

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-vs-

SOUTHMARK ADVISORY, INC.,
f/k/a SOUTHMARK OF TULSA, INC.,
SOUTHMARK, INC. and
WENDELL D. BELDEN,

Defendants.

Civil Action No. 02-CV-830-E (M)

FILED
NOV 21 2002
Phil Lombardi, Clerk
U.S. DISTRICT COURT

AGREED ORDER AND FINDINGS

Plaintiff Securities and Exchange Commission ("Commission"), having filed its Complaint in this matter and defendant Wendell D. Belden ("Belden"), through his Stipulation and Consent ("Consent"), incorporated herein by reference, has admitted service of the Complaint, admitted the jurisdiction of this Court over him and over the subject matter of this action, and has waived the filing of an answer, the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, and his right to appeal this Agreed Order and Findings. BELDEN has, in his Consent, without admitting or denying the allegations of the Complaint (except as to jurisdiction, which he admits), and pursuant to a hearing and presentation of evidence have consented to the entry of this Agreed Order and Findings.

It further appearing that the Court has jurisdiction over BELDEN and the subject matter of this action:

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I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that BELDEN, his agents, servants, employees, attorneys, and all those persons in active concert and participation with them who receive actual notice of this Agreed Order and Findings by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from, directly or indirectly, through the use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a national securities exchange:

- (A) employing any device, scheme, or artifice to defraud,
- (B) obtaining money or property by means of any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
- (C) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, in the offer or sale of any securities in violation of Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. §77q(a)].

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that BELDEN, his agents, servants, employees, attorneys, and all those persons in active concert and participation with them who receive actual notice of this Agreed Order and Findings by personal service or otherwise, and each of them, be and they hereby are permanently restrained and enjoined from, directly or indirectly, through the use of any means or instrumentality of interstate commerce or of the mails, or of the facilities of a national securities exchange:

- (A) employing any device, scheme, or artifice to defraud,

- (B) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
- (C) engaging in any transaction, act, practice, or course of business which operates or would operate as a fraud or deceit on any person, in connection with the purchase or sale of any security, in violation of Section 10(b) of the Exchange Act of 1934 ("the Exchange Act") [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that BELDEN, his agents, servants, attorneys and all persons in active concert or participation with them who receive actual notice of this Agreed Order and Findings by personal service or otherwise, and each of them, be and they hereby are permanently enjoined and restrained from violating, or aiding, abetting, counseling, commanding, inducing or procuring violations of, Section 204 of the Investment Advisers Act [15 U. S. C. §80b-4], and Rule 204-1(a)(2) [17 C.F.R. § 275.204-1(a)(2)] including without limitation, by failing to keep for proscribed period such records (as defined in section 3(a)(3) of the Securities Exchange Act of 1934), to furnish such copies thereof and to make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that BELDEN, his agents, servants, attorneys and all persons in active concert or participation with them who receive actual notice of this Agreed Order and Findings by personal service or otherwise, and each of them, be and they hereby are permanently enjoined and restrained from violating, or aiding, abetting, counseling, commanding, inducing or procuring violations of Sections 206(1), 206(2) and 206(4) of the

Investment Advisers Act [15 U.S.C. § 80b-6(1), (2) and (4)] and Rules 206(4)-4(a)(2) and 206(4)-4(c) thereunder [17 C.F.R. §§ 275.206(4)-4(a)(2) and 275.206(4)-4(c)] by, directly or indirectly by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails:

- (1) employing any device, scheme, or artifice to defraud clients or prospective clients;
- (2) engaging in transactions, practices or courses of business which operate as a fraud or deceit upon clients or prospective clients; or
- (3) engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative, including, but not limited to failing to disclose, promptly (as required by Adviser Act Rule 206(4)-4(c)), all material facts with respect to a legal or disciplinary event that is material to an evaluation of the adviser's integrity or ability to meet contractual commitments to clients.

