

**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE**

TENNESSEE SECURITIES DIVISION,)
 Petitioner,)
)
v.)
)
B & B WORM FARM,)
WORM SOURCE OF TENNESSEE,)
GREG BRADLEY,)
LYNN BRADLEY,)
GENE PIERPAOLI, and)
REGINA PIERPAOLI,)
 Respondents.)

No. 03- 012

ORDER TO CEASE AND DESIST

This Order issues as a result of a Petition and its exhibits attached hereto filed by the Tennessee Securities Division of the Department of Commerce and Insurance and is predicated upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Tennessee Securities Act of 1980, as amended, Tenn. Code Ann. §§ 48-2-101, *et seq.*, (“Act”) assigns the responsibility for administration of the Act to the Commissioner of Commerce and Insurance (“Commissioner”). The Petitioner, the Tennessee Securities Division (“Division”), is the lawful agent through which the Commissioner administers the Act, and is authorized to bring this action for the protection of investors and the public. The Division’s official residence and place of business is in Nashville, Davidson County, Tennessee.

2. B&B Worm Farm (“B&B”) is a business entity with its principal place of business located at Tr. 1 Box 163 B, Meeker, Oklahoma 74855. B&B has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser.

3. Worm Source of Tennessee (“WST”) is a business entity with its principal place of business located at 118 Moonlight Drive, Gallatin, Tennessee 37066. WST has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser.

4. Greg Bradley (“G. Bradley”) was a citizen and resident of the State of Oklahoma whose address was located at Tr. 1 Box 163 B, Meeker, Oklahoma 74855. G. Bradley has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser. G. Bradley was a co-owner of B&B. G. Bradley died on or about January 26, 2003.

5. Lynn Bradley (“L. Bradley”) is an individual whose address is located at Tr. 1 Box 163 B, Meeker, Oklahoma 74855. L. Bradley has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser. L. Bradley is the owner of B&B, having inherited her deceased husband’s one-half (1/2) interest in B&B.

6. Doug Smith (“Smith”) is an individual whose address is unknown to the Division at this time. Smith has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser.

7. Gene Pierpaoli (“G. Pierpaoli”) is a citizen and resident of the State of Tennessee whose address is located at 118 Moonlight Drive, Gallatin, Tennessee 37066. G. Pierpaoli has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser. G. Pierpaoli is a co-owner of WST.

8. Regina Pierpaoli (“R. Pierpaoli”) is a citizen and resident of the State of Tennessee whose address is located at 118 Moonlight Drive, Gallatin, Tennessee 37066. R. Pierpaoli has never been registered with the Division as a broker-dealer, investment adviser, or agent of a broker-dealer or investment adviser. R. Pierpaoli is a co-owner is WST.

9. On or about December 27, 2002, Kevin Younger and J.B. Davis purchased a worm farm (“J&L Worm Farm”) and an existing contract with B&B from Smith after attending a seminar at the home of G. Pierpaoli and R. Pierpaoli.

10. The contract described in ¶ 10 above states that B&B Worm Farm will purchase a minimum of one hundred (100) pounds of worm at a price of at least seven dollars (\$7.00) per pound during the term of the contract.

11. In or about 1998, G. Bradley and L. Bradley began operating B&B in Meeker, Oklahoma.

12. At all times material to the events described herein, G. Bradley and L. Bradley represented to investors that B&B was created in order to produce worms for use in organic waste management projects and to produce worm byproducts or “castings” for organic soil enhancement.

13. B&B sold contracts to investors *via* various promotional materials, including newspaper and magazine ads, as well as through its website. The contracts were sold to investors in Tennessee for amounts totaling between two thousand dollars (\$2,000.00) and one hundred thousand dollars (\$100,000.00).

14. The terms of the contracts that B&B entered into with Tennessee investors provided that B&B would, in return for the investment, agree to buy back an unlimited amount of live worms grown by the investors. B&B represented to investors that it was able to honor the provision in the contracts agreeing to purchase the worms grown by the investors due to several large-scale contracts it had with, among others, an Iowa corporation and the State of Louisiana.

