

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
BUSINESS REGULATION AND ENFORCEMENT DIVISION
AND
THE ALABAMA SECURITIES COMMISSION**

IN THE MATTER OF:

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) Mississippi Number: S-03-0163

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) Alabama Number: CO-2004-0005

)

) **CONSENT ORDER**

AMSOUTH INVESTMENT SERVICES, INC.)

Respondent)

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WHEREAS, AmSouth Investment Services, Inc. (“AIS”) is a broker-dealer and investment adviser registered in the State of Mississippi and in the State of Alabama; and

WHEREAS, James B. Moorehead (“Moorehead”) was employed by AIS in the position of broker-dealer agent and investment adviser representative in the Starkville, Mississippi Branch Office; and

WHEREAS, the Division of Business Regulation and Enforcement of the Mississippi Secretary of State (“Division”) conducted an examination of the Starkville office on June 28 and June 29, 2001; and

WHEREAS, the Division also conducted examinations of the Clinton, Laurel, and Hattiesburg, Mississippi branch offices of AIS during the period December 9-13, 2002; and

WHEREAS, the Alabama Securities Commission (“Commission”) conducted examinations of the branch offices at Meadow Brook Corporate Ridge in Birmingham, Alabama and 2330 University Boulevard in Tuscaloosa, Alabama; and

WHEREAS, AIS, without admitting or denying any liability or any findings or conclusions contained herein, elects permanently to waive any right to a hearing and appeal under Miss. Code Ann. §§75-71-331 and 75-71-601 (2000), or under Code of Alabama 1975 Section 8-6-32, with respect to this Consent Order (the “Order”);

NOW, THEREFORE, the Secretary of State of the State of Mississippi, as Administrator of the Mississippi Securities Act and the Alabama Securities Commission, as Administrator of the Alabama Securities Act (“Act”) hereby enter the following Order.

I. JURISDICTION/CONSENT

AIS admits the jurisdiction of the Secretary of State of the State of Mississippi and the Alabama Securities Commission and consents to the entry of this Order by the Secretary of State of the State of Mississippi and the Alabama Securities Commission.

II. FINDINGS

1. AIS is an Alabama corporation with its principal place of business in Birmingham, Alabama. AIS is currently registered with the Secretary of State of the State of Mississippi and the Alabama Securities Commission as a broker-dealer and investment adviser firm.
2. On or about February 2000, AIS merged with First American National Bank thereby acquiring Invest Corporation, a broker-dealer.
3. Moorehead was employed as a broker-dealer agent and investment adviser representative of Invest Corporation beginning on or about September 1999.
4. Following the merger, Moorehead served as a broker-dealer agent and investment adviser representative in the Starkville branch office of AIS. Moorehead resigned from AIS in May 2001 after AIS discovered irregularities in the operations of the Starkville branch which appeared to be attributable to Moorehead's activities.
5. At the time of the merger and for some time thereafter, the Starkville branch office was supervised by the Memphis office of supervisory jurisdiction. During Moorehead's employment at AIS, Dawn Dupre ("Dupre") was an AIS regional sales manager with supervisory responsibility for the Starkville branch.
6. The Division conducted an on-site examination of the Starkville branch on June 28 and June 29, 2001. Several months later the Division conducted unannounced examinations of AIS's Laurel, Clinton, and Hattiesburg, Mississippi branches.
7. As a result of the Division's examination of the branch offices of AIS and specifically the activities of Moorehead at the Starkville branch office, this matter was referred to the Division's enforcement section.
8. As part of the enforcement action the Division issued a Notice of Intent to Revoke Registration and Notice of Intent to Impose Administrative Penalty against Moorehead alleging the following violations of the Mississippi Securities Act and the Mississippi Securities Act Rules:
 - A. Moorehead failed to obtain client information.
 - B. Moorehead either signed or directed his assistant to sign client names to documents.

- C. Moorehead either completed or directed his assistant to complete client documents with inaccurate financial information.
- D. Moorehead sold products that were not suitable for specific customers.
- E. Moorehead misrepresented the nature of the products he sold.
- F. Moorehead used deceptive sales materials and sales materials that had not been approved by AIS compliance.
- G. Order tickets that were solicited were marked unsolicited.
- H. Moorehead executed transactions that were not authorized.

