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BEFORE THE ARKANSAS SECURITIES COMMISSIONER 20 MAR -9 AM 3:13

ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:

METALS.COM A/K/A TMTE INC. A/K/A

CHASE METALS, INC. A/K/A CHASE METALS, LLC

CASE NO. S-19-0046

ORDER NO. S-19-0046-20-OR02

CEASE AND DESIST ORDER

On March 9, 2020, the Staff of the Arkansas Securities Department (“Staff”) filed its Request for a Cease and Desist Order (“Request”), stating that it has information and certain evidence that indicates Metals.com a/k/a TMTE Inc. a/k/a Chase Metals, Inc. and Chase Metals, LLC (“Metals”) have violated provisions of the Arkansas Securities Act (“Act”), Ark. Code Ann. § 23-42-101 through § 23-42-509, and the Rules of the Arkansas Securities Commissioner (“Rules”). The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request, and based upon representations made therein, finds that:

FINDINGS OF FACT

The Staff’s Request asserts the following representations of fact:

1. Metals are business entities organized and operating under the laws of the State of Wyoming. Metals have their principle place of business at N. Camden Dr, Suite 970, Beverly Hills, CA 90210. Metals are not registered with the Arkansas Securities Department (“Department”) in any capacity. Further, no individual person working for or employed by Metals is registered with the Department in any capacity.

2. Metals maintains a website with the web address of Metals.com. On this website the page titled Precious Metals IRA states, “With a 401K plan, employees control how their money is invested and although most plans offer a spread of mutual funds, they may be limited in the investment choices available.” Later on this web page it lists the benefits of a 401K to silver and gold rollover. However, this web page does not list any of the disadvantages or risks involved in such a rollover. Finally, on this web page a section is titled 401K to Gold IRA Rollover Step-by-Step Guide. In this section of the web page it tells members of the public how to set up a self-directed precious metals IRA. It also details a rollover or transfer of funds from a 401K retirement account to a self-directed precious metals IRA account. This rollover or transfer of funds from the 401K retirement account requires the selling or liquidation of any securities held in the 401K account in order to open the self-directed precious metals IRA account. Therefore, the Metals website advises and assists Arkansas residents to sell shares of stock and mutual funds contained in a 401K retirement account in order to establish a self-directed IRA. The purpose of establishing the self-directed IRA is to purchase precious metal coins and bullion bars from Metals. A copy of the aforementioned webpage is attached to the Staff’s Request as Exhibit 1.

3. The Department has obtained information that at least ten Arkansas residents have liquidated their securities holdings in retirement accounts in order to make purchases of precious metals upon the advice of representatives of Metals. The value of securities accounts that were liquidated exceeded \$1,046,000. Every Arkansas resident, who purchased precious metal coins or bullion bars, received a document titled Shipping and Transaction Agreement (“Agreement”) from Metals at the time the Arkansas resident made a purchase from Metals. At least ten Arkansas residents signed copies of the Agreement. On page two, section 3.a. of the Agreement Metals describes the spread as, “Metals operating margin on the transaction the difference

between metals cost on the day of purchase and the retail price quoted to Customer.” Section 3.b. of the Agreement discusses the spread Metals earns on IRA precious metals transactions. This section lists the spread for an IRA sale between 2% to 33%. However, the Agreement does tell the customer that the spread may be higher and/or lower. Finally, in this section of the Agreement it states that, “Metals makes no opinions, statements, or recommendations in regards to how much or what percentage of a Client’s retirement account should be invested in precious metals.”

4. On page 4, section 5.c. of the Agreement it states, “In metals opinion, Customer should not invest more than twenty percent (20%) of Customer’s available investment funds in Precious Metals. Moreover, Precious Metals do not yield income and thus are not an appropriate investment vehicle for investors seeking current or future income.” This statement by Metals directly contradicts its earlier statement listed at the end of the above paragraph. A copy of the Shipping and Transaction Agreement is attached the Staff’s Request as Exhibit 2.

5. On or about August 17, 2018 Arkansas resident one (“AR1”) purchased silver coins and silver bullion bars from Metals. AR1 is a recently retired individual. AR1 initially viewed an advertisement for Metals on Facebook. After speaking with agents or employees of Metals several times, AR1 rolled over or transferred AR1’s 401K retirement account holding securities into a self-directed IRA account at New Direction Trust Company. Agents and employees of Metal assisted AR1 with completing the forms for rolling over or transferring AR1’s 401K into the self-directed IRA, as well as setting up the self-directed IRA. After the self-directed IRA was established, AR1 purchased the silver coins and silver bullion bars from Metals. Prior to this roll over or transfer, agents and employees of Metals told AR1 that the stock market was going to crash. In addition, AR1 was told precious metals would out last the stock market.

