

**BEFORE THE ARKANSAS SECURITIES COMMISSIONER**

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**CASE NO. S-10-051**

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ARKANSAS SECURITIES DEPT.

**IN THE MATTER OF:**

**ORDER NO. S-10-051-10-CO01**

**APPLE TREE ASSET MANAGEMENT, INC.  
AND JOHN STEVEN KIEFER**

**RESPONDENTS**

**CONSENT ORDER**

This Consent Order (the "Order") is entered pursuant to the Arkansas Securities Act, Ark. Code Ann. §§ 23-42-101 through 23-42-509 (the "Act"), the Rules of the Arkansas Securities Commissioner (the "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 Respondents, Apple Tree Asset Management, Inc. ("ATAM") and John Steven Kiefer ("Kiefer").

**I. INTRODUCTION**

1. ATAM was an investment adviser that was registered in Arkansas with a Central Registration Depository ("CRD") number of 147544.
2. Kiefer was an investment adviser representative ("representative") registered in Arkansas with an individual CRD number of 4428904.
3. The Staff has conducted an investigation into the Respondents' activities while conducting business as an investment adviser and representative.
4. Respondents have cooperated with the Staff by responding to inquiries, meeting with the Staff in person, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigation.

5. Respondents have advised the Staff of their agreement to resolve the investigation with this Consent Order (“Order”), consent to the entry of this Order, and agree to abide by its terms.

6. Respondents admit the jurisdiction of the Act and the Arkansas Securities Commissioner (“Commissioner”) and permanently waive any right to a hearing and appeal under the Arkansas Securities Act, Ark. Code Ann. §§ 23-42-101 through 23-42-509, and the Arkansas Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201 through 25-15-218, with respect to this Order.

## **II. STATEMENT OF FACTS**

7. ATAM first became a state registered investment adviser in Arkansas on June 27, 2008. On January 21, 2010 ATAM filed for registration with the Securities and Exchange Commission (“SEC”) and was approved as an SEC registrant on February 16, 2010. On April 5, 2010, ATAM filed a form ADV-W with CRD seeking full termination of all registrations of ATAM.

8. Kiefer is the Chief Executive Officer, owner, and only representative ever registered with ATAM. Kiefer first became registered as a representative with ATAM on June 27, 2008. On January 7, 2010 Kiefer caused his registration as a representative with ATAM to be terminated. Upon being notified of his termination status by the Staff on January 13, 2010, Kiefer reapplied for registration in Arkansas as a representative with ATAM and was approved by the Department on January 25, 2010. On March 31, 2010 Kiefer again filed to terminate his registration as a representative with ATAM.

9. From January 7, 2010 through January 20, 2010 ATAM and Kiefer acting as an investment adviser and representative, respectively, transacted business in Arkansas while

Kiefer was not registered. During the referenced time period, ATAM and Kiefer executed transactions in customer accounts held in custody at Charles Schwab & Co., Inc. (“Schwab”).

10. On January 21, 2010 Schwab informed ATAM and Kiefer by letter that the Investment Manager Service Agreement between ATAM and Schwab, was terminated effective immediately. Pursuant to the termination Schwab informed the Respondents it would no longer honor any authorizations held by ATAM, or its principals, employees, or agents with respect to accounts at Schwab. Schwab also informed the Respondents that ATAM’s master account with Schwab had been closed and the Respondents’ clients would be contacted by Schwab to inform them of the changes with regard to their accounts.

11. On or about January 22, 2010 Kiefer mailed a letter to all of the customers of ATAM in which he announced he had entered into an agreement with another representative to help him manage the ATAM customer accounts. Kiefer referenced his termination from access to the customer accounts at Schwab, and advised his customers “that he had enlisted the help of another investment advisor to help (him) manage the accounts.” Further, the letter stated, “You have either received a letter from Schwab or will get one that says I am terminated from them. Don’t Panic! This just means I am going under (the other representative’s) number so we don’t have any confusion about how to look up accounts. Just sit tight and don’t do anything until you get a document from us to sign to move you over to the new company I am now with.”

