



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

TENNESSEE SECURITIES DIVISION,

Petitioner,

v.

**WESLEYAN INVESTMENT
FOUNDATION, INC.,**

Respondent.

TSD No.: 18-009

CONSENT ORDER

The Securities Division ("Division") of the Tennessee Department of Commerce and Insurance ("Department"), and Wesleyan Investment Foundation, Inc. ("Respondent" or, together with the Division, the "Parties"), by and through undersigned counsel, agree to the entry of this Consent Order in accordance with Tennessee Code Annotated ("Tenn. Code Ann.") § 48-1-116 of the Tennessee Securities Act of 1980, as amended, and Tenn. Code Ann. §§ 48-1-101 to 48-1-201 ("Act"), subject to the approval of the Commissioner of the Department ("Commissioner").

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 Parties 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. The Respondent fully understands that this Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for the acts or omissions 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 Parties.

5. The Respondent waives all further procedural steps, and waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of this Consent Order by the Commissioner.

FINDINGS OF FACT

6. The Respondent is not currently, and never has been, registered with the Division to issue securities in Tennessee.

7. On or about June 14, 2017, the Respondent submitted a filing for the Non-Profit Exemption, pursuant to Tenn. Code Ann. § 48-1-103(a)(7) and Tennessee Rules and Regulations (“Tenn. Comp. R. & Regs.”) 0780-04-02-.07, with the Division.

8. In the June 14, 2017, filing, the Respondent disclosed that it had entered into a consent order with Indiana in 2017 regarding the Respondent's failure to renew its securities registration in that state.

9. After inquiry by the Division, the Respondent explained that it engaged outside counsel in 2016, after the Indiana Securities Division notified the Respondent that it had failed to renew its securities registration, and the Respondent discovered that it was subject to securities filing requirements.

10. The Respondent further disclosed to the Division that it has issued securities to Tennessee residents since at least 1979.

11. On or about October 9, 2017, the Respondent asserted that it was claiming the self-executing exemption from registration with the Division, pursuant to Tenn. Code Ann. § 48-1-103(b)(4).

12. On or about December 5, 2017, the Division informed the Respondent that it failed to meet the required conditions of the exemption enumerated in Tenn. Code Ann. § 48-1-103(b)(4) due to sales material and general publicly disseminated advertisements maintained on the Respondent's website, <https://wifonline.com/>. The Division instructed the Respondent to immediately restrict access to its website from Tennessee investors.

13. On December 12, 2017, the Respondent's Chief Executive Officer, Craig A. Dunn, executed an affidavit admitting that the Respondent first published its website in 2005 and that the website contains introductory information regarding the securities offered.

14. On or about December 12, 2017, the Respondent added the statement "The securities have not been approved to be offered or sold to Tennessee residents" to the home page of its website.

15. Each of the Respondent's Tennessee accounts are "demand accounts," which allow Tennessee investors to withdraw their investments at the interest rate contracted with the Respondent, at any time.

CONCLUSIONS OF LAW

16. Pursuant to Tenn. Code Ann. § 48-1-115(a), the responsibility for the administration of the Act is vested in the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility.

17. Tenn. Code Ann. § 48-1-116 provides that the Commissioner may make, promulgate, amend, and rescind such orders as are necessary to carry out the provisions of the Act 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.

18. Tenn. Code Ann. § 48-1-104 provides that 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 Tenn. Code Ann. § 48-1-103; or 3) the security is a covered security.

19. Tenn. Code Ann. § 48-1-103(b) provides that the following transactions are exempted:

...

