

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

<b>IN THE MATTER OF:</b>	)	
	)	<b>ORDER TO CEASE AND DESIST</b>
<b>Arthur Vann,</b>	)	<b>File No. 13089</b>
	)	
<b>Respondent.</b>	)	
<hr/>	)	

**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 Arthur Vann (“Vann” or the “Respondent”), which, if true, would constitute violations of the Act; and

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

**WHEREAS**, the Division has determined that evidence exists to support the following findings of fact and conclusions of law:

**I. JURISDICTION**

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

**II. RESPONDENT**

2. Arthur Vann is a resident of Aiken County, South Carolina, with a last known mailing address of Post Office Box 2222, Aiken, South Carolina 29801.

### **III. FINDINGS OF FACT**

3. From at least January 2012 to the present, the Respondent has claimed to represent a purported off-shore investment fund, the Cayman Islands Development Fund, Ltd. (the "Cayman Fund").

4. In November 2012, the Respondent solicited a South Carolina resident (the "South Carolina Investor") to invest the proceeds of a personal pension fund in the Cayman Fund.

5. The Respondent alleged that the Cayman Fund would use a "bifurcated fund strategy" seeking to invest in "a mix of real estate, precious metals, and infrastructure and development projects in the Caribbean, North, Central and South America."

6. On or about November 7, 2012, the South Carolina Investor informed the Respondent that he had "about \$90,000.00" in a pension which was "more than we'd care to lose or have squandered. We can tolerate moderate risk on 12 of it, but would like to have the balance in growth and income investments."

7. The "Offer Term Sheet" for the Cayman Fund as provided to the South Carolina Investor by the Respondent listed a minimum \$100,000.00 investment, a requirement that the deposit be held for a minimum of 2 years, and promised an interest rate of "9.2% per annum" (the "Investment Requirements").

8. However, the South Carolina Investor was unwilling to invest more than \$65,000.00 in the Cayman Fund.

9. In response to the South Carolina Investor's reluctance to invest the minimum investment, the Respondent waived the Investment Requirements including the minimum investment amount and the requirement that the funds be held for two years, stating that, "[a]s discussed, we can offer you 9.2% p.a. with a full redemption with three months' notice."

10. When the South Carolina Investor expressed concerns that he would have to pay taxes on the pension funds withdrawn if those funds were not subsequently transferred to a qualifying investment, the Respondent responded by offering the following, "[w]e can, if it makes it easier, pay a 5% bonus on any amount over 25,000 if that helps."

11. The Cayman Fund was also advertised on an internet site located at [www.caymandevelopmentfund.com](http://www.caymandevelopmentfund.com) (the "Website"), which contained numerous representations about the Cayman Fund.

12. The Website included a chart which alleged that seventy percent (70%) of the cash subscriptions in the Cayman Fund would be used for equity positions in development projects and thirty percent (30%) would be invested in "Real Estate and precious metals."

13. In addition to the representations contained on the Website, the Respondent provided the South Carolina Investor with a print advertisement for the Cayman Fund (the "Advertisement").

14. The Advertisement alleged that the Cayman Fund "expected appreciation on investment of close to 30% per annum over the next 5 years." One of the reasons given for that expected rate was "[e]xtensive development projects planned for and currently ongoing in the Cayman Islands will provide a spring board for more local development and rental property."

15. The Advertisement also claimed that "[i]nvestors who inject minimum of CHF 1

million into existing or new companies in the Cayman Islands (such as the [Cayman] Fund) will be qualified to obtain Cayman Islands permanent residence. Additionally, the [Cayman] Fund's CI counsel has agreed to waive all costs associated with an investor's residency application."

16. On December 10, 2012, the South Carolina Investor, having decided to invest in the Cayman Fund, followed the Respondent's instructions and wired \$65,000.00 (the "Investor Funds") to the account of Mondial Expatriate Services USA, Inc., a Florida corporation under the control of the Respondent.

