corporation, with a business address of 30 North Norton Avenue, Sylacauga, AL 35150.

2. GARY A. MITCHELL ("MITCHELL") is an investment adviser representative of META with a business address of 30 North Norton Avenue, Sylacauga, AL 35150.

STATEMENT OF FACTS

3. On April 27, 2000, an application for Investment Adviser registration was made, pursuant to Code of Alabama 1975, Section 8-6-3, with the Commission staff on behalf of META. On April 27, 2000, an application for Investment Adviser Representative registration was made, pursuant to Code of Alabama 1975, Section 8-6-3, with the Commission staff on behalf of MITCHELL.

4. On August 23, 2000, the META application for Investment Adviser registration was approved. On August 23, 2000, the MITCHELL application for Investment Adviser Representative was approved.

5. By Order of Registration, dated August 23, 2000, META was advised that registration for both META and MITCHELL would expire on December 31, 2000, if a renewal application was not filed prior to that date.

6. As of December 31, 2000, the Commission had not received a renewal application for either META or MITCHELL. META's investment adviser registration and MITCHELL's investment adviser representative registration expired at the close of business on December 31, 2000. On January 21, 2001, META filed a late renewal application for META and MITCHELL for calendar year 2001. On that date, the registration for META and MITCHELL was renewed for calendar year 2001. Investment advisory business was conducted from January 1, 2001 through January 20, 2001, during the time that META and MITCHELL were not registered.

7. META and MITCHELL failed to renew registration for calendar year 2002. No registration was filed for calendar year 2003. Investment advisory business was conducted during 2002 and 2003, when META and MITCHELL were not registered.

8. As a result of META's failure to renew for calendar year 2002 and the failure to effect registration for calendar year 2003, an audit was conducted of META on March 3 – 4, 2003. Violations cited as a result of this audit included the following:

- I. Code of Alabama 1975, Section 8-6-3(b). META and MITCHELL failed to renew registration for 2002 and 2003.
- II. Code of Alabama 1975, Section 8-6-3(g) and Commission Rule 830-X-3-.05. META did not file a financial statement prepared in accordance with Generally Accepted Accounting Principles and certified by an independent certified public accountant showing the financial condition of the registrant

at the close of its fiscal period. These statements were not filed for fiscal years 2000, 2001 and 2002.

- III. Code of Alabama 1975, Section 8-6-3(i) and Commission Rule 830-X-3-.16(1)(j). META did not maintain required books and records. META did not have written agreements with third parties relating to the business of the investment adviser. In particular, META did not have a written agreement with Michael Shell, CPA, for tax preparation and accounting services on behalf of META advisory clients.
- IV. Commission Rule 830-X-3-.23. META failed to notify the Commission of a change in legal entity within 30 days of such change. In December, 2001, META changed from a corporation to an LLC.
- V. Commission Rule 830-X-3-.06(3). META did not have a minimum net capital of at least \$10,000.00, as computed by META for the year-ending December 31, 2002, and month-ending January 31, 2003.

9. META was notified, via correspondence dated March 11, 2003, of the following requirements for continued registration:

- I. Submit renewal fees for firm and representative for 2002 and 2003 of \$500
- II. Submit legal entity change fee of \$200
- III. Submit articles of organization for the LLC
- IV. Submit, by June 30, 2003 audited financial statements for fiscal year end December 31, 2002
- V. Submit a copy of a written agreement executed by all parties for the outsourcing of tax preparation and accounting services to Michael Shell. Document disclosure of this agreement to all advisory clients
- VI. Submit complete, updated, manually executed Forms ADV and U-4
- VII. Remove misleading language ("... full service financial advisory and accounting firm") from letterhead and fax cover sheets

10. By META's correspondence dated April 25, 2003, META resolved the following deficiencies:

- I. Articles of organization for LLC submitted
- II. Complete, updated, manually executed Forms ADV and U-4
- III. Misleading language removed from letterhead and fax cover sheets

11. On July 28, 2004, the Commission staff determined that META failed to resolve the following deficiencies:

- I. Failed to submit audited financials, for either fiscal years 2002 or 2003
- II. Failed to submit documentation relating to tax preparation and accounting services provided by Michael Shell
- III. Adviser and Representative failed to renew for 2004
- IV. Failure to pay renewal fees for 2002 and 2003 of \$500
- V. Failure to pay legal entity change fee of \$200

12. On September 21, 2004, a second audit was conducted. The following violations were noted:

- I. Repeat violation: META and MITCHELL failed to renew for fiscal year 2004, via the National Association of Securities Dealers ("NASD") Investment Advisory Registration Depository ("IARD") system.
- II. Repeat violation: META did not submit audited financials for fiscal year 2002 by June 30, 2003
- III. Repeat violation: META did not submit audited financials for fiscal year 2003 within 60 days of its fiscal year end of December 31st
- IV. Form ADV indicates that adviser does not have custody or discretion. In a letter from customer William H. Matson to Protective Life of Birmingham, AL, the customer grants "trading authority" to MITCHELL of META in two of his variable annuity accounts. It states, in part, "You should consider any inquiries or instructions from Gary Mitchell, of The Meta Company, as if the instructions were being provided from me directly".

