

ADMINISTRATIVE PROCEEDING

BEFORE THE

SECURITIES COMMISSIONER OF SOUTH CAROLINA

IN THE MATTER OF:

**Robert E. Smithfield
(a/k/a “Robert E. Smith”),**

and

Marlton Acceptance Corporation,

Respondents.

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**SUMMARY
ORDER TO CEASE AND DESIST**

File No. 09088

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. 2009), in or around December 2009, received information regarding alleged activities of Robert E. Smithfield (“Smithfield”) and Marlton Acceptance Corporation (“Marlton”), which could constitute violations of the Act;

WHEREAS, the information led the Division to open and conduct an investigation of Smithfield and Marlton (collectively, the “Respondents”) pursuant to S.C. Code Ann. § 35-1-602 (Supp. 2009); and

WHEREAS, in connection with the investigation, the Division has determined that evidence exists to support the following findings and conclusions:

1. Respondent Smithfield is a Pennsylvania resident and the founder of Respondent Marlton.
2. Upon information and belief, Smithfield's last known home address is 302 South Manor Street, Mountville, Pennsylvania 17554.
3. Respondent Marlton was organized as a New Jersey corporation on May 12, 2005. Marlton is currently listed as an active corporation.
4. In or about September 2006, Smithfield offered investors located in the State of South Carolina (the "Investors") the opportunity to invest in Marlton.
5. The Investors were told that Marlton offered high-yield investment plans from which the Investors would receive monthly interest payments.
6. Smithfield promised the Investors interest rates of 18% to 24% to be paid monthly. The interest rates depended on whether the Investors chose to invest in the "Retail Plan" or the "Floor Plan."
7. Smithfield told the Investors that all investments had to be made in his name and that the investors would have to reimburse him for the taxes he paid on the interest.
8. On or about October 24, 2006, the Investors made an initial investment of \$30,000.00. The check was made payable to Smithfield and was designated "For Marlton Floor Plan Investment."
9. In return for their investment, Smithfield gave the Investors a "Demand Promissory Note" (the "First Note"). The First Note indicated it was "immediately payable UPON DEMAND" and represented that the Investors would receive 24% on their investment of \$30,000.00.

10. The Investors' initial investment check was received into Smithfield's family bank account on October 26, 2006.
11. On or about December 1, 2006, the Investors made a second investment of \$15,000.00. The check was made payable to Smithfield and was designated "For Investment Retail Finance."
12. In return for the investment, Smithfield signed a second "Demand Promissory Note" (the "Second Note"). The Second Note was "immediately payable UPON DEMAND" and represented that the Investors would receive 18% interest on their investment of \$15,000.00.
13. On December 7, 2006, the Investors' second investment check was received into Smithfield's family bank account.
14. A week later, on December 15, 2006, Smithfield sent the Investors their first interest check in the amount of \$600.00.
15. The investors made a third investment of \$15,000.00 on September 6, 2007. The check was made payable to Smithfield and was designated "For Marlton Acpt. Corp. Retail Finance."
16. In return for the investment, Smithfield signed a third "Demand Promissory Note" (the "Third Note"). The Third Note indicated it was also "immediately payable UPON DEMAND" and represented that the investors would receive 18% interest on their investment of \$15,000.00.
17. On or about September 11, 2007, the Investors' third investment check was received into Smithfield's family bank account.
18. All of the Investors' investment checks were mailed from South Carolina to Smithfield's home address, at Smithfield's insistence.

19. In or about late 2007 until late 2008, the Investors began receiving Smithfield's interest payments in an irregular manner.
20. The Investors became suspicious and demanded that Smithfield return their investments.
21. Smithfield provided the Investors with a number of excuses but never repaid their investment funds.
22. From late 2006 until 2008, the Investors invested \$60,000.00 with Smithfield and paid \$2,160.00 to reimburse Smithfield for taxes paid on the investment interest. During approximately the same period, but ending abruptly on or around August 24, 2008, Smithfield made a series of payments to the Investors totaling approximately \$16,590.00 in what he called "interest payments."
23. Bank records show that Smithfield deposited all of the Investors' money into a family bank account and never invested any money in his name or the Investors' name.
Specifically, during the relevant time periods:
 - a. No transfers or checks were written on the family bank account for the stated purpose of investing in Marlton, nor were there any transactions that appear to be an investment in Marlton;
 - b. No deposits into Smithfield's family bank account appear to be interest payments from Marlton or any other investment opportunity;
 - c. Cash withdrawals were made from the family bank account following deposit of the Investors' funds, and the Investors' funds were the source of some of the cash withdrawals;
 - d. Periodic interest payments were made to other investors from the Investors' funds;
and