17. A review of bank records obtained by the Division indicates that, within six (6) weeks of receipt, the Respondent had spent the entirety of the Investor Funds on expenses unrelated to the Cayman Fund, including but not limited to:

- a. Over \$33,000 in payments made to three (3) unrelated parties;
- b. Over \$11,000.00 in payments made to American Express;
- c. A large payment to Respondent's ex-wife;
- d. Mortgage payments on the Respondent's home;
- e. Car payments and car repairs;
- f. Various expenses related to the housing and care of a horse called *Ah!*

*Bisto.*

18. In connection with his offer and sale of the Cayman Fund to the South Carolina Investor, the Respondent made numerous false and misleading statements and omissions including, but not limited to the following:

- a. Falsely stating that the Investor Funds would be used for investment purposes;

- b. Falsely stating that the South Carolina Investor would receive a better than nine percent (9%) return on his investment;
- c. Omitting to disclose that the Cayman Fund could not legally be offered for sale in South Carolina;
- d. Omitting to disclose that none of the Investor Funds would be invested in the Cayman Fund.

#### **IV. CONCLUSIONS OF LAW**

19. 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 this State.

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

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

22. Pursuant to S.C. Code Ann. § 35-1-402(a), it is unlawful for an individual to transact business as an agent in this State unless that individual is registered or exempt from registration.

23. 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 this State: (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.

24. 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.

25. Pursuant to S.C. Code Ann. § 35-1-604(b), an order issued under § 35-1-604(a) is effective on the date of issuance and must include a statement of any civil penalty or costs of investigation sought, 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 a Respondent, the matter will be scheduled for a hearing.

26. The Cayman Fund investment offered and sold by the Respondent constitutes a security as defined by the Act.

27. The Cayman Fund was neither a federal covered security, exempt from registration, nor registered with the Division and was therefore offered and sold in violation of the Act.

28. The Respondent acted as an unregistered agent in violation of the Act.

29. The Respondent offered and sold securities in this State: (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.

30. It is in the public interest, for the protection of investors, and consistent with the purposes of the Act that the Respondent 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 his 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. The Respondent and every successor, affiliate, control person, agent, servant, and employee of the Respondent, and every entity owned, operated, or indirectly or directly controlled by or on behalf of the Respondent **CEASE AND DESIST** from transacting business in this State in violation of the Act, and, in particular, § 35-1-301, § 35-1-402, and § 35-1-501 thereof; and
- b. The Respondent pay a civil penalty in the amount of \$30,000 if this Order becomes effective by operation of law, or, if the Respondent seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed \$10,000 for each violation of the Act by the Respondent, and the actual cost of the investigation or proceeding.

**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 the Respondent 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 Respondent is hereby notified that he has the right to a hearing on the matters contained herein. To schedule such a hearing, the 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 the Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a request in a record from the Respondent, will schedule the hearing for the Respondent.

In the written Answer, the 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. If the Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation shall, he so state.

Failure by the 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 the Respondent of the right to such a hearing. Failure of the 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 the Respondent by operation of law.

This Order does not prevent the Division or any other law enforcement agency from seeking additional civil or criminal remedies as are available under the Act, including remedies related to the offers and sales of securities by the Respondent set forth above.

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 PURSUANT TO S.C. CODE ANN. § 35-1-508.

ENTERED, this the 28<sup>th</sup> day of August, 2014.

ALAN WILSON  
SECURITIES COMMISSIONER

By: Tracy Meyers  
TRACY A. MEYERS  
Deputy Securities Commissioner

**ISSUANCE REQUESTED BY:**



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

STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
SECURITIES DIVISION

CERTIFICATE OF SERVICE AND  
AFFIDAVIT OF COMPLIANCE  
File Number 13089

I hereby certify that I served upon the individual/entity listed below a copy of the document indicated below and dated August 28, 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:

Mr. Arthur Vann  
Post Office Box 2222  
Aiken, SC 29801

Document(s): Order to Cease and Desist

Mailed August 28, 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  
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 28<sup>th</sup> day of August, 2014.

James Alton Carl  
Notary Public for South Carolina

My commission expires: 3-10-18