9. The AIS Compliance Manual states the following regarding the role of the regional sales manager:

- A. The regional sales manager is the AIS designated principal responsible for the supervision of the sales practice activities of the registered representatives reporting to him/her. ("Role of the Regional Sales Manager" Section 4.0, page 14)
- B. The regional sales manager shall review all investment activities to guard against improper sales practices and other violations of securities, insurance or banking regulations and internal policies and procedures. ("General Responsibilities" Section 4.10, page 14)
- C. The regional sales manager will conduct reviews and approvals of all new accounts and trades for their OSJ(s). ("Specific Duties" Section 4.20, page 14)
- D. The regional sales manager is ultimately responsible for the supervision of the representatives assigned to them as a supervising principal of AIS. Although the authority for trade review has been delegated to Principal Review Desk (PRD), the regional sales manager is entirely responsible for every trade solicited and/or entered by their representatives. ("RSM and PRD-Trade Review" Section 4.30, page 15)

10. Dupre reviewed twenty to twenty-five percent of the trades executed by Moorehead.

11. On December 9-12, 2002, the Tuscaloosa, Alabama branch of AIS was audited by examiners from the Commission.

12. On December 10, 2002, Debbie Crownover, financial consultant, was interviewed by the examiners and stated that she is not the manager of the Tuscaloosa branch, but is the senior partner in the program. She reports directly to Sean Johnson, regional sales manager. She stated that she oversees, and is responsible for, Barbie Beck, a financial consultant, and Dana Tant, an investment associate. She stated that before James Vaughn, financial consultant, started working at the branch, she was considered the manager. She said Vaughn is responsible for David Taylor. Crownover's name is on the front door of the branch suggesting that Crownover is the branch manager.

13. Section 8.11 of AIS Compliance Procedures Manual stipulates that principal approval is required for the opening of every account. Section 7.10, "Responsibility of the Principal Review Desk," stipulates that AIS requires that each new account and all mutual fund, annuity and fixed

income transactions receive principal approval before establishment of the account or execution of the transaction. Taylor stated during the interview that new account forms are faxed to the PRD in Birmingham. The agent waits for approval, and then transacts for the customer. A sample of account applications and Purchase Authorization Forms (PAFs) contained in client files at the branch did not contain a principal's signature. Examiners obtained PRD copies of these documents and noted that many principal signatures were illegible. Examiners were unable to determine whether these documents were approved by registered principals of AIS.

14. Taylor stated during interview that he has no sole clients, but that he works with Vaughn. He said Vaughn checks any transactions effected by him to make sure they are correct. A purchase authorization form for Charles Davis dated January 8, 2002, contained Vaughn's signature as the principal.

15. In sampled customer files of the Tuscaloosa branch, trade confirmations were not maintained and memorandums of instructions for transactions effected were not maintained.

16. There was no trade blotter found for James Vaughn for the time period 4/11/02-6/16/02. There was no trade blotter entry reflecting four bond transactions and an IRA mutual fund transaction for a client.

17. A variable annuity trade blotter for a client was found in the client's file instead of the blotter file.

18. Pursuant to AIS Compliance Procedures Manual, dated November 2002, Section 15, Branch Offices, subsection 10, Required Files, "Customer Complaint Files – a file must be maintained for any customer initiated complaint against a RR of the office."

19. Examiners requested to see the customer complaint file during the Tuscaloosa audit. An empty complaint file was produced, and David Taylor advised that, since no complaints were found in the file, he didn't believe there were any complaints.

20. Crownover, in the Tuscaloosa branch, was asked to provide the file of a client that had settled a complaint with the firm. The file could not be located and a copy had to be faxed from OSJ.

21. The procedures manual is kept on-line and accessed by the agents. Tant, in the Tuscaloosa office, was asked to access the manual and print it out. She had difficulty locating it. When Vaughn was asked if he was familiar with the firm's supervisory procedures, he said he didn't remember receiving anything recently. He might have gotten something when he first started working there. He didn't remember specifically what the procedures are.

22. Documents contained in client files reflected conflicting investment objectives and suitability information.

23. An examiner discovered a stack of blank Confidential Client Update forms that were signed by agent Crownover. During the interview, Crownover explained that she and an

assistant had come into the office the weekend before an internal audit to update customer files of those clients who had recently transacted securities business. Procedurally, if the customer profile was older than six months, an update was required before transacting.

