

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA**

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|------------------------------|---|----------------------------------|
| IN THE MATTER OF: |) | |
| |) | ORDER TO CEASE AND DESIST |
| Stephen D. Lacy, and |) | |
| The Lincoln Funds LP, |) | |
| |) | |
| Respondents. |) | File Number: 13092 |
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WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division") has been authorized and directed by the Securities Commissioner of South Carolina (the "Securities Commissioner") to administer the provisions of S.C. Code Ann. § 35-1-101, *et seq.*, the South Carolina Uniform Securities Act of 2005 (the "Act"); and

WHEREAS, the Division received information regarding alleged activities of Stephen D. Lacy ("Lacy") and The Lincoln Funds LP (the "Fund") (collectively, "Respondents"), which, if true, would constitute violations of the Act; and

WHEREAS, the information led the Division to open and conduct an investigation of the Respondents pursuant to S.C. Code Ann. § 35-1-602; and

WHEREAS, the Division has determined the following:

I. JURISDICTION

1. The Securities Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

II. RESPONDENTS

2. Stephen D. Lacy is a South Carolina resident with a last known address of 160 Shipmaster Avenue, Pawleys Island, South Carolina 29585.

3. The Fund is a South Carolina limited partnership with a last known address of 160 Shipmaster Avenue, Pawleys Island, South Carolina 29585.

III. FINDINGS OF FACT

4. In 2008, Lacy organized the Fund to serve, allegedly, as a vehicle for the investment of money in the Foreign Currency Exchange (“Forex”) Markets.

5. The Fund was organized as a limited partnership, based in Pawleys Island, South Carolina and operated by Presidential Holdings LLC, which served as the Fund’s general partner and was under the control of Lacy.

6. Between 2008 and 2010, Lacy, acting on behalf of himself and the Fund, solicited numerous investors (the “Investors”) to invest money in the Fund.

7. In exchange for an investment of money, Investors were given a share of the Fund as limited partners (the “Shares”). As the Fund was directed and controlled by Lacy, the Investors’ profits depended on his alleged efforts trading in the Forex Market.

8. The Shares were not registered with the Division or offered under a claim of an exemption from registration.

9. Lacy solicited and received in excess of four hundred and thirty-five thousand dollars (\$435,000) from at least nine (9) Investors.

10. Lacy omitted to inform the Investors that the Shares could not legally be offered for sale in South Carolina.

A. The Black Diamond Ponzi scheme

11. Rather than personally trading in the Forex Market, however, Lacy directed a majority of the Fund's early Investors' funds to Black Diamond Capital Solutions LLC ("Black Diamond"), a North Carolina limited liability company under the control of Keith Simmons ("Simmons").

12. Black Diamond itself claimed to be an entity which, on behalf of numerous "hedge funds," invested in the Forex Market. In reality, Black Diamond was a Ponzi scheme,¹ in which the majority of the investors' funds were diverted to fund Simmons's extravagant lifestyle, and the remainder used to pay previous investors in Black Diamond.

13. In early 2009, Black Diamond began to collapse. Throughout the collapse, Simmons assured Lacy and other alleged "hedge fund" managers that Black Diamond would begin to cash-out its investors' funds.

14. However, no cash-out had occurred by May 21, 2009, when Simmons falsely claimed to Lacy and others that the "Fed" had frozen Black Diamond's bank accounts.

15. On July 28, 2009, Simmons informed Lacy that Black Diamond was nearly halfway through the cash-out process and that the return of investor funds would continue.

16. In reality, no money had yet been returned to the Fund or any other Black Diamond investor, and none would be.

¹ A Ponzi scheme is a "fraudulent investment scheme in which money contributed by later investors generates artificially high dividends or returns for the original investors, whose example attracts even larger investments." *Black's Law Dictionary* 975 (8th ed. 2005).

17. All the while, Lacy omitted to inform the Investors of Black Diamond's deteriorating financial condition, its failure to return investor funds, or its alleged regulatory scrutiny by the "Fed."

