

**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
OF THE STATE OF TENNESSEE AT NASHVILLE**

IN THE MATTER OF)	
MODERN INVESTMENTS, LLC; and)	TSD Order No.: 11-003
DANIEL GALLAGHER)	

CONSENT ORDER

The Tennessee Securities Division (“TSD”) of the Tennessee Department of Commerce and Insurance (“Department”) and Respondents Modern Investments, LLC (“Modern Investments”) and Mr. Daniel Gallagher (“Gallagher”), agree to the entry of this Consent Order.

The parties as listed herein agree to the entry of this Consent Order in accordance with TENN. CODE ANN. § 48-2-116 of the Tennessee Securities Act of 1980, as amended, TENN. CODE ANN. §§ 48-2-101, *et seq.* (“Act”), which states that the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”) may from time to time make such orders as are necessary to carry out the provisions of the Act.

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner’s acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Consent Order is executed by the Respondents for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this

Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondents for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondents fully understand that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner for the violations of the Act addressed specifically in this Consent Order, against the Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the execution of this Consent Order by the Respondent.

5. Respondents expressly waive all further procedural steps, and expressly waive all rights to seek judicial review of or to otherwise challenge or contest the validity of the Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

FACTUAL ALLEGATIONS

1. Title 48 of the Tennessee Code Annotated, the Tennessee Securities Act ("Act"), as amended, TENN. CODE ANN. §§ 48-2-101, *et seq.* places the responsibility for the administration of the Act on the Commissioner. The TSD is the lawful agent through which the Commissioner discharges this responsibility. TENN. CODE ANN. § 48-2-112 and § 48-2-115.

2. The TSD is authorized to bring this action based on a finding by the Commissioner that the action 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. TENN. CODE ANN. §§ 4-5-320(c), 48-2-116(e)(2)(A).

3. Respondent Modern Investments is a Wyoming limited liability company. At all relevant times, Modern Investments conducted business from 800 Woodland Street, Nashville, TN 37206. Modern Investments is not currently registered, nor has it ever been registered, as a broker-dealer, or investment advisor with the TSD.

4. Respondent Gallagher is a citizen and resident of Frankfort, IL. At all relevant times, Gallagher conducted business from 800 Woodland Street, Nashville, TN 37206. Gallagher is not currently registered, nor has he ever been registered, as a broker-dealer, broker-dealer agent, investment advisor, or investment advisor representative with the TSD.

5. Between December 8, 2004 and February 22, 2006, Gallagher sold unregistered promissory notes from Tennessee. The notes were issued by Modern Investments to seventeen (17) individual investors, including one Tennessee resident. During the relevant period, Gallagher sold ninety-eight thousand two hundred twenty eight dollars (\$98,228 dollars) in promissory notes to clients of Modern Investments. During the relevant period, Gallagher repaid six thousand nine hundred seventy-six dollars and fifty-six cents (\$6,976.56) to some of his investors.

6. During the relevant period, Gallagher received six thousand eight hundred ninety dollars (\$6,890) in commissions for the sale of these promissory notes. Gallagher did not inform investors that the promissory notes were not registered with the TSD. Gallagher did not inform investors that he was not registered to sell securities in Tennessee and that both the promissory

notes and the seller were subject to the registration requirements of the Act. Gallagher failed to make adequate statements regarding the investment's potential risks to his investors. Gallagher did not take any actions, conduct any independent verification or conduct any due diligence to confirm the information he was told about the investments by the overseas promoter that solicited him via the internet.

CONCLUSIONS OF LAW

Pertaining to the Commissioner's Authority to Carry Out the Provisions of the Tennessee Securities Act of 1980

1. 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 Tennessee Securities Act of 1980, as amended, upon a finding 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.

Pertaining to Gallagher's Unregistered Sales of Unregistered Securities

2. TENN. CODE ANN. § 48-2-104(a) states, in pertinent part, that it is unlawful for any person to sell any security in this state unless it is registered under the Act, the security or transaction is exempted under the Act, or the security is a covered security.

3. TENN. CODE ANN. § 48-2-102(4) states, in pertinent part, that the term "broker-dealer" is defined 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.

4. TENN. CODE ANN. § 48-2-109(a) states, in pertinent part, that 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 the Act.