24. A blank W-9, used for tax purposes, was signed by the customer.
25. A photocopy of a signed application was contained in a customer file. Original information had been inserted on the photocopied application. The examiners concluded that a reproduced signed application had been fully completed after having been signed.
26. On December 9-10, 2002, the Meadow Brook branch of AIS in Birmingham, Alabama was audited by examiners from the Commission.
27. In the Meadow Brook branch, Order History printouts are used as a daily trade blotter. The Order History printout clearly states that Order History printouts should not be used for this purpose. Individual Order History pages showing daily trades are dropped into a file folder. On days that no trading takes place, a date (and on some occasions a zero) is written on a blank Order History page. Order History printouts do not list annuity trades; therefore, they don't provide an accurate or adequate daily record of all trading.
28. The Meadow Brook branch does not maintain a formal cash receipts and disbursements blotter. Instead branch utilizes a file folder, which contains Federal Express Receipts, check blotter pages, and mail transmittals for new account paperwork.
29. AIS customer statements don't incorporate annuity trades. Customer statements do not give customers a complete picture of their trading activities processed through AIS.
30. Examiners reviewed several Stock/Bond powers at the Meadow Brook Branch that were signed by the customer, but the security information was blank.
31. The Meadow Brook branch complaint file was incomplete, in that it did not reflect all complaints lodged against the Meadow Brook branch. Copies of remaining complaints were forwarded to the Commission from the AIS Compliance Department. AIS is not enforcing their own written policies and procedures regarding complaints.
32. AIS Compliance Procedures Manual, dated November 2002, Section 15, Branch Offices, subsection 10, Required Files, "Customer Complaint Files – a file must be maintained for any customer initiated complaint against a RR of the office."
33. Several new account application forms reviewed at the Meadow Brook branch did not contain investment objectives, annual income or time horizons.
34. Documents requested were not received in a timely manner.
35. Brian Southerland has a Series 24 license. He functions as the branch manager and acts in a supervisory or principal capacity in that he supervises two registered investment associates;

however, he is not the official branch manager. Also, he is not familiar with the firm's supervisory procedures and has not received a copy of the Supervisory Procedure Manual.

36. The Meadow Brook branch advised examiners that trade confirmations received by branch are reviewed and then thrown away. They do not maintain trade confirmations in branch.

37. During the agent interview with Brian Southerland, he stated that he is not, and has never been, subject of any complaints, investigations or disciplinary actions. AIS records indicate that he is currently named in a pending litigation and is the subject of other complaints.

III. CONCLUSIONS

1. The Secretary of State of the State of Mississippi has jurisdiction over this matter pursuant to Miss. Code Ann. §75-71-107(2000).

2. AIS failed to reasonably supervise Moorehead as required by Miss. Code Ann. §75-71-321(b) (2000).

3. The Alabama Securities Commission has jurisdiction over this matter pursuant to the Alabama Securities Act.

4. Commission Rule 830-X-3.13(1). Supervision of Associated Persons. Every dealer and officer shall exercise diligent supervision over all the securities activities of its associated persons. AIS failed to exercise diligent supervision, and examiners received conflicting information concerning the identity of the supervising principal or branch manager of the Tuscaloosa branch office. Agent Southerland of the Meadow Brook branch acts in a supervisory capacity, but he is not the designated principal and he is not familiar with AIS supervisory procedures.

5. Commission Rule 830-X-3.13(3) states in part that every dealer shall establish, maintain and enforce written procedures setting forth the procedures adopted by the dealer regarding the review and written approval by the designated supervisor of the opening of each new customer account, as well as prompt review and written approval by the designated supervisor of all securities transactions by associated persons and all correspondence pertaining to the solicitation or execution of all securities transactions by associated persons. AIS Branch Complaint Files are incomplete thereby violating AIS Compliance Procedures Manual, Section 15, Branch Offices, Subsection 10, Required Files. Sampled account applications and PAFs do not reflect proper principal approval thereby violating AIS Compliance Procedures Manual, Section 7, Subsection 10. AIS failed to maintain and enforce written procedures.

