

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

<b>IN THE MATTER OF:</b>	)	
	)	<b>ORDER TO CEASE AND DESIST</b>
<b>William O. Smith and</b>	)	
	)	
<b>BC Fund and Management, LLC,</b>	)	
	)	
	)	<b>File No. 07047</b>
<b>Respondents.</b>	)	
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WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the "Division"), pursuant to authority granted in the South Carolina Uniform Securities Act of 2005 (the "Act"), S.C. Code Ann. § 35-1-101 to 35-1-703 (Supp. 2010), on or about December 28, 2007, received information regarding alleged activities of William O. Smith and BC Fund and Management, LLC (collectively, the "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, in connection with the investigation, the Division has determined that evidence exists to support the following findings and conclusions:

1. Respondent William O. Smith ("Smith") is a South Carolina resident with a last known address of Post Office Box 15993, Myrtle Beach, South Carolina 29587.
2. Respondent BC Fund and Management, LLC ("BC Fund") is a limited liability company registered in South Carolina with a last known address of 401 Broadway, Suite 107, Myrtle Beach, South Carolina 29577.

3. Respondent Smith is the registered agent for Respondent BC Fund.
4. The Respondents, through Respondent Smith, offered credit counseling, credit repair, investment, and other services in and from the State of South Carolina.
5. The Respondents primarily targeted their business efforts at persons they describe as the “blue collar” residents of Horry County, South Carolina.
6. Respondent Smith offered his investment services as a “Financial Consultant” and a “Senior Financial Advisor” through Respondent BC Fund.
7. Respondent Smith strongly encouraged potential BC Fund clients to invest in an investment portfolio controlled by Smith.
8. Respondent Smith encouraged clients investing in the portfolio to make periodic payments to the portfolio following their initial investment.
9. From in or about September, 2005, to at least September, 2007, the Respondents received payments, typically averaging about \$100.00 per month per investor, from three or more South Carolina residents who agreed to invest in the Respondents’ portfolio offering.
10. BC Fund documents reflect a one-year maturity for deposits into the portfolio, with an expected return of twenty-five percent (25%) payable to the investor at the end of the period.
11. Funds given to the Respondents for investment were commingled with operational funds in bank accounts controlled by the Respondents.
12. Funds given to the Respondents for investment were not deposited or used in an investment portfolio controlled by Respondent Smith.
13. When asked by Division staff, Respondent Smith admitted he did not invest funds given to him for investment but, instead, the Respondents used them for other purposes.

14. Respondent Smith was at all times herein in control of Respondent BC Fund and served as its primary agent.
15. Respondent Smith is not and at all times herein was not registered with the Division as an agent, investment advisor or investment advisor representative, or in any other capacity.
16. Respondent BC Fund is not and at all times herein was not registered with the Division as a broker-dealer, an investment advisor, an issuer or issuer agent, or in any other capacity.
17. The shares of the alleged investment portfolio offered and sold by Respondents constitute “securities.”
18. The securities offered and sold by Respondent Smith, on behalf of himself and Respondent BC Fund, are not and at all times material herein were not registered or notice filed with the Division.
19. No claim of exemption from registration has been filed with the Division by either Respondent or on behalf of either Respondent or the securities Respondents recommended, offered and sold in and from this State.

WHEREAS, the shares of the investment fund Respondents recommended, offered and sold constitute “securities” within the meaning of S.C. Code Ann. § 35-1-102(29); and

WHEREAS, the Respondents recommended, offered and sold the securities in and from the State of South Carolina; and

WHEREAS, the securities the Respondents recommended, offered and sold in and from South Carolina were not registered or federal covered securities, and no exemption from registration was asserted on behalf of the securities; and

WHEREAS, the Respondents acted as agents and investment advisers in recommending, offering, and selling the securities in and from South Carolina; and

WHEREAS, the Respondents at the time of the recommendations, offers, and sales of the securities were not registered as agents or investment advisers and no exemption from registration was asserted on behalf of either Respondent; and

WHEREAS, the Respondents, in connection with the recommendations, offers, and sales described above, made untrue statements of material facts and/or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

WHEREAS, based on the foregoing, the Division has determined that the Respondents have engaged, are engaging, and/or are about to engage in acts and practices which violate S.C. Code Ann. §§ 35-1-301, 35-1-401 to 35-1-404, and 35-1-501; and

WHEREAS, after due deliberation, the Division finds that it is necessary and appropriate, in the public interest, for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act to issue the following Order:

**CEASE AND DESIST ORDER**

NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1), IT IS HEREBY ORDERED that each Respondent and every successor, affiliate, control person, agent, servant, and employee of each Respondent, and every entity owned, operated, or indirectly or directly controlled by or on behalf of either Respondent:

- a. Immediately cease and desist from transacting business in this State in violation of the Act, and in particular, S.C. Code Ann. §§ 35-1-301, 35-1-401 to 35-1-404, and 35-1-501;
  - b. Specifically, cease and desist (i) soliciting investment in any BC Fund account located in or contacted from South Carolina, (ii) offering any other security in or from South Carolina, and (iii) collecting fees for investment advice given in or from South Carolina;
- and

- c. Pay a civil penalty in the amount of fifteen thousand dollars (\$15,000.00) per Respondent if this Order becomes effective by operation of law, or, if any Respondent seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.00) for each violation of the Act by that Respondent, and the actual cost of the investigation or proceeding.

#### **REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING**

The Respondents are hereby notified that they have the right to a hearing on the matters contained herein. To schedule 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 a written Answer specifically requesting that a hearing be held to consider rescinding the Order.

In the written Answer, a Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation of the 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 a Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, he shall so state.

Failure by a Respondent to file a written request for a hearing in this matter within the thirty (30) day period stated above shall be deemed a waiver by that Respondent of his 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, 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 PROSECUTION.  
REGARDING MATTERS DESCRIBED HEREIN, THIS ORDER DOES NOT PRECLUDE THE  
FILING OF PRIVATE CAUSES OF ACTION OR THE FILING OF CRIMINAL CHARGES  
UNDER S.C. CODE ANN. § 35-1-508 OR ANY OTHER APPLICABLE CODE SECTION.

**SO ORDERED**, this 2<sup>nd</sup> day of March, 2011.

  
Tracy A. Meyers  
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Securities Division  
Office of the Attorney General  
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Columbia, S. C. 29201