12. Information obtained by the Staff revealed no agreement with another representative, but only confirmed preliminary discussions with an investment adviser and representative about purchasing Kiefer’s business.

### III. CONCLUSIONS OF LAW

1. The Arkansas Securities Commissioner has jurisdiction over this matter pursuant to Ark. Code Ann. §§ 23-42-205 and 308.
2. The conduct of Respondents described herein constitutes willful violations of § 23-42-301 of the Act which states it is unlawful for any person to transact business in this state as an investment adviser or representative without first being registered under this chapter.
3. The conduct of Respondents described herein constitutes willful violations of Rule 308.02 of the Rules which subjects Respondents to sanctions pursuant to Ark. Code Ann. § 23-42-308(a)(2)(B).
4. The conduct of Respondents described herein constitutes a willful violation of Rule 308.02(H) in that representations made to customers in Kiefer's January 22, 2010 letter were misleading.
5. Pursuant to § 23-42-308 of the Act the Securities Commissioner may by order revoke a registration or fine a registrant that has willfully violated or willfully failed to comply with any provision of the Act.
6. § 23-42-308(h) of the Act allows for an informal disposition of a proceeding or allegations by settlement or consent.
7. The Arkansas Securities Commissioner finds the following relief appropriate and in the public interest.
6. NOW, THEREFORE, the Arkansas Securities Commissioner, as administrator of the Arkansas Securities Act, hereby enters this Order:

#### **IV. ORDER**

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

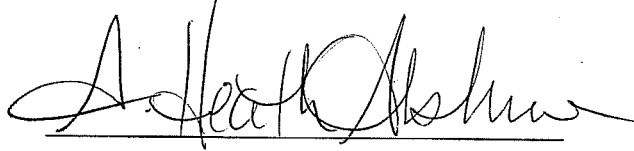
1. This Order concludes the investigation by the Arkansas Securities Department and any other action that the Arkansas Securities Department could commence under applicable Arkansas law on behalf of the state of Arkansas relating to the actions of the Respondents in transacting business as an investment adviser and representative referenced in this Order.
2. Respondents, through their execution of the attached Consent to Entry of Order, voluntarily waive their right to a hearing on this matter and to judicial review of this Order under the Arkansas Securities Act and the Arkansas Administrative Procedures Act.
3. Respondent Apple Tree Asset Management, Inc. will not transact business as an investment adviser, nor apply for registration as an investment adviser in Arkansas for a period of twenty one months from the date of this Order.
5. Respondent Kiefer will not transact business as an investment adviser or representative, nor apply for registration as an investment adviser or representative in Arkansas for a period of twenty one months from the date of this Order.
6. Respondents enter into this Order voluntarily and each separately represent that no threats, offers, promises, or inducements of any kind have been made by the Department or any member, officer, employee, agent, or representative of the Department to induce Respondents to enter into this Order.
7. This Order shall be binding upon Apple Tree Asset Management, Inc. and its successors and assigns as well as to successors and assigns of relevant affiliates with

respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

8. This Order shall be binding upon John Steven Kiefer and his heirs, successors, and assigns as well as to heirs, successors, and assigns of his relevant affiliates with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

DATED this 30<sup>th</sup> day of June, 2010.

BY ORDER OF THE ARKANSAS SECURITIES COMMISSIONER



A. Heath Abshure, Commissioner

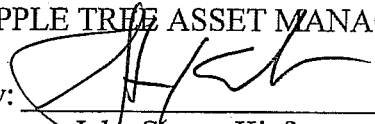
CONSENT TO ENTRY OF ORDER

Apple Tree Asset Management, Inc. and John Steven Kiefer hereby acknowledge that they have been served with a copy of this Order, have read the foregoing, are aware of their right to a hearing and appeal in this matter, and have waived the same.

DATED this 30<sup>th</sup> day of June, 2010.


APPLE TREE ASSET MANAGEMENT, INC.

By:

  
\_\_\_\_\_  
John Steven Kiefer

Title:

CEO

  
\_\_\_\_\_  
JOHN STEVEN KIEFER