

DENISE VOIGT CRAWFORD
SECURITIES COMMISSIONER



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Texas State Securities Board

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MEMBER

IN THE MATTER OF THE AGENT
AND INVESTMENT ADVISER
REPRESENTATIVE REGISTRATIONS
OF KENNETH DEREK THOMSON

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§

Order No. IC09-CAF-10

TO: Kenneth Derek Thomson (CRD No. 2396080)
SMH Capital Inc.
5800 J.P. Morgan Chase Tower
Houston, TX 77002

DISCIPLINARY ORDER

Be it remembered that Kenneth Derek Thomson ("Respondent Thomson") appeared before the Securities Commissioner of the State of Texas ("Securities Commissioner") and consented to the entry of this Order and the Findings of Fact and Conclusions of Law contained herein.

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. 2008) ("Texas Securities Act"), and the Administrative Procedure Act, TEX. GOV'T CODE ANN. §2001.001 et seq. (Vernon 2000 & Supp. 2008) ("Administrative Procedure Act").
2. On or about January 2, 2002, Respondent Thomson registered with the Securities Commissioner as an agent of SMH Capital Inc. ("SMH"), which is currently effective.

3. On or about September 25, 2007, Respondent Thomson registered with the Securities Commissioner as an investment adviser representative of SMH, which is currently effective.
4. On or about September 28, 2007, Respondent Thomson registered with the Securities Commissioner as an investment adviser representative of Calandro Advisory Services, Inc. ("CAS"), which is currently effective.
5. The Staff of the Texas State Securities Board ("Staff") performed an inspection of CAS on or about November 6, 2007 and November 7, 2007 ("Inspection").
6. During the course of the Inspection, Staff discovered that from on or about April 8, 2003 to on or about September 28, 2007, without first being registered as an investment adviser representative, Respondent Thomson provided investment advisory services on behalf of CAS.
7. During the course of the Inspection, Staff also discovered that from on or about April 8, 2003 to on or about September 28, 2007, Respondent Thomson failed to comply with written procedures of SMH related to unregistered activity.
 - A. The written procedures of SMH related to unregistered activity provided as follows:
 - 1) "All individuals engaged in activities...subject to registration requirements of SROs or other regulators must complete the necessary registration and licensing prior to engaging in such activities. Employees may not conduct business with public customers until required registrations or licenses are effective."
 - 2) "No employee may engage in activities that require registration...unless registered in the appropriate capacities."

Respondent Thomson provided investment advisory services to customers of CAS without first being registered as an investment advisor or having passed the appropriate licensing exam.

8. Pursuant to Section 12.B. of the Texas Securities Act and § 116.1(b)(1)(A) of the Rules and Regulations of the Texas State Securities Board ("Board Rules"), no person shall render services as an investment adviser representative in this state without first being registered as required by the Texas Securities Act.
9. Pursuant to Section 14.A(3) of the Texas Securities Act, the Securities Commissioner may reprimand a person registered under the Texas Securities Act if the person has engaged in any inequitable practice in the sale of securities.

10. Pursuant to Section 14.A(6) of the Texas Securities Act, the Securities Commissioner may reprimand a person registered under the Texas Securities Act if the person has violated any of the provisions of the Texas Securities Act or Board Rules.
11. Pursuant to Section 23-1 of the Texas Securities Act, the Securities Commissioner may assess an administrative fine against any person found to have engaged in an act or practice that violates the Texas Securities Act or Board Rules.

CONCLUSIONS OF LAW

1. Respondent Thomson's providing investment advisory services without first being registered as required by the Texas Securities Act constitutes a violation of Section 12.B. of the Texas Securities Act and § 116.1(b)(1)(A) of the Board Rules.
2. Respondent Thomson's failure to comply with Respondent SMH's written procedures constitutes an inequitable practice in the sale of securities and is a basis for the issuance of an order reprimanding an agent pursuant to Section 14.A(3) of the Texas Securities Act.
3. Pursuant to Section 14.A(6) of the Texas Securities Act, the foregoing violation constitutes a basis for the issuance of an order reprimanding an agent and investment adviser representative.
4. Pursuant to Section 23-1 of the Texas Securities Act, the foregoing violation of the Board Rules constitutes a basis for the issuance of an order assessing an administrative fine against an agent and investment adviser representative.

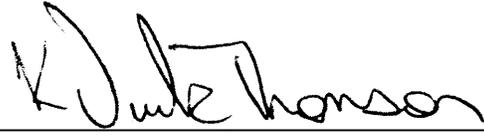
ORDER

1. It is therefore ORDERED that Kenneth Derek Thomson is hereby REPRIMANDED.
2. It is further ORDERED that Kenneth Derek Thomson is ASSESSED AN ADMINISTRATIVE FINE in the amount of Five Thousand Dollars (\$5,000). Payment shall be made by delivery of a cashier's check to the Securities Commissioner in the amount of Five Thousand Dollars (\$5,000), payable to the State of Texas, contemporaneously with the delivery of this Order.

SIGNED AND ENTERED by the Securities Commissioner this 17th day of April, 2009.

Denise Voigt Crawford
DENISE VOIGT CRAWFORD
Securities Commissioner

Respondent:



Kenneth Derek Thomson

Approved as to Form:

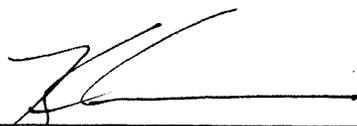


Benette L. Zivley
Director
Inspections and Compliance Division

ACKNOWLEDGMENT

On the 31 day of March, 2009, Kenneth Derek Thomson ("Respondent Thomson") personally appeared before me, executed the foregoing Order and acknowledged that:

1. Respondent Thomson has read the foregoing Order;
2. Respondent Thomson has been fully advised of his rights under the Texas Securities Act and the Administrative Procedure Act;
3. Respondent Thomson knowingly and voluntarily consents to the entry of the foregoing Order and the Findings of Fact and Conclusions of Law contained therein; and,
4. Respondent Thomson, by consenting to the entry of the foregoing Order, has knowingly and voluntarily waived his rights as set forth therein.



Notary Public in and for
the State of Texas

My Commission Expires: 8/5/2012

[affix notary seal here]