AR1's 401K contained mutual funds. Prior to AR1's purchase of silver from Metals, the agents and employees of Metals failed to mention any of the risks involved in investing in precious metals. In addition, these agents and employees failed to mention the extraordinary mark-up Metals was going to charge AR1 for the silver coins. AR1 rolled over or transferred nearly \$220,000 from AR1's 401K into the self-directed IRA. This entire amount was used to purchase silver coins and bullion bars from Metals. Based on the weight of precious metals the market value of AR1's silver coins and bullion bars was \$68,196.72. With these transactions, AR1 suffered an immediate decline in value of their investments in the amount of \$151,631, or 69% of the value of their retirement account. This mark-up fee, or spread, collected by Metals represented 69% of the purchase price of the precious metals and was substantially higher than the 2% to 33% discussed in the Metals Agreement which AR1 signed.

6. On or about April 5, 2019 Arkansas resident two ("AR2") purchased silver and gold coins from Metals. AR2 received a cold call from a vice president of Metals named Deric Ned a/k/a Deric Scott ("Deric"). Deric told AR2 his investments in AR2's existing retirement account were unsafe, because banks are unsafe. Deric also advised that AR2 sell the stocks and mutual funds held in AR2's retirement account and roll over or transfer the proceeds of these sales of securities to a self-directed IRA. Deric further advised AR2 to purchase precious metal coins from Metals out of the money rolled over or transferred to the self-directed IRA. Deric told AR2 which silver and gold coins to purchase from Metals. Deric assisted AR2 with completing the forms for rolling over or transferring AR2's retirement account into a self-directed IRA at New Direction Trust Company. Prior to AR2's purchase Deric failed to mention any of the risks involved in investing in precious metals. In addition, Deric failed to disclose the extraordinary mark-up Metals was going to charge AR2 for the silver and gold coins. AR2

rolled over or transferred over \$120,000 from AR2's retirement account into the self-directed IRA. This entire amount was used to purchase silver and gold coins from Metals. Based on the weight of precious metals the market value of AR2's silver and gold coins was \$59,304.02. With these transactions, AR2 suffered an immediate decline in value of their investments in the amount of \$61,040, or a staggering 50.72% of the value of their retirement account. The mark-up fee, or spread, collected by Metals represented over 50% of the purchase price of the silver and gold coins purchased and was substantially higher than the 2% to 33% discussed in the Metals Agreement which AR2 signed.

7. On or about March 19, 2019 Arkansas resident three ("AR3") purchased silver and gold coins and a silver bullion bar from Metals. AR3 received a cold call from an agent or employee of Metals named Deric. Deric told AR3 that the stock market had a history of crashes. In addition, Deric gave AR3 all kinds of assurances about purchasing precious metals. Deric told AR3 which silver and gold coins and silver bullion bars to purchase from Metals. AR3's 401K contained stocks. Deric assisted AR3 with completing the forms for rolling over or transferring AR3's 401K into a self-directed IRA at New Direction Trust Company. Deric even participated in a telephone call to the administrator of AR3's 401K retirement account to assist with the roll over or transfer of the funds from AR3's 401K to the self-directed IRA. Deric told AR3 that the roll over or transfer of the money from the sale of the stock in AR3's 401K was necessary in order to purchase precious metals from Metals. Prior to AR3's purchase Deric failed to mention any of the risks involved in investing in precious metals. In addition, Deric failed to disclose the extraordinary mark-up Metals was going to charge AR3 for the silver and gold coins. AR3 rolled over or transferred over \$170,000 from AR3's 401K retirement account into the self-directed IRA. This entire amount was used to purchase silver and gold

coins and silver bullion bars from Metals. Based on the weight of precious metals the market value of AR3's silver and gold coins and silver bullion bars as \$79,865.44. With these transactions, AR3 suffered an immediate decline in value of their investments in the amount of \$90,921, or 53.24% of the value of their retirement account. This mark-up fee, or spread, collected by Metals represented over 53% of the purchase price of the silver and gold coins and silver bullion bars and was substantially higher than the 2% to 33% discussed in the Metals Agreement which AR3 signed.

8. On or about July 15, 2019 Arkansas resident four ("AR4") purchased silver and gold coins from Metals. AR4 received a cold call from an agent or employee of Metals named Deric. Deric told AR4 which silver and gold coins to purchase from Metals. AR4's 401K contained stocks. Deric assisted AR4 with completing the forms for rolling over or transferring AR4's 401K into a self-directed IRA at Directed Trust Company. Deric even participated in a telephone call to the administrator of AR4's 401K retirement account to assist with the roll over or transfer of the funds from AR4's 401K to the self-directed IRA. Prior to AR4's purchase Deric failed to mention any of the risks involved in investing in precious metals. In addition, Deric failed to disclose the extraordinary mark-up Metals was going to charge AR4 for the silver and gold coins. AR4 rolled over or transferred over \$119,000 from AR4's 401K retirement account into the self-directed IRA. This entire amount was used to purchase silver and gold coins from Metals. Based on the weight of precious metals the market value of AR4's silver and gold coins as \$66,271.20. With these transactions, AR4 suffered an immediate decline in value of their investments in the amount of \$53,222, or 44.54% of the value of their retirement account. This mark-up fee, or spread, collected by Metals represented over 44% of the purchase price of the silver and gold

coins and was substantially higher than the 2% to 33% discussed in the Metals Agreement which AR4 signed.