15. However, contrary to its representations to Tennessee investors, the Iowa corporation had been inactive since April of 2000 and the State of Louisiana had never approved a contract to do business with or subsidize the business activities of B&B.

16. On or about December 27, 2002, Kevin Younger and J.B. Davis purchased a worm farm ("J&L Worm Farm") and an existing contract with B&B from Smith and WST after attending a seminar promoting investments with B&B at WST, which was conducted by G. Pierpaoli and R. Pierpaoli.

17. The contract described in ¶ 15 above states that B&B Worm Farm will purchase a minimum of one hundred (100) pounds of worms at a price of at least seven dollars (\$7.00) per pound during the term of the contract.

18. J & L Worm Farm delivered their first shipment of worms to WST in February of 2002 and received their payment on March 1, 2002 in the amount of \$952.00.

19. The next shipment of worm by J & L Worm Farm was delivered to B & B on August 14, 2002, for which J & L was never paid.

20. When J & L Worm Farm inquired about the payment due it, B&B informed J&L Worm Farm that the payment had been lost in mail and another check would be issued.

21. On November 11, 2002, J & L Worm Farm delivered another shipment of worms to B&B.

22. To date J&L Worm Farm have not been paid for the two (2) shipments of worms by B&B and none of their calls been returned by B&B.

23. On or about October 21, 2002, Ryan and Beverly Studd (hereinafter referred to collectively as the "Studds") entered into a contract with B&B to breed worms for purchase by B&B. The Studds invested fifteen thousand dollars (\$15,000.00) with B&B.

24. The Studds' contract described above in ¶ 22 was signed by G. Bradley and L. Bradley on behalf of B&B. The Studds' contract described above in ¶ 22 promised the following return to the Studds:

(2) PURCHASE PRICE: \$15,000.00

Buyer shall pay to Seller of this contract \$15,000.00 for the purchase of approximately 100,000 breeder worms. Included in this contract is a Medium Worm & Casting Harvester to be delivered no less than 90 days of contract payment.

THIS PURCHASE CONTRACT IS BACKED BY A 1 YEAR MONEY BACK GUARANTEE.

(3) BUY BACK POLICY:

Seller will purchase any amount of pounds of worms per month from the Buyer (minimum of 100 lbs.) for the cost and labor of raising worms, at the price of no less than \$7.00 (seven dollars US) per pound for the term of this contract. .
.Castings will be purchased under this agreement for a period of two (2) years, beginning January 1, 2003 through January 1, 2005. A maximum of Ten Thousand (\$10,000.00) dollars per year, at a rate of Fifty dollars (\$50.00) per cubic yard.

25. Upon signing the contract with B&B and sending B&B their fifteen thousand dollar (\$15,000.00) investment, the Studds were told by a sales representative of B&B that they would shortly receive the worms and harvester promised in the contract. However, despite numerous calls to B&B, the Studds did not receive the shipment of worms or the worm harvester.

26. To date, the Studds have not received neither the returns on their investment promised by B&B nor their principal of fifteen thousand dollars (\$15,000.00).

27. The Oklahoma Department of Securities issued an Order to Cease and Desist and Notice of Opportunity For Hearing against B&B on or about May 6,2002.

28. On or about July 27, 2002, B&B, G. and L. Bradley entered onto an agreement with the Oklahoma Department of Securities in which they agreed to register their business opportunities, made refunds to two clients within thirty (30) days, and comply with the Oklahoma Business Opportunity Sales Act. *See In the Matter of: B&B Worm Farm, Greg Bradley and Lynn Bradley, 2002 WL 31125075 (Okla.Dept.Sec. August 13, 2002).*

29. On or about April 17, 2003, the Oklahoma Department of Securities obtained a Temporary Restraining Order and Order Freezing Assets against B&B ("B&B TRO"). *Okla. Dept. of Securities, ex rel. Irving L. Faught, Administrator v. B&B Worm Farm*, No. CJ-2003-3174 (Okla. D.C. Apr. 17, 2003).