V.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that BELDEN, his agents, servants, attorneys and all persons in active concert or participation with them who receive actual notice of this Agreed Order and Findings by personal service or otherwise, and each of them, be and they hereby are permanently enjoined and restrained from violating, or aiding, abetting, counseling, commanding, inducing or procuring violations of Section 207 of the Investment Advisers Act [15 U. S. C. §80b-7], making or by causing to be made any untrue statement of a material fact in any registration application or report filed with the Commission under section 203 or 204 of the Advisers Act [15 U.S.C. §§ 80b-3 or 80b-4], or willfully to omit to state in any such application or report any material fact which is required to be stated therein.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that BELDEN, his agents, servants, attorneys and all persons in active concert or participation with them who receive actual notice

of this Agreed Order and Findings by personal service or otherwise, and each of them, be and they hereby are permanently enjoined and restrained from violating, or aiding, abetting, counseling, commanding, inducing or procuring violations of Rule 15b3-1 of the Exchange Act [17 C.F.R. 240.15b3-1], by failing to promptly file with the Central Registration Depository (operated by the National Association of Securities Dealers), amendments to Form BD to correct any information filed in any application for registration as a broker or dealer, or in any amendment thereto, that has become inaccurate for any reason.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that after a hearing and presentation of evidence, the Court hereby finds that BELDEN shall not pay disgorgement and/or civil penalties, pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)] and Section 209(e)(2)(c) of the Advisers Act [15 U.S.C. §80b-9].

VIII

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon defendant Belden's representations in his Statement of Financial Condition provided November 12, 2002 to the Commission, the court has not ordered him to pay disgorgement, prejudgment interest, and/or a civil money penalty pursuant to the provisions of Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act, [15 U.S.C. § 78U(d)(3)] and Section 209(e)(2)(c) of the Advisers Act [15 U.S.C. §80b-9]. The determination not to impose a civil penalty, disgorgement and/or prejudgment interest is contingent upon the accuracy and completeness of defendant Belden's Sworn Statement of Financial Condition. If at any time following the entry of the Agreed Order and Findings, the Commission obtains information indicating that the defendant Belden's representations to the Commission concerning his assets, income, liabilities or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may petition the Court for an order requiring the defendant to pay a civil penalty, disgorgement, plus prejudgment interest, and post-judgment interest thereon. In connection with any such

petition, the only issues shall be whether the financial information provided by the defendant was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, and the amount of civil penalty to be imposed. In any such petition, the Commission may move the Court to consider all available remedies, including, but not limited to, ordering defendant to turn over funds or assets, directing the forfeiture of any assets, or sanctions for contempt of the Court's Agreed Order and Findings, and the Commission may also request additional discovery. Defendant Belden may not, by way of defense to such petition, challenge the validity of this Consent or the Agreed Order and Findings, contest the allegations in the Complaint filed by the Commission, or assert that a civil penalty or disgorgement should not be imposed.

IX.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that within thirty days of the date of this Order, BELDEN shall completely divest himself of any financial interest, direct or indirect, in Southmark Adviser and/or Southmark Broker.

X.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Belden is permanently barred from any affiliation or association with an investment adviser or broker-dealer.

XI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Belden will comply with the Order issued by the State of Oklahoma dated November 8, 2002 and the Decision of the National Adjudicatory Council dated August 13, 2002.

XII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the annexed Consent of Defendant Wendell D. Belden be, and hereby is, incorporated herein with the same force and effect as if fully set forth herein.

XIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this action for all purposes, including the implementation and enforcement of this Agreed Order and Findings.

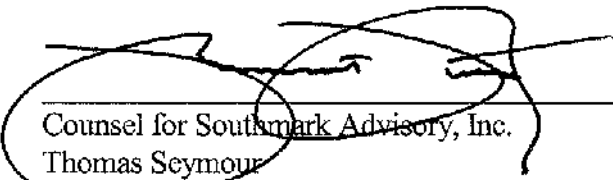
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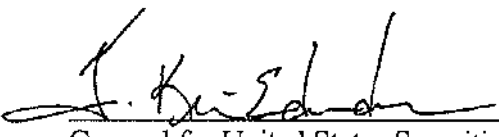
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, there being no just reason for delay, the Clerk of the Court is ordered to enter this Agreed Order and Findings.


UNITED STATES DISTRICT JUDGE

Date: November 21, 2002

Approved as to form and content:


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