

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION

A. HEATH ABSHURE,
ARKANSAS SECURITIES COMMISSIONER

PLAINTIFF

v.

No. **CV-2008-8624**

TERRY MITCHELL, d/b/a
ADVANTAGE FINANCIAL SERVICES

DEFENDANT

Filed 07/29/08 09:19:55
Pat O'Brien Pulaski Circuit Clerk
CRS By _____

COMPLAINT

Comes now the plaintiff, A. Heath Abshure, Arkansas Securities Commissioner, by and through counsel, Theodore Holder, Assistant Commissioner, and Scott S. Freydl, Staff Attorney, and for his complaint alleges the following:

PARTIES

1. A. HEATH ABSHURE (Commissioner) is the Arkansas Securities Commissioner, duly appointed in accordance with Ark. Code Ann. § 23-42-201(a) (Repl. 2000). He is charged with the administration of the Arkansas Securities Act (Act), codified at Ark. Code Ann. § 23-42-101 *et seq.* (Repl. 2000).
2. TERRY MITCHELL (Mitchell) was at all times mentioned herein a duly licensed independent insurance agent located in Greenbrier, Arkansas, doing business as Advantage Financial Services. He is not and never has been registered with the Arkansas Securities Department (Department) in accordance with the Act to deal in securities in any way, either as a broker-dealer, an agent or an investment adviser.

JURISDICTION and VENUE

3. This is an action brought pursuant to the Act, specifically Ark. Code Ann. § 23-42-209 (Repl. 2000), which permits the Commissioner to seek injunctive relief to enforce orders issued pursuant to the Act and relief ancillary to injunctive relief as may be appropriate in the public interest, including, but not limited to obtaining an accounting, disgorgement and the assessment of a fine.
4. This court has jurisdiction pursuant to Ark. Code Ann. § 23-42-209(a)(3) (Repl. 2000).
5. Venue is proper in this court pursuant to Ark. Code Ann. § 23-42-209(a)(3) (Repl. 2000).

FACTUAL ALLEGATIONS

6. On March 20, 2008, Mitchell entered into a consent order with the Commissioner agreeing to pay back four (4) Arkansas investors \$43,000 plus 6% interest per annum from the date of their investments by on or before June 16, 2008. Mitchell also agreed to pay a \$10,000 fine to the Arkansas Securities Department by the same date. The Commissioner found that Mitchell had sold unregistered securities and committed securities fraud by material omission, violations of Act found at Ark. Code Ann. §§ 23-42-501 and 507(2), respectively. Acknowledged in the order was Mitchell's payment to the four (4) investors of one-half of their investments.
7. On May 13, 2008, Mitchell entered into an amended and substituted order with the Commissioner agreeing to pay back the original four (4) investors, plus three more investors who had been discovered since the original order was entered. With the addition of the three additional investors, the total Mitchell agreed to pay back with 6% interest rose to \$72,000.

The amount of the fine remained the same. The date by which the restitution was to have been made and the fine paid remained June 16, 2008. A copy of the amended and substituted order is attached hereto as Exhibit A.

8. When June 16, 2008 came, Mitchell had failed to make any further payments to the investors as he had agreed to pay them in the amended and substituted order, and he had not paid any amounts toward the fine.

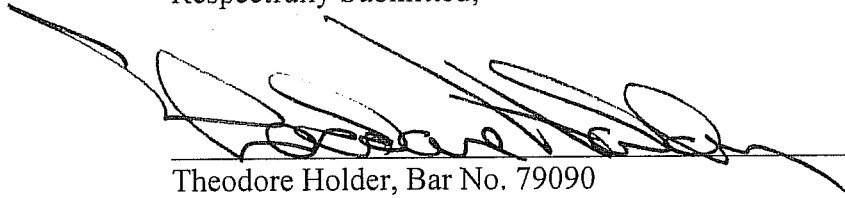
VIOLATION and RELIEF REQUESTED

NONCOMPLIANCE WITH CONSENT ORDER ISSUED BY SECURITIES COMMISSIONER

9. Consent orders such as the one under discussion herein, attached hereto as Exhibit A, are authorized under Ark. Code Ann. § 23-42-209(c) (Repl. 2000)
10. The plaintiff realleges and incorporates by reference all factual allegations set forth in ¶¶ 6-8.
11. The facts set out in ¶¶ 6-8 of this complaint show that the defendant has failed to comply with the amended and substituted consent order of May 13, 2008, which entitles the Commissioner to apply to this court to enforce compliance with his order of May 13, 2008.

WHEREFORE, the Plaintiff, the Commissioner, respectfully requests this Court to enter an order granting an injunction to enforce the Amended and Substituted Consent Order attached hereto, directing the Defendant to repay the Arkansas investors with interest, directing the Defendant to pay a \$10,000 fine to the Arkansas Securities Department and for all other relief as may be appropriate in the public interest.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Theodore Holder', written over a horizontal line.

Theodore Holder, Bar No. 79090
ASSISTANT COMMISSIONER

Scott S Freydl, Bar No. 93-100
STAFF ATTORNEY

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