- e. Many of Smithfield's personal obligations, including college tuition and other needs, were paid using the Investors' funds.
24. Bank records also fail to disclose any of the tax burdens Smithfield claimed to bear as a result of the Marlton investment, and for which Smithfield required the Investors to reimburse him.
25. Smithfield failed to disclose to the Investors that Marlton was established on paper only and was never a functioning corporation.
26. The Investors invested with Smithfield as a result of the representations he made to them which, at the time of Smithfield's solicitation, were false.
27. As a result of Smithfield's misrepresentations, the Investors lost a total of \$45,570.00, plus any interest that would have been earned on their money if the investment had been legitimate.
28. Smithfield misrepresented that he would use the Investors' money to invest in one of Marlton's high yield investment plans. Smithfield did not use the Investors' funds to invest in a Marlton high yield investment plan.
29. Smithfield diverted the Investors' funds for his personal use, which included supporting his family.
30. Smithfield made false statements to the Investors by telling them that he was required to pay taxes on the investments and that the Investors were required to reimburse him.
31. Smithfield falsely represented to the Investors that the First, Second and Third Notes were "immediately payable UPON DEMAND." Following investment, when the Investors demanded the return of their principal, Smithfield did not repay the principal.
32. Smithfield made a false statement to the Investors by telling them that he would pay them monthly interest payments based on the return generated on their investment.

Smithfield failed to pay the Investors all of the investment interest due, and what was paid appears to have come from sources other than any return generated on their investment.

33. The investment opportunity as presented by Smithfield to the Investors was passive. The Investors were not required to do anything other than provide Smithfield investment funds. Upon receipt of such funds, Smithfield represented he would invest them with Marlton and his efforts would be determinative in the success of the opportunity.
34. Neither Smithfield nor the investment opportunity was registered, federally covered, or exempt from registration at the time of the investment opportunity offer and sale in this State.

WHEREAS, the Notes described are “securities” within the meaning of S.C. Code Ann. § 35-1-102(29) (Supp. 2009); and

WHEREAS, the securities were offered and sold by Respondents Smithfield and Marlton in the State of South Carolina; and

WHEREAS, the securities were not (i) registered, (ii) federal covered securities, or (iii) exempt from registration under the Act; and

WHEREAS, Respondent Smithfield was not registered or exempt from registration as an agent authorized to offer and sell securities in this State; and

WHEREAS, Respondent Smithfield acting on his own behalf and on behalf of Respondent Marlton, in connection with the offer and sale of the securities in this State 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 Respondents Smithfield and Marlton have engaged, are engaging, and/or are about to engage in acts and practices which violate S.C. Code Ann. §§ 35-1-301, 35-1-402(a) and 35-1-501 (Supp. 2009); 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) (Supp. 2009), IT IS HEREBY ORDERED that Respondents Smithfield and Marlton:

- a. Immediately cease and desist from transacting business in this State in violation of the Act, and in particular, Sections 35-1-301, 35-1-402(a) and 35-1-501 (Supp. 2009) thereof; and
- b. Pay a civil penalty in the amount of ten thousand dollars (\$10,000.00) per Respondent if this Order becomes effective by operation of law, or, if a Respondent seeks a hearing and a hearing officer or any other legal authority resolves this matter, said Respondent pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.00) for each violation of the Act by the 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 each 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 this Order.

In the written Answer, the 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 the 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 (SUPP. 2009) OR OTHER
APPLICABLE CODE SECTION.

SO ORDERED, this 13th day of May 2010.



Michael S. Traynham
Assistant Attorney General
Securities Division
Office of the Attorney General
Rembert C. Dennis Building
1000 Assembly Street
Columbia, S. C. 29201
(803) 734-4731