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AUSTIN, TEXAS 78711-3167

Phone: (512) 305-8300  
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## Texas State Securities Board

208 E. 10th Street, 5th Floor  
Austin, Texas 78701-2407  
www.ssb.state.tx.us

SSB Docket No. 03-052

IN THE MATTER OF FIRST  
MIDWEST SECURITIES, INC.

§  
§

Order No. CAF/1550

TO: James Linna, CEO  
First Midwest Securities, Inc. (CRD # 21786)  
108 Boeykens Place, Suite 102  
Normal, IL 61761

### CONSENT DISCIPLINARY ORDER

Be it remembered that First Midwest Securities, Inc. ("Respondent"), by and through its Chief Executive Officer, James Linna, appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner") and consented to the entry of this Order, and without admitting or denying the Findings of Fact and Conclusions of Law, except Findings of Fact one and two which are deemed admitted.

### FINDINGS OF FACT

1. Respondent has waived (a) Respondent's right to notice and hearing in this matter; (b) Respondent's right to appear and present evidence in this matter; (c) Respondent's right to appeal this Order; and (d) all other procedural rights granted to the Respondent by The Securities Act, TEX. REV. CIV. STAT. ANN. art. 581-1 et seq. (Vernon 1964 & Supp. 2003) ("Texas Securities Act"), and the Administrative Procedure Act, TEX. GOV'T CODE ANN. § 2001.001 et seq. (Vernon Supp. 2003) ("Administrative Procedure Act").
2. On or about March 15, 1993, Respondent registered with the Securities Commissioner as a dealer, which is currently effective.
3. On or about July 9, 2002, Respondent filed an Undertaking ("Undertaking") with the Securities Commissioner in order to satisfy a condition of the Securities Commissioner's approval of Michael Dean Munson's ("Munson") (CRD # 2374215) application as an agent of Respondent.

4. Respondent made the following representation in the Undertaking:

"[Munson] and [Respondent] further undertake and agree that, for a period of two (2) years from the date [Munson's] registration is granted, [Munson] and [Respondent] will, within thirty (30) business days of receipt by [Munson] or [Respondent], promptly deliver or cause to be delivered to the Director of Inspections and Compliance of the Texas State Securities Board any written or oral complaints in which [Munson's] name appears or in which [Munson] is otherwise involved."

5. The following facts relate to a letter ("the Letter") sent by The Stanfield Limited Partnership ("Complainant"), by and through Mike Stanfield ("Stanfield") to Respondent regarding Munson.

- A. On or about August 6, 2002, an account for the Complainant was opened with Respondent by Munson through a "New Account Form".
- B. On the New Account Form, Munson checked "Margin" as the type of account and listed an "order" as the initial transaction in the account. The order was for four hundred (400) BancAmerica 7% Preferred Shares at a total price of Ten Thousand dollars (\$10,000). However, because Complainant had not submitted a margin agreement, a cash account was opened instead of a margin account. Furthermore, because a margin account was not opened and the Complainant did not deposit the cash to pay for the transaction, the transaction was cancelled on or about August 23, 2002.
- C. On or about September 19, 2002, Respondent's Chief Executive Officer, James Linna, mailed a letter to Stanfield along with a copy of the completed New Account Form. This letter thanked Stanfield and asked him to verify that the information listed on the completed New Account Form was accurate.
- D. On or about September 24, 2002, Complainant, by and through Stanfield, sent Respondent, via Certified Mail, the Letter alleging that Stanfield did not authorize Munson to open an account for the Complainant with Respondent.
- E. On or about September 27, 2002, Respondent mailed a response to the request for documents relevant to the Letter to Stanfield.

6. On or about October 20, 2003, Respondent provided the Staff with a statement of claim ("arbitration claim") filed by the Complainant in an arbitration proceeding against Munson and Morgan Stanley & Co., Inc. ("Morgan Stanley"). The arbitration claim related to Munson's activity as an agent of Morgan Stanley.

7. The Staff first learned of the Letter while reviewing the arbitration claim. On or about November 3, 2003, the Staff mailed a request for information to Respondent based upon the Staff's discovery of the Letter through the arbitration claim.
8. On or about November 12, 2003, Respondent mailed a copy of the Letter to the Staff.
9. From on or about September 25, 2002 to November 12, 2003, Respondent did not provide the Letter to the Director of the Inspections and Compliance Division as required by the Undertaking.
10. Respondent has fully cooperated with the Staff in its investigation.

#### CONCLUSIONS OF LAW

1. The Letter constitutes a written complaint in which Munson's name appears. Respondent's failure to provide the Director of the Inspections and Compliance Division with the Letter within thirty (30) business days of receiving it is a violation of a provision of the Undertaking that Respondent entered into with the Securities Commissioner.
2. Pursuant to Section 14.A(11) of the Texas Securities Act, the foregoing violation constitutes a basis for the issuance of an order reprimanding a dealer.
3. Pursuant to Section 23-1 of the Texas Securities Act, the foregoing violation constitutes a basis for the issuance of an order assessing an administrative fine against a dealer.

#### ORDER

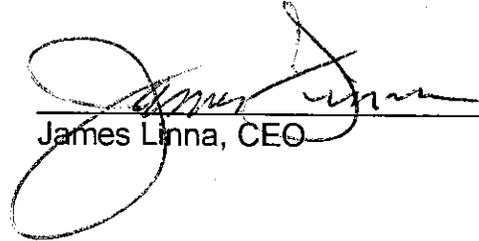
1. It is therefore ORDERED that First Midwest Securities, Inc. is hereby REPRIMANDED.
2. It is further ORDERED that First Midwest Securities, Inc. is ASSESSED AN ADMINISTRATIVE FINE in the amount of One Thousand Dollars (\$1,000.00). Payment shall be made by delivery of a cashier's check to the Securities Commissioner in the amount of One Thousand Dollars (\$1,000.00), payable to the State of Texas, contemporaneously with the delivery of this Order.

SIGNED AND ENTERED BY THE SECURITIES COMMISSIONER this 18<sup>th</sup> day of December, 2003.

  
DENISE VOIGT CRAWFORD  
Securities Commissioner

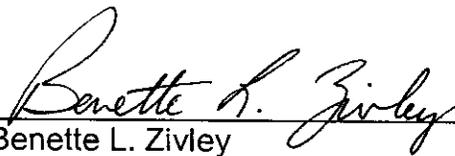
Respondent:

First Midwest Securities, Inc.



James Linna, CEO

Approved as to Form:



Benette L. Zivley  
Director  
Inspections and Compliance Division

**ACKNOWLEDGMENT**

On the 12 day of December, 2003, First Midwest Securities, Inc. ("Respondent"), by and through, James Linna, its Chief Executive Officer, personally appeared before me, executed the foregoing Order, and acknowledges that:

1. James Linna is duly authorized to enter into the foregoing Order on behalf of Respondent;
2. James Linna has read the foregoing Order;
3. Respondent has been fully advised of its rights under the Texas Securities Act and the Administrative Procedure Act;
4. Respondent knowingly and voluntarily consents to the entry of the forgoing Order and the Findings of Fact and Conclusions of Law contained therein; and,
5. Respondent, by consenting to the entry of the foregoing Order, has knowingly and voluntarily waived its rights as set forth therein.

  
Notary Public in and for  
the State of Ill

My commission expires on: 4/29/07

[affix notary seal here]