9. On or about January 14, 2019 Arkansas resident five (“AR5”) purchased silver coins and silver bullion bar from Metals. AR5 initially viewed an advertisement for Metals on Facebook. After speaking with an agent or employee of Metals named Michael Peralta (“Michael”), AR5 rolled over or transferred AR5’s 401K retirement account into a self-directed IRA account at New Direction Trust Company. Michael advised AR5 that silver was the safest bet and smartest thing to purchase with the money from the sale of securities in AR5’s 401K retirement account. Michael told AR5 which silver coins and silver bullion bar to purchase from Metals. AR5’s 401K contained Wal-Mart stock. Michael assisted AR5 with completing the forms for rolling over or transferring AR5’s 401K into a self-directed IRA at New Direction Trust Company. Michael even participated in a telephone call to the administrator of AR5’s 401K retirement account to assist with the roll over or transfer of the funds from AR5’s 401K to the self-directed IRA. Prior to AR5’s purchase Michael failed to mention any of the risks involved in investing in precious metals. In addition, Michael failed to disclose the extraordinary mark-up Metals was going to charge AR5 for the silver coins and silver bullion bars. AR5 rolled over or transferred over \$22,000 from AR5’s 401K retirement account into the self-directed IRA. This entire amount was used to purchase silver coins and a silver bullion bars from Metals. Based on the weight of precious metals the market value of AR5’s silver and gold coins as \$7,276.12. With these transactions, AR5 suffered an immediate decline in value of their investments in the amount of \$14,831, or 67.09% of the value of their retirement account. This mark-up fee, or spread, collected by Metals represented over 67% of the purchase price of the

silver coins and silver bullion bars and was substantially higher than the 2% to 33% discussed in the Metals Agreement which AR5 signed.

10. Metals and agents or employees of Metals omitted and failed to state or disclose on to any of the ten Arkansas residents that neither Metals nor anyone working for or employed by Metals was properly registered in any capacity with the Department.

CONCLUSIONS OF LAW

11. Metals and representatives or employees of Metals advised and assisted AR1 through AR5 and other Arkansas residents to sell shares of stocks and mutual funds, which are defined by Ark. Code Ann. § 23-42-102(17) as securities, in order to purchase precious metal coins and bullion bars.

12. Metals and representatives or employees of Metals were not properly registered in any capacity with the Department, when it and they advised and assisted AR1 through AR5 and other Arkansas residents to sell securities to purchase precious metal coins and bullion bars from Metals. Therefore, Metals and the representatives or employees of Metals violated of Ark. Code Ann. § 23-42-301(c), by transacting business as an investment adviser or investment adviser representative without first being registered, as detailed in paragraphs two through ten.

13. Metals and representatives or employees of Metals violated Ark. Code Ann. § 23-42-307(a)(3), when it and they omitted to state or misstated material information concerning the mark-up or spread that would be charged by Metals for the coins and bullion bars sold to AR1 through AR5, as detailed in paragraphs two through nine.

14. Metals and representatives or employees of Metals violated Ark. Code Ann. § 23-42-307(a)(3), when it and they misstated material information concerning the risks involved in the

securities held by AR1 through AR5 in their existing retirement accounts and 401Ks, as detailed in paragraphs five through nine.

15. Representatives or employees of Metals violated Ark. Code Ann. § 23-42-307(a)(3), when they omitted to state or misstated material information concerning the risks involved in purchasing the precious metal coins and bullion bars sold to AR1 through AR5, as detailed in paragraphs five through nine.

16. Metals and representatives or employees of Metals violated Ark. Code Ann. § 23-42-307(a)(3), when it and they omitted or failed to tell any Arkansas resident that it and they were not registered to transacting business as an investment adviser or investment adviser representative, as detailed in paragraphs five through ten.

17. Pursuant to Ark. Code Ann. § 23-42-209, whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory to the Commissioner, that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule or order under the Act, the Commissioner may summarily order the person to cease and desist from the act or practice. The conduct, acts, and practices of METALS and its representatives or employees threaten immediate and irreparable public harm. Based on the Findings of Fact and Conclusions of Law, this Cease and Order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-42-209.

ORDER

IT IS THEREFORE ORDERED that METALS and its representatives or employees immediately CEASE AND DESIST from advising and/or assisting in the selling of securities held by Arkansas residents until it and they are properly registered under the Act and Rules with the

Department. In addition, METALS and its representatives or employees shall immediately CEASE AND DESIST from advising and/or assisting in the sale of securities held by Arkansas residents through the use of misstatements and omitted material information.

A hearing on this Order shall be held if requested by METALS in writing within thirty (30) days of the date of the entry of this Order, or if otherwise ordered by the Commissioner. Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Department
1 Commerce Way
Little Rock, Arkansas 72202

If no hearing is requested and none is ordered by the Commissioner, this Order will remain in effect until it is modified or vacated by the Commissioner. *See* Ark. Code Ann. § 23-42-209(a)(2).



B. Edmond Waters
Arkansas Securities Commissioner

March 9th 2020
Date