

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF
TIMOTHY ALONZA LILLY, DAVID LARRY PUCKETT,
JOE A. RICHARDS and FIRST FIDELITY FINANCIAL
GROUP OF MAUMELLE, LLC

Case No. S-08-043
No. S-08-043-08-CD01

CEASE AND DESIST ORDER

On May 22, 2008, the Staff of the Arkansas Securities Department (“Staff”) filed its Request for Cease and Desist Order (“Request”), stating that it has information and certain evidence which indicates that Timothy Alonza Lilly, David Larry Puckett, Joe A. Richards, First Fidelity Financial Group of Maumelle, LLC, and others unknown to the Staff connected with Timothy Alonza Lilly, David Larry Puckett, Joe A. Richards, First Fidelity Financial Group of Maumelle, LLC and/or business entities owned and/or controlled by any of them (collectively, the “Respondents”) have violated provisions of the Arkansas Securities Act (“Act”), codified at Ark. Code Ann. §§ 23-42-101 through 23-42-509. The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request, and based upon the representations made therein, finds:

FINDINGS OF FACT

1. The Staff’s Request asserts the following representations of fact:
 - A. Timothy Alonza Lilly is a licensed insurance agent and a resident of Maumelle, Arkansas.
 - B. David Larry Puckett is licensed as an insurance agent and a resident of Maumelle, Arkansas. He works with Lilly.

- C. Joe A. Richards is a licensed insurance agent and a resident of Greenbrier, Arkansas. He works with Lilly.
- D. First Fidelity Financial Group of Maumelle, LLC, (“First Fidelity”) is an Arkansas limited liability company owned and formed by Lilly on March 17, 2008. Its present address is 650 Edgewood Drive, Suite 100, Maumelle, Arkansas 72113.
- E. The Staff has in its possession a copy of a newspaper advertisement of First Fidelity advertising “FDIC-Insured CD’s” (certificates of deposit), a 4.75% annual percentage yield, and the reports of several consumers who were considering whether to invest with First Fidelity. Fine print in the advertisement states that First Fidelity does not sell certificates of deposit, but locates banks selling certificates of deposit and that “promotional incentive may be included to obtain yield.” A copy of the advertisement that ran in the *Arkansas Democrat Gazette* on May 14, 2008, is attached to the Staff’s Request as Exhibit A. Investigation of First Fidelity’s office shows that many Arkansas residents are responding to this advertisement, which apparently has been running for several weeks.
- F. In order to achieve the yield advertised on a one-year certificate of deposit, the Respondents must add money to the principal amount. Prospective investors are told that additional money will be added to FDIC-insured bank certificates of deposit. The Respondents give investors wanting to purchase an advertised certificate of deposit a document entitled “Certificate of Deposit Bonus Disclosure.” One such document executed on May 8, 2008, reflects that the certificate of deposit being sold is issued by a bank paying an “Annual Percentage Yield of 3.51%.” In the next paragraph of this form it is revealed that although the

investor is writing First Fidelity a check for \$30,000, his “FDIC insured Certificate of Deposit account will be opened for \$30,118.75.” The next sentence states that with the addition of the \$118.75, the investor will realize a 4.75% annual percentage yield on his \$30,000 investment.

G. For investors to receive the quoted yields, First Fidelity would have to create new terms not offered by the FDIC-insured bank that actually issues the certificate of deposit. These certificates of deposit are securities issued by First Fidelity and not certificates of deposit issued by the FDIC-insured bank. The bank only issues a certificate of deposit paying 3.51%, and that amount of risk is insured by the FDIC. There are two risks involved with First Fidelity’s addition of principal that are not insured, to wit:

- i. The possibility that First Fidelity will not make the deposit of additional principal, and
- ii. The possibility that First Fidelity will make a deposit of additional principal in an amount insufficient for the investor to realize an annual yield of 4.75% on his or her investment.