18. Instead, Investors continued to receive their monthly statements from the Fund falsely purporting to show large returns on their investments.

B. The Fund becomes a Ponzi scheme.

19. As Black Diamond's Ponzi scheme collapsed, Lacy ceased funneling money to Black Diamond and instead began to operate the Fund as a Ponzi scheme.

20. The Fund continued to solicit and receive funds from Investors. However, rather than being invested, these funds were instead used to pay back previous Investors and to fund Lacy's personal expenses.

21. For instance, in February of 2010, Lacy solicited and received an investment from Investors A and B, who at the time were residents of Clark County, Nevada.

22. Lacy omitted to inform Investors A and B that rather than trading their investment in the Forex Market, their investment would primarily be used to fund Lacy's lifestyle and to repay previous Investors.

23. Over the course of the next several months, and as had happened to previous Investors, Investors A and B received multiple statements falsely purporting to show a very large return on their investment.

C. Fraud charges by the United States of America.

24. On or about November 12, 2010, Lacy was charged by the United States of America with conspiracy to commit, *inter alia*, securities fraud in violation of Title 15 U.S.C §§ 78j and 78ff, and Rule 10b-5 thereunder.

25. Lacy subsequently pled guilty to the charge of conspiracy and, on or about May 4, 2011, was sentenced to six (6) months in prison and ordered to pay restitution in the amount of three hundred and thirty-five thousand dollars (\$335,000).

IV. CONCLUSIONS OF LAW

26. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, governs the offer and sale of securities in the State of South Carolina.

27. Pursuant to S.C. Code Ann. § 35-1-102(29), investment contracts, and certificates of interest or participation in profit-sharing agreements, *inter alia*, constitute securities.

28. Pursuant to S.C. Code Ann. § 35-1-301, it is unlawful for a person to offer or sell a security in the State of South Carolina unless that security is registered, a federal covered security, or exempt from registration.

29. Pursuant to S.C. Code Ann. § 35-1-501, it is unlawful for a person in connection with the offer or sale of a security in South Carolina: (1) to employ a scheme, device, or artifice to defraud; (2) to make an untrue statement of material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; or (3) to engage in an act, practice or course of business that operates or would operate as a fraud or deceit upon another person.

30. Pursuant to S.C. Code Ann. §35-1-604(a)(1), if the Securities Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act, the Securities Commissioner may issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with the Act.

31. Pursuant to S.C. Code Ann. § 35-1-604(b), an order issued under Section 35-1-604(a) is effective on the date of issuance and must include a statement of any civil penalty or costs of investigation the Division will seek, a statement of the reasons for the order, and notice that, within fifteen (15) days after the receipt of a request in a record from the Respondent, the matter will be scheduled for a hearing.

32. The Shares offered and sold by Respondents constitute securities as defined by the Act.

33. The Shares offered and sold by Respondents were neither federal covered securities, exempt from registration, nor registered with the Division and were therefore sold in violation of the Act.

34. Respondents sold securities within the State of South Carolina: (1) while employing a scheme, device, or artifice to defraud; (2) through the making of untrue statements of material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; and (3) by engaging in an act, practice, or course of business that operated as a fraud or deceit upon another person.

35. It is in the public interest, for the protection of investors, and consistent with the purposes of the Act that Respondents be ordered to cease and desist from engaging in the above enumerated practices which constitute violations of the Act and pay an appropriate civil penalty for their wrongdoing.