6. Commission Rule 830-X-2.05 defines a principal as any person associated with an applicant or registrant actively engaged in the management of the applicant's or registrant's securities business, including supervision, solicitation, conduct of business or the training of persons associated with an applicant or registrant for any of the functions. Vaughn, Crownover and Southerland are acting in a principal/supervisory capacity; however, records reflect that

neither Vaughn, Crownover nor Southerland are designated as principals or supervisors of their respective branch offices.

7. Commission Rule 830-X-3.08(1)(b) requires that each officer, director, partner or any person occupying a similar status or performing similar functions of a dealer applicant, or an agent applicant, who intends to engage in securities transactions must satisfy the appropriate exam requirements to include evidence of passing the appropriate examination required by the NASD for the activity in which the applicant will be engaged. CRD records reflect that neither Vaughn nor Crownover have passed a principal examination. Vaughn and Crownover are acting in supervising capacities.

8. Commission Rule 830-X-3.14(1)(h), every dealer registered in this state shall make and keep current copies of confirmation of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash, and other items for the accounts of customers and partners of such dealers. Trade confirmations are not maintained in the Tuscaloosa Branch or Meadow Brook branch.

9. Commission Rule 830-X-3.14(1)(a). Records Required of Registered Dealers. Every dealer shall make and keep current blotters containing an itemized daily record of all purchases and sales of securities. Every dealer shall make and keep current blotters containing all receipts and disbursements of cash and all other debits and credits. The Tuscaloosa and Meadow Brook branches failed to maintain accurate and complete records of daily securities transactions blotter. The Tuscaloosa and Meadow Brook branches failed to adequately maintain cash receipts and disbursements blotters.

10. Commission Rule 830-X-3.14(6) all records required to be kept shall be in such form as may conveniently be examined by the Commission or its staff without the necessity of employing mechanical methods of reproduction or inspection. Trade confirmations are not kept in the appropriate customer files. Trade confirms for both branches are kept on a database and could not be conveniently examined. There was more than one data base program depending on the security.

11. Commission Rule 830-X-3.14. Records Required of Broker Dealers, and Code of Alabama 1975, Section 8-6-3(i). Every registered dealer shall make and keep such accounts and other records as the Securities Commission by rule prescribes. All the records of any registrant are subject at any time to such reasonable periodic, special or other examinations, as the commission deems necessary or appropriate in the public interest or for the protection of investors. Requested documents were not provided to examiners in a timely manner while on location at the branches.

12. Commission Rule 830-X-3.13 stipulates that as part of its responsibility, every dealer shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office. Procedures manuals are kept on-line, however agents can not readily access them.

13. Code of Alabama 1975, Section 8-6-3(j)(7), the securities commission may deny, suspend or revoke any registration or bar any applicant from employment with a dealer if he/she has engaged in dishonest or unethical practices in the securities industry. The Commission concludes that Crownover updated client files after the transactions had taken place to demonstrate compliance for an upcoming internal audit. A photocopied application with information entered after execution was discovered during the examination of the Tuscaloosa branch. Blank Stock/Bond Power documents, containing customer authorizations were found at the Meadow Brook branch. The Commission concludes Meadow Brook branch agent Southerland gave incomplete responses when interviewed about customer complaints.

14. Commission Rule 830-X-3.12, Suitability of Recommendations. Every dealer and every associated person thereof who recommends to a customer the purchase, sale or exchange of any security shall have reasonable grounds to believe and shall believe that the recommendation is suitable for such customer on the basis of information furnished by such customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by such dealer or associated person. There were discrepancies in customer objectives and other suitability information on customer account forms found in the Tuscaloosa branch. Several new account application forms reviewed at the Meadow Brook branch did not contain customer investment objectives, annual income, or time horizon.

15. Commission Rule 830-X-3.14(1)(c), Records Required of Registered Dealers. Every dealer shall make and keep current ledger accounts (or other records) itemizing separately as to each cash and margin account of every customer and of such dealer and partners thereof, all purchases, sales, receipts, and deliveries of securities for such account and all other debits and credits to such account. AIS customer statements do not incorporate all securities transactions, specifically variable annuity transactions.