30. On or about April 22, 2003, B&B filed a Voluntary Petition for Bankruptcy in the U.S. Bankruptcy Court for the Western District of Oklahoma. *In re B&B Worm Farms, Inc.*, No. 03-14379 BH (Bankr. W.D. Okla. April 22, 2003). Assets of B&B listed in the aforementioned Voluntary Bankruptcy Petition included assets located in Gallatin, Tennessee.

31. During the time period beginning in or about the year 2000 to the present, B&B engaged in sales of investment contracts to approximately ninety-five (95) individuals and/or business entities located in Tennessee. The total amount of such sales totaled approximately one million three hundred sixty-one thousand five hundred dollars (\$1,361,500.00).

32. B&B, G. Bradley and L. Bradley failed to disclose that B&B did not have sufficient assets to honor the investment contracts that they sold to Tennessee investors or to honor the one (1) year money-back guarantee described in ¶ 22 above.

33. G. Bradley and L. Bradley converted investor funds to their own personal use, including the use of investor funds to pay the personal expenses of G. and L. Bradley, as well as to invest the funds in an adult entertainment business located in Nevada.

CONCLUSIONS OF LAW

34. Tenn. Code Ann. § 48-2-104 provides that:

(a) It is unlawful for any person to sell any security in this state unless:

- (1) It is registered under this part;
- (2) The security or transaction is exempted under § 48-2-103; or
- (3) The security is a covered security.

(b) The [C]ommissioner may, after notice and opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a civil penalty against any person found to be in violation of this section, or any regulation, rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation.

35. Tenn. Code Ann. § 48-2-102(16) provides that:

“Security” means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, a life settlement contract, as defined in § 56-50-102, or any fractional or pooled interest in a life insurance policy or life settlement contract, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, *investment contract*, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a “security,” or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. . . .(emphasis added)

36. Tenn. Code Ann. § 48-2-102(16) provides that:

“Security” means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, a life settlement contract, as defined in § 56-50-102, or any fractional or pooled interest in a life insurance policy or life settlement contract, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, *investment contract*, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a “security,” or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. . . .(emphasis added)

37. In *King v. Pope*, 91 S.W.3d 314, 321 (Tenn. 2002), the Tennessee Supreme Court held that an investment contract must satisfy the following four elements:

(1) An offeree furnishes initial value to an offeror, and (2) a portion of this initial value is subjected to the risks of the enterprise, and (3) the furnishing of the initial value is induced by the offeror's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind, over and above the initial value, will accrue to the offeree as a result of the operation of the enterprise, and (4) the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

38. The facts presented by the Division in this matter demonstrate that: (1) the contracts sold by the Respondents meet the definition of investment contracts as defined in *King*, 91 S.W.3d at 321, and are therefore securities under the Act, pursuant to Tenn. Code Ann. § 48-2-102(16); (2) that the Respondents have sold securities in Tennessee without first having registered such securities with the Division, as required by the Act; (3) that such securities are not subject to any exemptions under the Act; and (4) that such securities are not "covered" securities, as defined under the Act.

39. Tennessee Code Annotated § 48-2-102(3) defines a "broker-dealer" as any person engaged in the business of effecting transactions in securities for the account of others, or any person engaged in the business of buying or selling securities issued by one (1) or more other persons for such person's own account and as part of a regular business rather than in connection with such person's investment activities.

40. Tennessee Code Annotated § 48-2-102(2) defines an "agent" as any individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities from, in or into this state.

41. Tennessee Code Annotated § 48-2-109(a) provides, in pertinent part, that:

(a) It is unlawful for any person to transact business from or in this state as a

broker-dealer or agent unless such person is registered as a broker-dealer or agent under this part.

...

(e) The commissioner may, after notice and an opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a fine against any person found to be in violation of this section, or any regulation, rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation.

42. Tennessee Code Annotated § 48-2-121(a) provides that it is unlawful for any person, in connection with the offer, sale or purchase of any security in this state, directly or indirectly, to employ any device, scheme, or artifice to defraud, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

43. Based upon the Findings of Fact, the Respondents have violated and/or are violating Tenn. Code Ann. § 48-2-104(a) by selling unregistered securities in Tennessee which are not subject to an exemption and which are not covered securities, as defined in the Act.