- V. MITCHELL's Form U-4 does not include META as a current employer. The only employer listed is broker-dealer SunAmerica. META is included as an "outside business activity."
- VI. MITCHELL's Form U-4 lists "Investment adviser representative 10% of time...tax preparation/accounting 1% of time under The Meta Co., LLC-RIA." Client agreement form for META specifically states, "It is expressly understood and agreed between the parties of this Agreement that Advisor will not provide legal or accounting advice nor prepare any accounting or legal document... Client is urged to work closely with the Client's attorney and accountant or tax adviser..."

#### CONCLUSIONS OF LAW

13. Pursuant to Code of Alabama 1975, Section 8-6-(3)(f), every registration expires December 31 unless renewed. Pursuant to Code of Alabama 1975, Section 8-6-3(g), registration of an investment adviser and investment adviser representative may be renewed by filing with the securities commission, or its designee, prior to the expiration thereof, a renewal application. META and MITCHELL violated Code of Alabama 1975, Section 8-6-3(b), in that META and MITCHELL failed to renew registration for calendar year 2002 and failed to effect registration for calendar year 2003 and 2004. Investment advisory business was conducted during 2002, 2003 and 2004 when META and MITCHELL were not registered.

14. Pursuant to Code of Alabama 1975, Section 8-6-3(b), it is unlawful for any person to transact business in this state as an investment adviser or investment adviser representative unless he is registered under this article. META and MITCHELL violated Code of Alabama 1975, Section 8-6-3(b), in that META and MITCHELL conducted business as an Investment Adviser and Investment Adviser Representative while not registered in the state of Alabama.

**WHEREAS**, META admits that investment advisory business was effected in the

state of Alabama by META, and states that the information and assertions presented to the Commission during its investigation of this matter are true and correct; that META understands the Commission relied upon such information and assertions in its determination to accept this Order and that should such information or assertions prove to be incorrect or misrepresented, the Commission may seek such other administrative, civil or criminal remedies that may be available to it under the provisions of the Act.

**WHEREAS**, MITCHELL admits that investment advisory business was effected in the state of Alabama by MITCHELL, and states that the information and assertions presented to the Commission during its investigation of this matter are true and correct; that MITCHELL understands the Commission relied upon such information and assertions in its determination to accept this Order and that should such information or assertions prove to be incorrect or misrepresented, the Commission may seek such other administrative, civil or criminal remedies that may be available to it under the provisions of the Act.

**WHEREAS**, META has voluntarily agreed to waive all rights to a hearing upon entry of this Order and has consented to the entry of this Order, and

**WHEREAS**, MITCHELL has voluntarily agreed to waive all rights to a hearing upon entry of this Order and has consented to the entry of this Order, and

**WHEREAS**, the Commission finds this Order necessary and appropriate in the public interest for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act, and

**WHEREAS**, the Commission and META are desirous of settling this matter as hereafter set forth and agree to the entry of this Order,

**WHEREAS**, the Commission and MITCHELL are desirous of settling this matter as hereafter set forth and agree to the entry of this Order,

**ACCORDINGLY, IT IS HEREBY ORDERED:**

1. That META shall ensure that proper procedures are enacted to preclude any future non-compliance with the Act.

2. That in accordance with Code of Alabama 1975, Section 8-6-19(j)(1), META shall pay to the **state of Alabama** an administrative assessment of Seven Hundred and Fifty Dollars (\$750), said funds to be tendered in certified funds contemporaneously with the entry of this Order.

3. That in accordance with Code of Alabama 1975, Section 8-6-19(k)(1), META shall pay to the **Alabama Securities Commission**, as partial reimbursement for the Commission's cost for investigating this matter, the sum of Five Hundred Dollars (\$500), said funds to be tendered in certified funds contemporaneously with the entry of this Order.

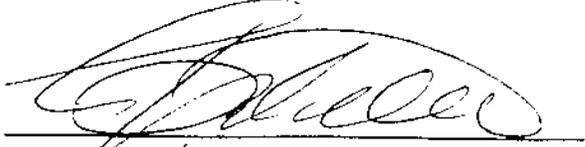
4. That in accordance with Code of Alabama 1975, Section 8-6-3(b), META and MITCHELL shall file a registration application through the IARD system.

**AGREED AND CONSENTED** to on date indicated:

RESPONDENT  
THE META COMPANY, LLC

BY:   
TITLE: Managing Principal  
DATE: 4-18-2005

RESPONDENT  
GARY A. MITCHELL

  
DATE: 4-18-2005

APPROVED AND AGREED this 21st day of April, 2005

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



JOSEPH P. BORG  
Director

