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## ARKANSAS SECURITIES DEPARTMENT

**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

Date: February 28, 2013  
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### **ARKANSAS SECURITIES COMMISSIONER APPROVES CONSENT ORDER FINING NEW YORK BROKER-DEALER AND AGENT**

On February 27, 2013, Arkansas Securities Commissioner A. Heath Abshure ("Commissioner") approved a Consent Order ("Order") with the Arkansas-registered broker-dealer firm of J.D. Nicholas & Associates, Inc. f/k/a A&F Financial Securities, Inc. ("J.D. Nicholas"), of Syosset, New York, and its agent, Gregory Thomas Dean ("Dean") (collectively "Respondents") of Seaford, New York, for violations of the Arkansas Securities Act ("Act") and the Rules of the Arkansas Securities Commissioner ("Rules").

The Order found that on September 22, 2011, an Arkansas resident and Senior Examiner with the Department ("AR1") received an unsolicited telephone call from Dean on their home telephone number, which was registered on the United States Federal Trade Commission's ("FTC") National Do Not Call Registry ("Do Not Call Registry"). The Commissioner found that further investigation into J.D. Nicholas' telemarketing-compliance procedures showed that J.D. Nicholas and its agents had placed a number of telemarketing calls to Arkansas residents whose telephone numbers were on the Do Not Call Registry, in violation of the Act, Rules, and certain conduct rules of the Financial Industry Regulatory Authority ("FINRA"), the federal self-regulatory organization for securities firms in the United States.

The Order also found that from March 2008 through November 2011 J.D. Nicholas charged its Arkansas customers a standard, non-discretionary "postage and handling" fee of \$65.00, which brought in a total of \$17,875.00 to the firm. While J.D. Nicholas used \$3,347.40 to pay actual transaction-related business costs, J.D. Nicholas retained \$14,527.60 of the fees as an undisclosed, transaction-based commission to the firm.

The Commissioner directed the Respondents to cease and desist from further activity in violation of Act and Rules. The Commissioner fined Dean \$10,000.00 for his unsolicited telemarketing call to AR1, in violation of Ark. Code Ann. § 23-42-308(a)(2)(G) regarding dishonest and unethical practices in the securities business. J.D. Nicholas was fined \$17,500.00 for its failure to enforce its system to supervise the activities of its agents in order to prevent its agents from violating Do-Not-Call-Registry restrictions and FINRA telemarketing rules, in violation of Ark. Code Ann. §§ 23-42-301(f)(1) and 23-42-308(a)(2)(J) regarding reasonable supervision of broker-dealer agents. J.D. Nicholas was also required to reimburse its Arkansas customers who were charged the total of \$14,527.60 in undisclosed fees, in violation of Ark. Code Ann. § 23-42-308(a)(2)(G) and Rule 308.01(c) of the Rules.

Arkansas residents are advised that telemarketers, including broker-dealer firms and their agents, are required to comply with the FTC's Do-Not-Call-Registry restrictions. Arkansas residents who receive unwanted telemarketing calls from investment firms, and anyone with additional information regarding J.D. Nicholas or Dean, are encouraged to contact Amber E. Crouch, Staff Attorney, at 501-324-8677.

The Order is accessible online at the Department's website, [www.securities.arkansas.gov](http://www.securities.arkansas.gov), Order No. S-12-0018-13-OR01, In the Matter of J.D. Nicholas & Associates, Inc. f/k/a A&F Financial Securities, Inc. and Gregory Thomas Dean.