44. Based upon the Findings of Fact, the Respondents have violated and/or are violating Tenn. Code Ann. § 48-2-109(a) by acting as an unregistered broker-dealer and/or agent thereof in Tennessee.

45. Based upon the Findings of Fact, the Respondents have violated and/or are violating Tenn. Code Ann. § 48-2-121(a) by making material misrepresentations and omissions of facts in connection with the offer and sale of securities in Tennessee.

46. Based upon the Findings of Fact, the Commissioner concludes that the Respondents have violated and/or are continuing to violate the Act, specifically at Tenn. Code Ann. §§ 48-2-104, 109, and 121, as set forth above.

47. Tenn. Code Ann. § 48-2-116 provides that the Commissioner may make, promulgate, amend, and rescind such Orders as are necessary to carry out the provisions of the Act, and that such Order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

48. Tenn. Code Ann. § 48-2-116(e)(2) provides that no Order may be entered without (1) prior notice to affected parties unless the Commissioner determines that prior notice would not be in the public interest and would be detrimental to the protection of investors, (2) an opportunity for a hearing before the Commissioner, and (3) written Findings of Fact and Conclusions of Law.

49. Based upon the Findings of Fact and Conclusions of Law described herein, it would not be in the public interest and would be detrimental to the protection of investors if prior notice of this Order were given to the affected parties.

NOW, THEREFORE, in consideration of the foregoing, it is **ORDERED** that:

1. The Respondents shall comply with all provisions of the Act.
2. The Respondents shall cease and desist in further conduct as a broker-dealer, investment adviser or agent thereof from, in, or into the State of Tennessee until such time as they are effectively registered with the Division to engage in such activity.
3. The Respondents shall cease and desist in further offerings and sales of securities from, in or into the State of Tennessee until such time as they have complied with all registration requirements under the Act and the rules and regulations promulgated thereunder.

4. The Respondents shall cease and desist further use of any device, scheme, or artifice to defraud, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person in the offer and/or sale of a security from, in or into this State.

5. The Respondents shall, in light of their respective violations of the Act, pay a civil penalty to the Division for the following violations:

a. L. Bradley: Nine hundred fifty thousand dollars (\$950,000.00) for the ninety-five (95) violations of Tenn. Code Ann. § 48-2-104 described in the above Findings of Fact;

b. L. Bradley: Nine hundred fifty thousand dollars (\$950,000.00) for the ninety-five (95) violations of Tenn. Code Ann. § 48-2-109 described in the above Findings of Fact;

c. WST and/or G. Pierpaoli and R. Pierpaoli: Ten thousand dollars (\$10,000.00) for the one (1) violation of Tenn. Code Ann. § 48-2-104 described in the above Findings of Fact;

d. WST and/or G. Pierpaoli and R. Pierpaoli: Ten thousand dollars (\$10,000.00) for the one (1) violation of Tenn. Code Ann. § 48-2-109 described in the above Findings of Fact.

6. All persons in any way assisting, aiding, or helping any of the aforementioned Respondents in any of the aforementioned violations of the Act shall cease and desist from all such activities in violation of the Act.

This Order is not intended to prohibit any lawful conduct in which the Respondents might be engaged.

Entry of this Order shall not in any way restrict the Tennessee Securities Division or the Commissioner of Commerce and Insurance from taking further action with respect to these or other possible violations by the Respondents of the Act or any of the Rules promulgated thereunder.

*This Order shall become a **Final Order** thirty (30) days from the date of its entry, unless written notification requesting a hearing is made by the parties within the thirty (30) day period.*

You are advised that you have the right to a hearing as to all matters raised in this Order. If you wish to exercise your right to a hearing, please notify:

**DAPHNE D. SMITH
ASSISTANT COMMISSIONER FOR SECURITIES
STATE OF TENNESSEE, DEPARTMENT OF COMMERCE AND INSURANCE
DAVY CROCKETT TOWER, SUITE 680
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243**

Such request must be received within thirty (30) days of the date of entry of this Order.

ENTERED this the 6th day of May, 2003.

Paula A. Flowers
Paula A. Flowers, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:


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