IV. ORDER

On the basis of the foregoing Findings and Conclusions,

IT IS HEREBY ORDERED:

1. AIS shall pay an administrative penalty in the amount of \$25,000 within ten (10) days of the date of this Order.
2. AIS shall reimburse the Division and the Commission for costs incurred in the course of the investigation of this matter in the amount of \$75,000, and will contribute \$125,000 for investor education programs in Mississippi and Alabama, within ten (10) days of execution of this Order by AIS.

3. Pursuant to the following provisions:

- A. AIS shall retain, within thirty (30) days of the date of this Order, at its expense, an Independent Consultant ("Consultant") not unacceptable to the Division. The Consultant shall conduct a review of AIS's supervisory, compliance, and other policies and procedures designed to prevent and detect securities law violations. The Consultant shall consider, among other things: (1) a system whereby all training for dedicated representatives, sales assistants, and investment associates is documented and reviewed by AIS's director of compliance; (2) whether regional principals should report to the director of compliance as to transaction approval; and (3) whether AIS should disclose on all variable annuity products that the products are being offered in conjunction with a third party, and if so, whether the disclosure should include the name of the third party in print of the same size and character as that of AIS. AIS shall cooperate fully with the Consultant and shall provide the Consultant with access to its files, books, records and personnel as reasonably requested for the review.
- B. At the conclusion of that review, which in no event shall be more than ninety (90) days after the date of the Consultant's retention, the Consultant shall simultaneously submit to AIS and to the Division an Initial Report. The Initial Report shall address the adequacy of AIS's policies and procedures to detect and prevent securities law violations and shall include the Consultant's recommendations thereon.
- C. Within thirty (30) days of transmittal of the Consultant's Initial Report, AIS shall in writing advise the Consultant and the Division of the recommendations that it has determined to accept and the recommendations that it considers to be unnecessary or unduly burdensome. With respect to any recommendation that AIS deems unduly burdensome, it may propose an alternative policy or procedure designed to achieve the same objective or purpose.
- D. With respect to any recommendation or proposal with which AIS and the Consultant do not agree, AIS and the Consultant shall attempt in good faith to reach an agreement. In the event that the Consultant and AIS are unable to agree on an alternative proposal, AIS shall abide by the recommendation of the Consultant.
- E. Within thirty (30) days of transmittal of the Consultant's Initial Report, AIS shall in writing advise the Consultant and the Division of the recommendations and proposals that it is adopting.
- F. The Consultant shall complete the aforementioned review and submit a written Final Report thereon to AIS and to the Division within 180 days after the date of this Order. The Final Report shall recite the efforts the Consultant undertook to review AIS's supervisory functions, compliance, mechanisms, and other policies and procedures, set forth the Consultant's

recommendations and proposals and describe how AIS is implementing those recommendations and proposals.

- G. AIS shall take all necessary and appropriate steps to adopt and implement all recommendations contained in the Consultant's Final Report.
- H. No later than one (1) year after the date of this Order, unless extended pursuant to paragraph I below, AIS shall submit to the Division an affidavit setting forth the details of its efforts to implement the recommendations contained in the Consultant's Final Report and stating whether it has achieved compliance.
- I. For good cause shown, and upon receipt of a timely application from the Consultant or AIS, the Division may extend any of the procedural dates set forth herein.
- J. To ensure the independence of the Consultant, AIS: (1) shall not have the authority to terminate the Consultant without prior written approval of the Division; (2) shall compensate the Consultant for services rendered pursuant to this Order at its reasonable and customary rates; (3) shall not be in and shall not have an attorney-client relationship or any other doctrine or privilege to prevent the Consultant from transmitting any information, reports or other documents to the Division.

4. Further, pursuant to the following provisions:

- A. Within seven (7) days of the date of this Order, AIS shall prepare a letter to all Moorehead customers, except those customers that have already received a settlement with AIS or are in the process of attempting to reach a settlement with AIS, that purchased a variable annuity. The letter shall explain that AIS is offering to allow such customers to surrender their variable annuities without incurring any deferred sales charges. The letter shall also explain that the offer is being made pursuant to an agreement with the Mississippi Secretary of State and that the customer is not required to accept the offer. The Division shall be entitled to review and approve the letter prior to its being mailed. Said approval shall not be unreasonably withheld.
- B. The offer shall remain open for 45 days from the date of the letter.
- C. AIS shall provide to the Division at the time it submits the letter a list of all Moorehead customers who will receive the letter with their respective mailing addresses.
- D. The Division at its option shall contact each customer by phone beginning three (3) business days after the first letter is mailed. The Division shall verify that the customer received the letter and understands the terms of the surrender offer.
- E. At the conclusion of the 45 day time period AIS will advise the Division in writing of the number of customers who have elected to surrender variable annuity contracts.

