

IN THE MATTER OF:)
)
GOLD CAPITAL MANAGEMENT, INC.)
)
RESPONDENT)

2. On August 27, 2001, RESPONDENT electronically filed a Form BD, through the National Association of Securities Dealers, Inc., Central Registration Depository ("NASDCRD"), for registration as a dealer in the state of Alabama. On September 6, 2001, a letter was dispatched to RESPONDENT which enumerated certain documentation and information that must be provided as part of the application for registration, among which was a requirement to furnish a statement concerning any prior sales activity that had occurred in the state of Alabama. RESPONDENT was advised that failure to file a complete application may result in denial of the application and that the notification constituted an Order of the Commission deferring the

registration effective date until such time as all deficiencies were resolved and an Order of Registration issued. By letter, dated September 6, 2001, RESPONDENT provided responses, two of which did not adequately resolve the concerns of the Commission staff. On September 19, 2001, these concerns were provided to SUBJECT in an additional deficiency letter, with advice that if the application was not withdrawn or a response received resolving the deficiencies within 14 days of RESPONDENT's receipt of the letter, action would be taken to initiate denial proceedings. A response was received from RESPONDENT on October 10, 2001 resolving the deficiencies. Included in the response was the statement **"Gold Capital Management has not conducted any prior activity in the state of Alabama."**

3. On September 7, 2001, a visitation letter was dispatched to RESPONDENT's clearing firm, Pershing, a division of Donaldson, Lufkin & Jenrette Securities Corporation ("Pershing"), for a listing of Alabama clients of RESPONDENT, and documents, including transaction reports detailing transactions and date of transactions, if any.

4. On September 24, 2001, the Commission received transaction information from Pershing reflecting RESPONDENT has 8 accounts numbered 5MW361776 (no activity); 5MW361768 (no activity); 5MW361750 (no activity); 5MW358277 (no activity); 5MW365421 (no activity); 5MW362543 (no activity); 5MW361784 (no activity) and 5MW367997 (19 buys and 13 sales during the period 05/11/00 to 08/23/01). **NOTE: The holder of account 5MW367997 was contacted by a Commission staff member and he stated he has been a resident of the state of Alabama for the past 5 to 6 years.**

5. Review of the files of the Commission, disclosed no record of registration or exemption from registration of RESPONDENT as a dealer in the state of Alabama.

6. On December 4, 2001, a Cease and Desist Order was issued to RESPONDENT alleging violations of Sections 8-6-3(a) and 8-6-3(j)(1), Code of Alabama 1975, by transacting securities activities in the state of Alabama while unregistered, and for filing an application for registration containing a false statement.

7. By letter, dated December 20, 2001, RESPONDENT responded to the Order by stating that account #5MW367997 (see paragraph 4, page 2, above) was opened in May 2002 for a relative of one of RESPONDENT's traders, and was liquidated and proceeds wired to the account owner. The remaining accounts (see paragraph 4, page 2, above) were opened when a resident of Kansas gifted her adult children, who reside in Alabama, bank stock in October 1999, and there has been no activity since the original gift. Further, the correspondence from the Commission (Cease and Desist Order) was the first time RESPONDENT was aware of the Alabama accounts. As a result of the Commission's findings, RESPONDENT has worked with its clearing firm and now has an exception report in place that will compare licensing against every transaction on a daily basis.

8. By letter, dated December 20, 2001, RESPONDENT was advised that a rescission offer was required to be made to the holder of account 5MW367997. RESPONDENT subsequently furnished evidence that the rescission offer, in the aggregate amount of \$11,514.18, had been made and accepted by the Alabama resident. RESPONDENT also furnished evidence that the foregoing amount had been paid to the Alabama resident.

CONCLUSIONS OF LAW

9. RESPONDENT is not registered nor exempt from registration as a dealer in the state of Alabama, and has effected securities transactions with a resident of the state of Alabama.

10. Transacting business in the state of Alabama as a dealer, without benefit of registration or exemption from registration, is a violation of Section 8-6-3(a), Code of Alabama 1975.

11. RESPONDENT has filed an application for registration which, as of its effective date, or as of any date after filing, was incomplete or contained a false statement (see paragraph 3, page 2, above).

12. The filing of an application for registration, containing a false statement, is a violation of Section 8-6-3(j)(1), Code of Alabama 1975.

WHEREAS, RESPONDENT admits that securities transactions were effected in the state of Alabama prior to registration, and states that the information and assertions presented to the Commission during its investigation of this matter are true and correct; that RESPONDENT understands the Commission relied upon such information and assertions in its determination to accept this Order and that should 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, and

WHEREAS, RESPONDENT has voluntarily waived 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 RESPONDENT 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 RESPONDENT shall, until such time as properly registered in the state of Alabama, refrain from effecting securities transactions into, within or from the state of Alabama.
2. That RESPONDENT shall ensure that proper procedures are enacted to preclude any future non-compliance with the Act.
3. That in accordance with Section 8-6-19(j)(1), Code of Alabama 1975, RESPONDENT shall pay to the **state of Alabama** an administrative assessment in the sum of One Thousand Dollars (\$1,000), said funds to be tendered in certified funds contemporaneously with the entry of this Order.
4. That in accordance with Section 8-6-19(k)(1), Code of Alabama 1975, RESPONDENT 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.
5. That the entry of this Consent Order resolves the Cease and Desist Order, Administrative Order No. CD-2001-0047, issued December 4, 2001 to RESPONDENT.

AGREED AND CONSENTED to on date indicated:


RESPONDENT:
GOLD CAPITAL MANAGEMENT, INC.

BY: Stephen R. Oliver
TITLE: SENIOR VICE PRESIDENT
DATE: 3/11/2002

APPROVED AND ORDERED this 17th day of MARCH, 2002.



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


JOSEPH P. BORG
Director