

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:

NATIONAL FOUNDATION OF AMERICA)
RICHARD OLIVE)
KENNY MARKS)
HUNTER BROWN DANIEL JR)
SUZANNE NANCE DANIEL)
RESPONDENTS)

ADMINISTRATIVE ORDER
NO. OV-2007-0014

ORDER TO VACATE AS TO RESPONDENT
KENNY MARKS ONLY

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

RESPONDENTS

1. NATIONAL FOUNDATION OF AMERICA, ("NFOA") is a Tennessee Corporation with a commercial address of 1308 Buckingham Circle, Franklin, TN 37064.
2. RICHARD K. OLIVE, ("OLIVE") at all times relevant to the allegations set forth herein, acted as the president of NFOA, with commercial business address of 1308 Buckingham Circle, Franklin, TN 37064.
3. KENNY MARKS, ("MARKS") was previous Vice President and Securities Principal of NFOA, with a commercial business address of 1308 Buckingham Circle, Franklin, TN. 37064.

4. HUNTER BROWN DANIEL JR., ("HDANIEL") at all times relevant acted as an agent for NFOA with a residential address of 1705 Big Cove Road, SE, Huntsville, Alabama. 35801.

5. SUZANNE NANCE DANIEL, ("SDANIEL") is an individual, an Agent of NFOA, with a residential address of 1705 Big Cove Road SE, Huntsville, Alabama. 35801. She is also the wife of HDANIEL.

STATEMENT OF FACTS

6. NFOA was incorporated in the state of Tennessee on January 27, 2006 and applied for a nonprofit status with the Internal Revenue Service but was never approved. It promoted an "asset exchange program" to investors, including several elderly Alabama residents. According to the NFOA "Contract and Agreements", NFOA represents to be a Tennessee nonprofit corporation and a tax-exempt charitable organization listed in the Internal Revenue Code 501(c) (3).

7. In exchange for an annuity, a security, real estate, and/or cash ("the consideration") from the purchaser, NFOA issued an "Installment Plan Contract and Agreement" and/or an "Installment Plan Agreement" with a guaranteed fixed payout stream for a specified period of time, purporting to include a "generous tax deduction." The "generous tax deduction" can allegedly be used to lower the adjusted gross income reported to the IRS "by up to 50% for the first year and five years of carry forward, if applicable".

8. From October 30, 2006, to May 22, 2007, HDANIEL sold the NFOA Installment Plan Contract and Agreements to at least 13 Alabama Investors.

9. On May 23, 2007, Administrative Order No. CD-2007-0014 was issued to RESPONDENTS. The Order alleged that RESPONDENTS violated Sections 8-6-3 and 8-6-4, Code of Alabama 1975, when they acted as unregistered agents in the offer and/or sale of securities that were neither registered nor subject to a perfected exemption from registration in the state of Alabama.

10. In response to the Notice of Right to a Hearing, on July 10, 2007, MARKS provided a written statement that he was hired by OLIVE in March 2006, to assist in the inception of NFOA. From his statement, MARKS was never compensated for his employment while at NFOA and was terminated on June 19, 2006.

11. On July 12, 2007, the Commission staff received a Notice of Voluntary Dismissal of Defendant Kenny M. Marks issued by the petitioner, Leslie Newman Commissioner of the Tennessee Department of Commerce and Insurance providing notice of voluntary nonsuiting of MARKS from the matter of NFOA. The Order of Voluntary Dismissal of MARKS was signed by Chancellor Dinkins of the Davie county Chancery Court of the State of Tennessee, dismissing MARKS from this cause without prejudice.

12. Through documentation received by the Commission, the Commission has determined that MARKS did not engage in the offer of or solicitation of an investment in the state of Alabama.

Based upon good cause shown above, Administrative Order No CD-2007-0014 issued to MARKS, on May 23, 2007, is hereby vacated.

The Cease and Desist Order remains in full force and effect as it pertains to NFOA, OLIVE, HDANIEL and SDANIEL named in Administrative Order No. CD-2007-0014, issued on May 23, 2007.

Entered at Montgomery, Alabama, this 16th day of June, 2009.

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


JOSEPH BORG
Director