5. TENN. CODE ANN. § 48-2-102(10) states, in pertinent part, that the term 'investment advisor' means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities, or who for compensation and as part of a regular business issues or promulgates analyses or reports concerning securities.

6. TENN. CODE ANN. § 48-2-109(c) states, in pertinent part, it is unlawful for a person to transact business from or in this state as an investment adviser or investment adviser representative unless: (1) (t)he person is registered as an investment adviser or investment adviser representative.

Respondent Gallagher Sold Unregistered Securities

7. The facts as stated demonstrate that Gallagher offered to sell and sold promissory notes through Modern Investments that were not registered with the TSD. It is unlawful to sell any security in this state unless it is registered under TENN. CODE ANN. §§ 48-2-101 *et seq.*, or the transaction is exempted under TENN. CODE ANN. § 48-2-103 or it is a covered security. The promissory notes offered by Modern Investments through Gallagher were not registered with TSD, and were not exempted by statute and are not covered securities.

8. Gallagher's sales of unregistered securities provide adequate grounds under TENN. CODE ANN. § 48-2-112(a)(2)(B) for the entry of an Order permanently barring Gallagher from registration with the TSD.

ORDER

IT IS ORDERED, pursuant to TENN. CODE ANN. § 48-2-116(a) of the Act, that

Respondent Modern Investments, LLC:

1. **COMPLY** with the provisions of the Tennessee Securities Act, as amended;
2. **CEASE AND DESIST** in any future conduct of offering and/or selling any unregistered security from, in, or into the State of Tennessee until such time as all securities offered and/or sold are effectively registered with the TSD;
3. Be **PERMANENTLY BARRED** from seeking registration in the State of Tennessee as a broker-dealer, or investment adviser;

IT IS ORDERED, pursuant to TENN. CODE ANN. § 48-2-116(a) of the Act, that

Respondent Daniel Gallagher:

4. **COMPLY** with the provisions of the Tennessee Securities Act;
5. **CEASE AND DESIST** in any future conduct of offering and/or selling any unregistered security from, in, or into the State of Tennessee until such time as all securities offered and/or sold are effectively registered with the TSD;
6. Be **PERMANENTLY BARRED** from seeking registration in the State of Tennessee as a broker-dealer, agent of a broker-dealer, investment adviser or investment adviser representative;
7. Pay **CIVIL PENALTIES** in the amount of six thousand eight hundred ninety dollars (\$6,890) received by Gallaher as commissions for the unlawful sale of unregistered promissory notes. Payment will be made within thirty (30) days of the date this agreement is executed by the Commissioner, and payment shall be mailed to:

State of Tennessee
Department of Commerce and Insurance
Securities Division - Broker-Dealer Section
6th Floor, Davy Crockett Tower, Suite 680
500 James Robertson Parkway
Nashville, Tennessee 37243

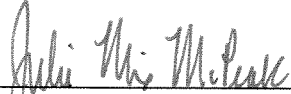
8. In addition, it is further **ORDERED** that all persons in any way assisting, aiding, or helping Modern Investments or Gallagher in any of the aforementioned violations of the Act (TENN. CODE ANN. § 48-2-101 et seq.), shall **CEASE AND DESIST** from all such activities in violation of the Act.

IT IS ORDERED that this Consent Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Respondents Modern Investments and Gallagher for violations of the Act alleged by the TSD to have occurred with respect to the transactions involving the above referenced investors and the facts contained herein.


This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Respondents Modern Investments and Gallagher, affirmatively states that he has freely agreed to the entry of this Consent Order, that he waives the right to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to him by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in

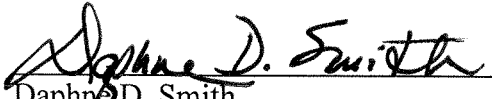
this Consent Order, are binding upon them.


ENTERED this 14th day of February, 2012


Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:


Daniel Gallagher, both individually,
and as a representative of
Respondent Modern Investments, LLC


Daphne D. Smith,
Assistant Commissioner for Securities
Department of Commerce and Insurance


Matthew McCarthy (BPR # 025550)
Assistant General Counsel
Department of Commerce and Insurance
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