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## ARKANSAS SECURITIES DEPARTMENT

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### FOR IMMEDIATE RELEASE

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### ARKANSAS SECURITIES COMMISSIONER IMPOSES FINES AND SANCTIONS AGAINST LITTLE ROCK INVESTMENT FIRM AND TWO BROKERS

Arkansas Securities Commissioner A. Heath Abshure has issued a Consent Order imposing fines and sanctions against a Little Rock brokerage firm, Apple Tree Investments, Inc. ("Apple Tree"), and two of its brokers, Steve Kiefer and Mitch Tapson. The Order resolves a year-long investigation by the Staff of the Arkansas Securities Department into fraudulent mutual fund sales practices by Apple Tree, Tapson, and Kiefer.<sup>1</sup>

As part of the Order, Kiefer will pay a fine of \$50,000 and will be suspended for 14 days from acting as a broker. Kiefer, who is President of Apple Tree, will also be prevented from acting in any supervisory capacity at Apple Tree for one year. Tapson, who is no longer employed by Apple Tree, will pay a fine of \$5,000 and will be suspended from acting as a broker in any capacity until he is able to obtain employment with a firm that will provide "heightened supervision" of his trading activity for a period of one year.

In addition to the sanctions imposed against Kiefer and Tapson, Apple Tree must hire a new licensed supervisor with responsibility for the supervision of all sales of securities at Apple Tree. Further, Apple Tree must revise its policies and procedures regarding mutual fund disclosures to customers and revise all procedures for training brokers in the sale of mutual funds. Finally, Apple Tree must notify all of its current and former customers in writing of the Order and must include with the notification a detailed "Mutual Fund Disclosure" identifying numerous issues that Kiefer and Tapson failed to disclose to customers.

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<sup>1</sup> In addition to being the owner and President of Apple Tree, Kiefer is the host of "The Steve Kiefer Show" on KARN Newsradio 102.9 FM. Kiefer also hosts a television show titled "You, Me and Wall Street" which airs on AETN.

The Staff's investigation focused on deceptive sales practices utilized by Kiefer and Tapson in the sale of mutual funds. When an investor purchases shares of a mutual fund, the mutual fund company imposes a "sales charge" or "load" based on the amount of the investment and the type of shares purchased. For some types of mutual fund shares, the sales charge may be imposed at the time of the initial investment, which is commonly referred to as a "front-end load." The most common types of "front-end load" shares are Class A shares. For other types of mutual fund shares, the sales charge may be imposed at the time the investor sells the shares, which is commonly referred to as a "back-end load." The most common types of "back-end load" shares are Class B and Class C shares. In addition to the sales charge imposed on investors, mutual funds also allocate a portion of the fund's annual expenses to each class of shares, thereby passing along those annual expenses to the shareholders. It is widely recognized that investors holding Class A mutual fund shares pay substantially lower annual expenses than investors holding Class B and Class C mutual fund shares.

The investigation revealed that Kiefer and Tapson repeatedly recommended that customers with substantial investment funds purchase Class B or Class C mutual fund shares, when Class A shares would have been a more suitable investment. Many of the investors solicited by Kiefer and Tapson were not sophisticated and were retired or close to retirement. In numerous instances, Kiefer and Tapson failed to disclose to these customers the substantial economic advantages in purchasing Class A shares, including the fact that the customers would have been eligible for substantial discounts (known as "breakpoints") and would have been subjected to lower annual expense charges. Kiefer and Tapson also failed to disclose to these customers that an equivalent investment in Class A shares would have resulted in higher returns on their investment. The Staff believes that Kiefer and Tapson were motivated by personal financial gain. As a result of these customers' purchases of Class B and Class C shares, Kiefer and Tapson received greater commissions than they would have earned had the customers purchased Class A shares.

"Today's enforcement action puts brokers on notice that investors must be sold an appropriate class of mutual fund," said Reed Edwards, Staff Attorney for the Arkansas Securities Department. "In recommending mutual funds to customers that offer different share classes, brokers must consider the costs for each class and the effect those costs will have on a customer's investment, and recommend the share class that is most advantageous to the customer. A failure to do so can result not only in the customer being deprived of a benefit to which he or she is entitled, but also in the broker receiving increased commissions at the customer's expense."

Any individuals with questions regarding Apple Tree Investments, Inc., Steve Kiefer, or Mitch Tapson should contact Reed Edwards with the Arkansas Securities Department at (501) 324-8670. A copy of the Order is located on the Department's website: [www.securities.arkansas.gov](http://www.securities.arkansas.gov). See *In re Apple Tree Investments, Inc., et al.*, Order No. S-09-037-09-CO01 (December 8, 2009).