- (4) Any transaction involving the sale of securities of an issuer by or on behalf of such issuer or an affiliate of such issuer if all of the following conditions are met:
 - (A) The aggregate number of persons in this state purchasing such securities from the issuer and all affiliates of the issuer pursuant to this subdivision (b)(4) during the twelve-month period ending on the date of such sale shall not exceed fifteen (15) persons, exclusive of persons who acquire such securities in transactions which are not subject to this part or which are otherwise exempt from registration under this section or which have been registered pursuant to § 48-1-105 or § 48-1-106;

- (B) Such securities are not offered for sale by means of publicly disseminated advertisements or sales literature; and
- (C) All purchasers in this state have purchased such securities with the intent of holding such securities for investment for their own accounts and without the intent of participating directly or indirectly in a distribution of such securities. Any person who holds such securities for a period of two (2) years or more from the date such securities have been fully paid for by such person shall be presumed to have purchased such securities for investment[.]

20. Pursuant to Tenn. Code Ann. § 48-1-104, the Commissioner 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 rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation, or in an amount not to exceed twenty thousand dollars (\$20,000) per violation if an individual who is a designated adult is a victim.

21. The Findings of Fact detailed in paragraphs six (6) through fifteen (15) prove that Respondent violated Tenn. Code Ann. § 48-1-104 by selling securities in this state that were not registered with the Division, and without any applicable exemption under Tenn. Code Ann. § 48-1-103.

22. The Commissioner finds the following relief appropriate, in the public interest, and necessary for the protection of investors.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and the waiver by the Respondent of the right to a hearing and appeal under the Act and the Tennessee Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, and the admission by the Respondent of jurisdiction of the Commissioner, the Commissioner finds that the Respondent, for the purpose

of settling this matter, admits the Findings of Fact and Conclusions of Law herein, has agreed to the entry of this Order, and that the following Order is appropriate, in the public interest, and necessary for the protection of investors.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 48-1-116(a) that the Respondent shall:

1. **COMPLY** with the Act, as amended, and all rules promulgated thereunder; and
2. **PAY A CIVIL PENALTY** to the State of Tennessee in the total amount of thirteen thousand dollars (\$13,000). The payment of such civil penalty shall be made by check payable to the Tennessee Department of Commerce and Insurance. Page one (1) of this Order must accompany the payment for reference. Payment shall be remitted within thirty (30) days after entry of this Consent Order, mailed to the attention of:

**State of Tennessee
Department of Commerce and Insurance
Attn: Garron Amos
8th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243**

3. The Respondent's failure to comply with the terms of this Consent Order, including the manner and method of payment of the civil penalty described above, shall result in further administrative disciplinary actions, which may include the assessment of additional civil penalties.

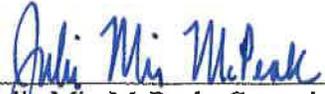
4. **IT IS FURTHER ORDERED** that this Consent Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions, and causes of action by the Commissioner against the Respondent for violations of the Act alleged by the Division to have occurred with respect to the transactions involving the above-referenced facts. However, excluded from and not covered by this paragraph, are any claims by the Division arising from or relating to enforcement of the Consent

Order provisions contained herein.

5. 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, the Respondent affirmatively states that it has freely agreed to the entry of this Consent Order, that the Respondent 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 the Respondent by the Commissioner, the Division, or any agent or representative thereof.

6. The Parties, by signing this 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 1 day of May, 2018.

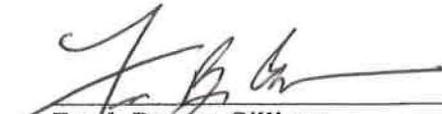


Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

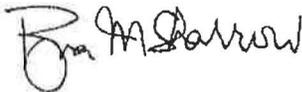
APPROVED FOR ENTRY:



Dr. Craig A. Dunn, CEO
Wesleyan Investment Foundation, Inc.



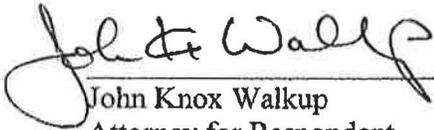
Frank Borger-Gilligan
Assistant Commissioner for Securities
Department of Commerce and Insurance



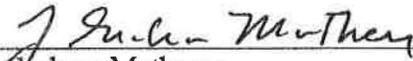
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