

**BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO S-10-061
ORDER NO. S-10-061-11-OR01**

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF

NATHAN CALHOUN

RESPONDENT

CONSENT ORDER

This Consent Order (“Order”) is entered pursuant to the Arkansas Securities Act, Ark. Code Ann. §§ 23-42-101 through 23-42-509 (“Act”), the Rules of the Arkansas Securities Commissioner (“Rules”), and the Arkansas Administrative Procedures Act, Ark. Code Ann. §§ 25-15-101 through 25-15-219, in accordance with an agreement by and between the Staff of the Arkansas Securities Department (“Staff”) and the Respondent, Nathan Calhoun (“Calhoun” or “Respondent”), Central Registration Depository (“CRD”) # 716257.

I. INTRODUCTION

1. Respondent has advised the Staff of his agreement to resolve the investigation of these matters, to consent to the entry of this Order, and to abide by its terms.
2. Respondent admits the jurisdiction of the Act and the Arkansas Securities Commissioner (“Commissioner”) and voluntarily and permanently waives any right to a hearing and appeal under the Act and the Arkansas Administrative Procedures Act with respect to this Order.

II. STATEMENT OF FACTS

3. At all times relevant to this matter, Calhoun was a resident of Pulaski County, Arkansas. His last known address is in Little Rock, Arkansas.
4. From September 11, 2006 through October 1, 2008, Calhoun was registered as an agent with NFP Securities, Inc. (“NFP”), a broker-dealer registered in Arkansas.

5. Calhoun is not currently registered as a broker-dealer agent, agent of an issuer, investment adviser, or investment adviser representative in Arkansas or any other jurisdiction.
6. Calhoun had previously been registered as a broker-dealer agent in 2004, but was not registered with any broker-dealer from September 2004 until September 2006.
7. On an employment application form completed in December 2005 to apply for employment with NFP, Calhoun disclosed he was involved in business activities involving investments in a foreign exchange trading program operated by MexBank (“MexBank”, “MexGroup”, or “MBFX”), which he described as a private bank in Mexico. Calhoun stated his business activity involving MexBank was a private home based activity. A search of records for MexBank, MexGroup, and MBFX by the Staff found no record that any of the entities is a regulated financial institution in Mexico.
8. While registered as a broker-dealer agent with NFP in March 2008, Calhoun recommended and facilitated the purchase of a pooled investment in a foreign exchange trading program sold by MBFX (“MexBank pooled investment”) to AR1, a resident of Little Rock, Arkansas. A March 9, 2008, email from Calhoun to AR1 touted high annual return rates for the MexBank pooled investments. In making the recommendation Calhoun claimed to have personally invested in the securities. AR1 followed Calhoun’s instructions and used Calhoun’s name and home phone number to invest \$30,000 in a MexBank pooled investment.
9. While registered as a broker-dealer agent with NFP in May 2008, Calhoun recommended and facilitated the purchase of a MexBank pooled investment to AR2, a resident of Little Rock, Arkansas. Based on the recommendations and instructions of Calhoun, AR2 wired \$100,000 to a MexBank account on May 5, 2008, to be invested in a MexBank pooled investment. AR2

followed Calhoun's instructions and used Calhoun's name and home phone number to make the purchase with MexBank.

10. In September 2008, AR1 received a copy of a lengthy email from Calhoun that originated from MexGroup. Most of the body of the email discussed the current global financial market instability and reassured investors that the MexBank pooled investments were safe. The email was originally sent to Calhoun and ended by stating the purpose was to provide Calhoun with reassuring information to provide his clients and to thank him for directing his clients to MBFX.

11. Later in September 2008, Calhoun assisted with arrangements for AR1 to travel from Little Rock, Arkansas to Mexico City, Mexico to meet with officers and executives associated with MexBank. The trip was made as AR1 considered making an additional investment in the MexBank pooled investments. In assisting with the arrangements for AR1 to travel to Mexico, Calhoun corresponded by email with Gary McDuff ("McDuff"). McDuff was Calhoun's contact person with MexBank. For AR1's trip to Mexico, McDuff provided hotel recommendations, arranged for a company limosine to meet AR1 at the airport, and set up meetings for AR1 with the President and Chief Operating Officer of MexGroup.

12. On October 10, 2008, Calhoun sent AR1 a document offered as an additional explanation of the MexBank investment opportunities. The document touted return rates for MexBank pooled investments of 45% in 2006 and 29% in 2007. The document also claimed that the securities guaranteed above market profits and had full principal protection.

13. On December 10, 2008, AR2 received an email letter from a web address identified as "mexgroup.com" regarding the loss of principal in MBFX accounts. The MBFX email contained statements by MBFX that attempted to explain the losses incurred by investors. On December 10, 2008, Calhoun sent an email to AR1 and other investors with MBFX regarding the loss of

their investments. In his email, Calhoun referenced lengthy conversations with McDuff about the losses.

