

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:)	
)	ADMINISTRATIVE ORDER
JOSEPH NEVILLE WIER)	NO. CD-2010-0010
)	
<u>RESPONDENT</u>)	

CEASE AND DESIST ORDER

The Alabama Securities Commission ("Commission"), having the 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.

RESPONDENT

1. JOSEPH NEVILLE WIER ("WIER") is an Alabama resident with an address of 317 Narrows Drive, Birmingham, Alabama 35242. WIER was previously registered as an investment advisor (CRD #1070946) from October 1982 to October 1993, but has not been registered in any securities capacity since October 1993.

STATEMENT OF FACTS

2. On December 9, 2009, the Commission opened a formal investigation based on a complaint received by the Commission. The complaint contained information that indicated WIER, acting as an investment advisor, solicited clients in Alabama to trade options through an Options Express account.

3. Information gathered in the investigation indicates that WIER claimed to be an "investment broker". WIER claimed that he could provide returns of 10-50 percent per month. WIER advised the complainant to sell current investments in mutual funds and open an options account at Options Express.

4. On August 24, 2009, WIER entered into a contract to provide "investment management services" to the complainant for a quarterly fee of \$2,500. The contract also states "the goal of our endeavor is to attain a minimum of 10% gains monthly."

5. WIER was given the username and password to the complainants Options Express account in order for WIER to conduct the trades. On August 31, 2009, WIER conducted an option trade in the complainants account.

6. On August 31, 2009, WIER informed the complainant that he had "made a mistake" in the type of option he purchased in the complainants account. WIER and the complainant called Options Express in an attempt to reverse the transaction, but were unsuccessful. As a result of the transaction, the complainant lost approximately \$3,849.88. After this incident, the complainant closed her options account and withdrew her funds.

7. On September 1, 2009, WIER wrote the complainant a check for a refund of the \$2,500 management fee, but asked the complainant not to cash the check for 10 days. When the complainant attempted to cash the check 10 days later, they were informed that WIER had stopped payment on the check. The complainant then contacted WIER regarding the canceled check, to which WIER stated he had changed his mind and felt he had earned the \$2,500 fee and refused to further address the refund.

8. On September 23, 2009, the complainant filed a small claims action against WIER to recoup the investment losses and the fee paid to WIER. On December 2, 2009, after hearing testimony from both parties, the Shelby County District Court issued a judgment against WIER in the amount of \$6,399.58. The Court stated in the Order that WIER was acting as an investment advisor as defined in 8-6-2(18), Code of Alabama 1975. (Attached as Exhibit 1)

CONCLUSIONS OF LAW

9. Under Section 8-6-2(18), Code of Alabama 1975, the definition of "Investment Adviser" includes any person, who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment Adviser" also includes financial planners and other persons who, as an integral component of other financially related

services, provide the forgoing investment advisory services to others for compensation and as part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. WIER entered into a contract to provide "investment management services" to the complainant for a fee of \$2,500 per quarter, and therefore falls within the definition of Investment Adviser under the Act.

10. Pursuant to Section 8-6-3(b), Code of Alabama, 1975, it is unlawful for a person to transact business in this state as an investment adviser or investment advisor representative, unless such person is registered under the Act. Through his actions and contractual agreements, WIER engaged in an investment advisory business while not registered under the Act, in violation of section 8-6-3(b).

This Order is appropriate in the public interest for the protection of investors and consistent with the purposes of the Alabama Securities Act.

This Order does not prevent the Commission from seeking such other civil or criminal remedies that may be available to it under the Alabama Securities Act.

Additionally, if the allegations set forth herein are found to be true, through either administrative adjudication, failure of the **RESPONDENTS** to make a timely request for hearing, or default of the **RESPONDENTS**, it is the intention of the Commission to impose sanctions upon the **RESPONDENTS**. Such sanctions may include, inter alia, an administrative assessment imposed on **RESPONDENTS**, an additional administrative assessment for investigative costs arising from the investigation of the violation(s) described herein against **RESPONDENTS**, and a permanent order to bar **RESPONDENTS** from participation in any securities related industry in the state of Alabama.

ACCORDINGLY, IT IS HEREBY ORDERED that RESPONDENT immediately **CEASE AND DESIST** from conducting business as an unregistered Investment Adviser or Investment Adviser Representative, within or from the state of Alabama.

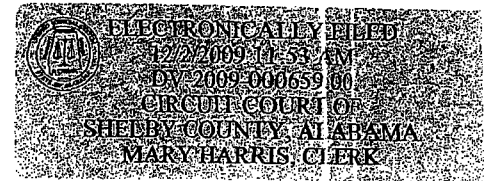
Entered at Montgomery, AL, this 1st day of March, 2010.

ALABAMA SECURITIES COMMISSION
401 Adams Avenue, Suite 280
Montgomery, AL 36104
(334) 242-2984

BY:


J. Randall McNeill
DEPUTY DIRECTOR





IN THE DISTRICT COURT OF SHELBY COUNTY, ALABAMA

PARKER TERESA,

Plaintiff,

V.

WIER NEVILLE,

Defendant.

Case No.: DV-2009-000659.00

JUDGMENT ORDER

Based on the testimony and evidence taken in open Court at trial 11-23-09, the Court finds as follows:

1. Under the terms of the written contract of the parties the Defendant was an "Investment Adviser" as defined in § 8-6-2 (18), Code of Alabama 1975.
2. The contract, which was prepared by the Defendant, did not include the terms required in writing by § 8-6-17 (d), Code of Alabama (1975).
3. Under § 8-6-19 (b) (1) violation of §8-6-17 (d) by the Defendant makes the Defendant liable for recovery of the consideration paid and "any loss due to such advice, together with interest at six percent per year..."
4. The complaint is considered to be amended to conform to the evidence presented at trial including the stipulated loss.

Therefore, judgment is entered on trial for the Plaintiff and against the Defendant for \$6,186.58 and Court costs without waiver of exemptions as to personal property.

DONE this 2nd day of December, 2009.

/s/ JOHN H. ALSBRONOKS

DISTRICT JUDGE