

**STATE OF ARKANSAS  
SECURITIES DEPARTMENT**

IN THE MATTER OF

MACE DAVID HOWELL

**NO. S-02-026-02-CD01**

**CEASE AND DESIST ORDER**

The Arkansas Securities Department (the "Department") has received information and has in its possession certain evidence that indicates that Mace David Howell has violated provisions of the Arkansas Securities Act, Ark. Code Ann. § 23-42-101 *et. seq.* (the "Act").

**FINDINGS OF FACT**

1. Mace David Howell ("Howell") is a resident of Little Rock, Arkansas.
2. From March 1999 through September 2002, Howell sold investment securities in the form of thirty-three or more unsecured promissory notes (the "Notes") to sixteen or more individuals, trusts and business entities located and residing in Arkansas, Texas, and Tennessee. Such securities were sold for a face amount in excess of \$15,000,000. Some of said securities provided for monthly interest payments to the holders thereof ranging from 10% per annum to 50% per annum, while others provided for payment of principal and interest together at a set date. Such securities were sold by Howell or on his behalf for the purported purpose of pooling the proceeds thereof to invest in the public securities and commodities markets.

3. The records of the Department do not reflect that the Notes were ever registered pursuant to the Act, nor do they reflect that a proof of exemption to exempt the issuance of the Notes was ever filed pursuant to the Act and Rules of the Arkansas Securities Commissioner.
4. At no time did Howell attempt to register the Notes with the Department pursuant to the registration provisions of the Act or to make any exemption filing to exempt such sales from the registration provisions of the Act.
5. The records of the Department do not reflect that Howell was ever registered as a broker-dealer or agent pursuant to the Act.

#### **CONCLUSIONS OF LAW**

6. Ark. Code Ann. § 23-42-102(15)(A)(i) defines "Security" as any note, evidence of indebtedness, or investment contract, among other things.
7. The Notes as described herein and sold by Howell constitute securities as defined by the Act.
8. Ark. Code Ann. § 23-42-501 states that 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 Act, unless it is a "covered security" as defined by the Act.
9. The Notes issued by Howell were not "covered securities", nor were they exempt from the registration provisions of the Act.
10. The Notes issued by Howell were offered and sold in violation of Ark. Code Ann. § 23-42-501.

11. Ark. Code Ann. § 23-42-301 states that it is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is registered pursuant to the Act.
12. By issuing, offering and selling the Notes, Howell violated Ark. Code Ann. § 23-42-301.

### **OPINION**

13. This matter has been properly brought before the Arkansas Securities Commissioner in accordance with Ark. Code Ann. § 23-42-209.
14. From the facts known by the staff of the Department, there is reason to believe that Howell has engaged in and continues to engage in activity in violation of the Act by selling the securities described above.
15. Pursuant to Ark. Code Ann. § 23-42-209(a)(1), the Arkansas Securities Commissioner may order Howell to immediately cease and desist from the further offer and sale of the securities described herein.
16. Such an Order is in the public interest.

**ORDER**

IT IS THEREFORE ORDERED that MACE DAVID HOWELL, and any agent of Mace David Howell, immediately **CEASE AND DESIST** from any further actions within or into the State of Arkansas in connection with the issuance, offer, or sale of securities, specifically Notes such as described herein, and from any other act or practice constituting a violation of the Act or Rules of the Arkansas Securities Commissioner.

WITNESS MY HAND AND SEAL this 17th day of October 2002.

A handwritten signature in black ink, appearing to read "M. Johnson". The signature is written in a cursive style with a large, stylized initial "M".

MICHAEL B. JOHNSON  
ARKANSAS SECURITIES COMMISSIONER