14. A search of records of the Arkansas Securities Department by the Staff found no record of a securities registration filing, exemption filing, or notice of exemption filing for MexBank pooled investments or any other securities issued by MexBank, MexGroup, or MBFX.

15. The Securities and Exchange Commission (“SEC”) filed a civil complaint in November 2010 against three United States citizens involved in the sale of MexBank pooled investments to United States investors. The SEC complaint stated that MBFX, also known as the MexGroup or MexBank, attracted investors by, among other things, paying United States sales agents to direct investors to the MBFX website. To invest in the MexBank pooled investments, United States customers were required to designate their United States based introducer or contact person when they accessed the MexBank website. This allowed MexBank to compensate the sales agents for their sales.

16. The SEC complaint stated that activities of the named United States based sales agents were fraudulent, the offering documents used by MBFX and the sales agents to promote and sell the pooled investments were fraudulent, and the rates of return advertised by MBFX were inflated and fraudulent. Further, the SEC asserted that Gary McDuff, a United States citizen residing in Mexico, was the moving force behind MexBank and sales of the MexBank pooled investments.

17. McDuff was convicted on two counts of money laundering in federal court in 1994 and is presently a defendant in a pending SEC action involving a “high yield” investment scheme. During the discovery process for the SEC’s proceeding against him, McDuff fled the United States to Mexico to avoid a subpoena enforcement action by the SEC. In June 2009, McDuff was

indicted on additional federal criminal charges stemming from a United States based ponzi scheme he operated that involved United States investors.

18. Calhoun either knew or should have known these facts about McDuff, and the MexBank securities that he recommended and sold. Calhoun failed to inform his clients of McDuff's background as a felon and that MexBank was not a regulated financial institution in Mexico. Calhoun also told his clients of annual return rates of 45% in 2006 and 29% in 2007 for the MexBank securities, while financial records for MexBank reflect net losses of over \$1.6 million in 2006 and over \$4.5 million in 2007 for the MexBank pooled investments.

19. A regulatory action by the Financial Industry Regulatory Authority, ("FINRA"), based on Calhoun's actions that led to the \$30,000 loss incurred by AR1 from the MexBank investment was entered against Calhoun in May 2010. According to a CRD filing, the registration of Calhoun with FINRA was suspended and a fine levied pursuant to a consent agreement between Calhoun and FINRA.

20. Calhoun recommended and facilitated the sales of the unregistered non-exempt MexBank pooled investments to both AR1 and AR2. Calhoun made untrue statements of material fact and omitted to disclose material facts when he recommended the MexBank securities to his clients. Both AR1 and AR2 lost the entire amount of money they invested in the MexBank pooled investments.

21. The actions by Calhoun, to effect securities transactions that were not on the books or records of his registered broker-dealer, were prohibited practices as set out in Rule 308.01(R) of the Rules of the Arkansas Securities Commissioner. The practice, known as "selling away," is prohibited by FINRA regulations, Rule 3040, as well.

III. CONCLUSIONS OF LAW

22. The Commissioner has jurisdiction over this matter pursuant to Ark. Code Ann. § 23-42-209.
23. Calhoun recommended and sold MexBank pooled investment securities in Arkansas that were not registered, exempted from registration, nor covered securities, in violation of Ark. Code Ann. § 23-42-501.
24. Information and recommendations Calhoun provided to Arkansas investors concerning the value of the MexBank securities and the advisability of investing in or purchasing the securities contained untrue statements of material fact and omitted to state necessary material facts in violation of Ark. Code Ann. § 23-42-507.
25. Ark. Code Ann. § 23-42-209(c) allows for an informal disposition of a proceeding or allegations by settlement or consent.
26. The Commissioner finds the following relief appropriate and in the public interest.

IV. ORDER

On the basis of the Statement of Facts, Conclusions of Law, and Respondent's consent to the entry of this Order, IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the Staff and any other action that the Staff could commence under applicable Arkansas law on behalf of the State of Arkansas relating to the actions of Calhoun in unlawfully offering and selling securities in this state.
2. Calhoun will cease and desist from offering or selling any security in Arkansas that is not registered, exempted from registration, or a covered security in violation of the Act.
3. Calhoun will cease and desist from making untrue statements of material fact or omitting

to state necessary material facts in connection with the offer, sale, or purchase of a security in violation of the Act.

4. Calhoun will not apply or reapply for registration as a broker-dealer agent or investment adviser representative in Arkansas.

DATED this 26th day of July, 2011.

BY ORDER OF THE ARKANSAS SECURITIES COMMISSIONER


A. Heath Abshire, Commissioner

CONSENT TO ENTRY OF ORDER

Nathan Calhoun hereby acknowledges that he has been served with a copy of this Order, has read the foregoing, is aware of his right to a hearing and appeal in this matter, and has waived the same.

DATED this 26th day of July, 2011.

By: Nathan Calhoun
Nathan Calhoun

Submitted on behalf of the Staff of the Arkansas Securities Department this 26th day of July, 2011.

By: David H. Smith
David H. Smith, Chief Counsel