H. The Staff’s investigation of First Fidelity’s office shows that these risks were realized:

- i. Of twenty-three files examined in which investors purchased these certificates of deposit, the required deposits were not made in sixteen cases.
- ii. Of seven files examined where the deposits of additional principal were made, the deposits were insufficient to generate an annual yield of 4.75%

in two cases. The example discussed in ¶ 1.f above is an example of an insufficient deposit of additional principal.

- I. These First Fidelity securities delivering 4.75% annual yields are not registered with the Arkansas Securities Department (“Department”), and no proof of exemption appears in the records of the Department.

CONCLUSIONS OF LAW

2. The definition of security includes both an investment contract and evidence of indebtedness. ARK. CODE ANN. §§ 23-42-102(15)(A)(xi) and (vi). Respondents are offering a security in the form of an investment contract whereby potential investors were led to expect to make money based on the efforts of the Respondents to create a security paying a 4.75% annual percentage yield from a bank-issued certificate of deposit paying less than a 4.75% annual percentage yield. These securities also constitute evidences of indebtedness whereby an investor holds a promise to pay back his investment, plus a return on the investment expressed as an annual percentage yield.

3. It is unlawful for any person to offer or sell any security which is not registered or which is not exempt from registration under the terms of the Act. ARK. CODE ANN. § 23-42-501. The securities offered by the Respondents were not registered or exempt from registration under the Act. Accordingly, Respondents have violated and continue to violate Ark. Code Ann. § 23-42-501.

4. It is unlawful for any person in connection with the offer or sale of any security to make any untrue statement or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which they are made. ARK. CODE ANN. § 23-42-507(2). Respondents tell potential investors that First Fidelity is offering an

FDIC-insured certificate of deposit paying a 4.75% annual yield. This statement is a false statement made in connection with the offer or sale of a security. The banks selling the certificates of deposit are not paying a 4.75% annual yield on FDIC-insured certificates of deposit. Respondents also tell potential investors that they will realize a 4.75% annual yield by First Fidelity's deposit of additional principal. This statement is a false statement made in connection with the offer or sale of a security. Respondents either made no deposit of additional principal or made a deposit of additional principal in an amount insufficient to realize an annual yield of 4.75%. Accordingly, Respondents have violated and continue to violate Ark. Code Ann. § 23-42-507(2).

5. Whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory to the Commissioner, that any person has engaged or is about to engage in any act or practice violating the Act, or any rule or order under the Act, the Commissioner may summarily order the person to cease and desist from the act or practice. ARK. CODE ANN. § 23-42-209(a)(1)(A). Based on the Findings of Fact and Conclusions of Law, this Order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-42-209.

OPINION

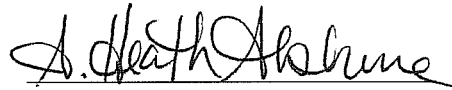
IT IS ORDERED that Timothy Alonza Lilly, David Larry Puckett, Joe A. Richards, First Fidelity Financial Group of Maumelle, LLC, as well as others whose identities are not yet known who are employed by or otherwise affiliated with Timothy Alonza Lilly, David Larry Puckett, Joe A. Richards, First Fidelity Financial Group of Maumelle, LLC, directly or through other business entities owned or controlled by any of these individuals or that entity, CEASE AND DESIST from the acts and practices set forth above which violate the Arkansas Securities Act and the Rules and Orders promulgated pursuant to the Arkansas Securities Act.

A hearing on this Order shall be held if requested by the Respondents in writing and such written request is received by the Commissioner within thirty days of the date of the entry of this Order, or if ordered by the Commissioner. Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner
201 East Markham
Suite 300
Little Rock, Arkansas 72201

If no hearing is requested and none is ordered by the Commissioner, this Order will remain in effect until it is modified or vacated by the Commissioner. ARK. CODE ANN. § 23-42-209(a)(2).

WITNESS MY HAND AND SEAL this 23rd day of May, 2008.



A. Heath Abshure
Arkansas Securities Commissioner