5. Further, pursuant to the following provisions applicable to both states:
 - A. AIS shall maintain complaint files at its branch offices and offices of supervisory jurisdiction.
 - B. AIS shall maintain current hard copies of its compliance and supervisory manuals at its branch offices or shall maintain an internal website with such forms easily accessible to all representatives at each branch, with appropriate training provided.
 - C. Principals approving transactions and forms shall do so in a manner whereby their identity is easily determined.
6. AIS shall provide reasonable cooperation to the Division in connection with proceedings against Moorehead. Such cooperation will include, but will not be limited to, making AIS representatives available to provide testimony.
7. AIS neither admits nor denies violating the Mississippi Securities Act and the Mississippi Securities Act Rules but agrees to comply with the Mississippi Securities Act and the Mississippi Securities Act Rules in connection with the supervision of its broker-dealer agents and/or investment-adviser representatives.
8. AIS neither admits nor denies violating the Alabama Securities Act but agrees to comply with the Alabama Securities Act in connection with the supervision of its broker-dealer agents and/or investment-adviser representatives.

V.
OTHER MATTERS

IT IS FURTHER ORDERED that this Consent Order represents the complete and final resolution of and discharge of all administrative and civil, claims, demands, actions and causes of action by the Division and the Commission against AIS for the alleged violations of the Act which relate specifically to all actions and/or omissions by AIS which are so described in the Findings Section of this Consent Order. In the event AIS fails to comply with the provisions of the Order, the Division or Commission shall notify AIS in writing of such failure. AIS shall then have ten (10) business days after the receipt of such notice to cure any such failure to comply with the provisions of the Order. AIS further acknowledges that should it fail to comply with the provisions of this Order, the Division or Commission may enforce this Order pursuant to their respective statutes. In addition, the Division or Commission may impose additional sanctions and costs and seek other appropriate relief for violation of this Consent Order, subject to AIS's right to a hearing, regarding any alleged violation of the Order or a failure to comply with the Order.

Entered this the 26 day of March 2004.

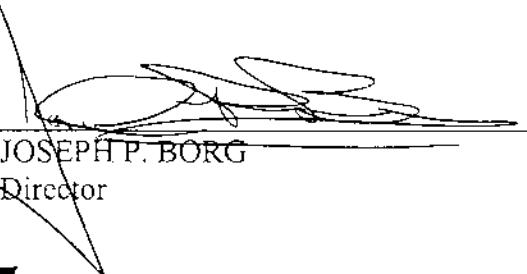
ERIC CLARK
Secretary of State

BY:


JAMES O. NELSON, II
Assistant Secretary of State
Business Regulation and Enforcement

THE ALABAMA SECURITIES COMMISSION

BY:


JOSEPH P. BORG
Director



**CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY
AMSOUTH INVESTMENT SERVICES, INC.**

AmSouth Investment Services, Inc., hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

AmSouth Investment Services, Inc. admits the jurisdiction of the Secretary of State of the State of Mississippi and the Alabama Securities Commission and, without admitting or denying any liability or any findings or conclusions contained in the foregoing Order, consents to entry of the Order by the Secretary of State of the State of Mississippi and the Alabama Securities Commission as settlement of all matters relating to the examinations referred to in the Order.

AmSouth Investment Services, Inc. states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

The undersigned represents that he has been authorized by AmSouth Investment Services, Inc. to execute this Order for and on behalf of AmSouth Investment services, Inc.

Dated this 16th day of March, 2004.

AmSouth Investment Services, Inc.

Thomas B. Twitty

By: Thomas B. Twitty
(Print Name)

Title: President

SUBSCRIBED AND SWORN TO before me this 16th day of March, 2004.

Thomas B. Twitty
Notary Public

My Commission expires:

3/13/05