V. CEASE AND DESIST ORDER

NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1), it is hereby **ORDERED** that:

- a. Respondents and every successor, affiliate, control person, agent, servant, and employee of Respondents, and every entity owned, operated, or indirectly or directly controlled by or on behalf of the Respondents **CEASE AND DESIST** from transacting business in this State in violation of the Act, and, in particular, S.C. Code Ann. §§ 35-1-301 and 35-1-501 thereof; and
- b. Respondent Lacy pay a civil penalty in the amount of **Ninety Thousand Dollars (\$90,000)** if this Order becomes effective by operation of law, or, if Lacy seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed **Ten Thousand Dollars (\$10,000)** for each violation of the Act by Lacy, and the actual cost of the investigation or proceeding; and

IT IS FURTHER ORDERED that, pursuant to S.C. Code Ann. § 35-1-604(a)(2) and (3), any exemption from registration with the Division that Respondents may claim to rely upon under S.C. Code Ann. §§ 35-1-201(3)(C), (7), or (8); 35-1-202; 35-1-401(b)(1)(D) or (F); or 35-1-403(b)(1)(C), has been and is **PERMANENTLY REVOKED**.

VI. REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING

The Respondents are hereby notified that they each have the right to a hearing on the matters contained herein. To schedule such a hearing, a Respondent must file with the Securities Division, Post Office Box 11549, Rembert C. Dennis Building, Columbia, South Carolina, 29211-1549, attention: Thresechia Navarro, within thirty (30) days after the date of service of this Order to Cease and Desist, a written Answer specifically requesting a hearing. If a Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a request in a record from a Respondent, will schedule the hearing.

In the written Answer, a Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation in this Order, shall set forth specific facts on which the Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent relies. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.

Failure by a Respondent to file a written request for a hearing in this matter within the thirty-day (30) period stated above shall be deemed a waiver by that Respondent of the right to such a hearing. Failure of a Respondent to file an Answer, including a request for a hearing, shall result in this Order, including the stated civil penalty and any assessed costs, becoming final as to that Respondent by operation of law.

CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS ORDER AND/OR SIMILAR ACTS MAY RESULT IN THE DIVISION'S FILING ADDITIONAL ADMINISTRATIVE ACTIONS AND/OR SEEKING FURTHER ADMINISTRATIVE FINES. WILLFUL VIOLATION OF THIS ORDER COULD RESULT IN CRIMINAL PENALTIES UNDER S.C. CODE ANN. § 35-1-508 OF THE ACT.

ENTERED, this the 31st day of January, 2014.

ALAN WILSON
SECURITIES COMMISSIONER

By: Tracy A. Meyers
TRACY A. MEYERS
Assistant Deputy Attorney General

ISSUANCE REQUESTED BY:



IAN P. WESCHLER
Assistant Attorney General
Securities Division
Rembert C. Dennis Building
1000 Assembly Street
Columbia, S. C. 29201

STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
SECURITIES DIVISION

CERTIFICATE OF SERVICE AND
AFFIDAVIT OF COMPLIANCE
File Number 13092

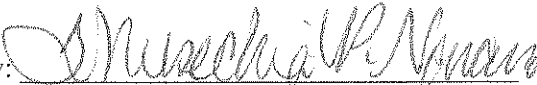
I hereby certify that I served upon the individual/entity listed below a copy of the document indicated below and dated January 31, 2014, by serving a copy of said document upon the Securities Commissioner of the State of South Carolina and by placing a copy of said document in the United States mail, certified mail, return receipt requested, first class postage prepaid and addressed to:

Stephen D. Lacy
Individually & as Manager of
The Lincoln Funds LP
160 Shipmaster Avenue
Pawleys Island, SC 29585

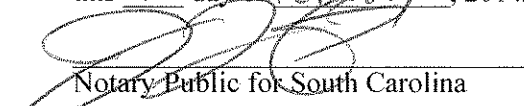
Document(s): Subpoena

Mailed February 3, 2014 from Columbia, South Carolina.

I further hereby certify, swear and affirm that, service of the above-listed entity is in compliance with Section 35-1-611, Code of Laws of South Carolina.

By: 
Thresechia P. Navarro
South Carolina Attorney General's Office
Securities Division
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-4731

Subscribed and sworn to before me on
this 3 day of February, 2014.


Notary Public for South Carolina

My commission expires: 7/2/2016