

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 2978 / January 27, 2010

ADMINISTRATIVE PROCEEDING
File No. 3-13766

In the Matter of

**DAN WISE, aka DANNY
WISE,**

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203(f) OF THE
INVESTMENT ADVISERS ACT OF 1940
AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Dan Wise, aka Danny Wise (“Wise” or “Respondent”).

II.

After an investigation, the Division of Enforcement alleges that:

A. THE RESPONDENT

1. Dan Wise CPA, age 52, resides in Scottsdale, Arizona. He is not registered with the Commission in any capacity. He was the president and/or manager of the Wise Companies. In his operation of the Wise Companies, Wise operated as an unregistered investment adviser, even though he was not registered with the Commission in this or any other capacity.

B. THE DISTRICT COURT PROCEEDINGS

2. On April 2, 2009, the Commission filed a civil action in the United States District Court for the District of Arizona, Phoenix Division, entitled: *Securities and Exchange Commission v. Whispering Winds Properties, LLC, LM Beagle Properties, LLC, Karlena, Inc. Axis International, Inc. and Dan Wise aka Danny Wise*, Civil Action No. 09-cv-00676-PHX-ROS.

3. The case was filed together with an Ex Parte Application for a Temporary Restraining Order and related emergency relief. On April 2, 2009, the District Court granted the Temporary Restraining Order and Related Relief. On April 10, 2009, the District Court granted a Preliminary Injunction and continued the related emergency relief.

4. On September 9, 2009, pursuant to Fed. R. Civ. P. 55(a), the Clerk of the District Court entered a default against Wise. Subsequently on September 10, 2009, the Clerk of the Court entered a default against the Entity Defendants: Whispering Winds Properties, LLC, LM Beagle Properties, LLC, Karlena, Inc., and Axis International, Inc.¹. On November 10, 2009, the staff filed a motion in the district court seeking a default judgment against Wise and the Entity Defendants. This motion was granted by the district court on December 18, 2009.

5. In granting the Commission's Motion for Default Judgment and the Entry of the Judgment of Permanent Injunction and Orders: (1) Continuing Freeze of Assets; (2) Prohibiting the Destruction of Documents; and (3) Requiring Accountings, the District Court found that good cause existed to believe that Defendant Dan Wise, aka Danny Wise and Defendants Whispering Winds Properties, LLC, LM Beagle Properties, LLC, Karlena, Inc., and Axis International, Inc., and each of them, have engaged in, are engaging in, and are about to engage in transactions, acts, practices and courses of business that constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §240.10b 5.

a. In particular, the Complaint upon which the District Court entered Judgment alleged that Wise, 52 years old, resided in Scottsdale, Arizona. He had been a CPA in Arizona until December 10, 2008 when the Arizona Board of Accountancy revoked his license for ethical violations and for allegedly misappropriating \$2.7 million in clients' funds intended for payment to the IRS. Wise also held an inactive CPA license in California.

b. The Complaint further alleged that the conduct in issue originally began in approximately 1983, when Wise was providing tax and accounting services to clients. In approximately July 2001, Wise began soliciting these clients to invest money with him. Wise represented to investors that their funds would be used to invest in short-term, high-interest loans that would be fully collateralized by second trust deeds or other collateral. Wise promised

¹ Defendants Whispering Winds Properties, LLC, LM Beagle Properties, LLC, Karlena, Inc., and Axis International, Inc. are sometimes referred to as the "Entity Defendants." They are not subjects of this proceeding.

investors high annual returns, ranging from 12 to 22 percent. Wise assured investors that they could obtain the repayment of their principal on short notice, from 24 to 48 hours.

c. The Complaint alleged that Wise encouraged investors to borrow money in order to invest with him, suggesting that they obtain home equity loans or refinance the mortgages on their homes. Wise also encouraged investors to use retirement funds as a source of money to invest with him. In exchange for their funds, Wise gave investors unsecured demand promissory Notes (the “Notes”). Wise alone or with one of the Entity Defendants were the obligors on the Notes. The Notes had stated returns ranging from 3 to 20 percent per year.

d. The Complaint further alleged that from approximately July 2001 through January 2009, Wise and the Entity Defendants raised approximately \$67 million from approximately 125 investors in several states. Wise commingled investor funds in at least 30 different bank accounts held in his name, or the names of the Entity Defendants, along with other companies he controlled.

e. The Complaint alleged that both the oral and written representations made by Wise and the Entity Defendants were false in three principal regards. First, Wise and the Entity Defendants represented to investors that their funds would be used to invest in short-term, high-interest loans that would be fully collateralized by second trust deeds or other collateral. These representations were made orally to investors and in written presentations. These representations were false.

f. The Complaint also alleged that, as a second misrepresentation, Wise and the Entity Defendants represented to investors that they would receive high returns on the Notes. Defendants signed notes with stated annual rates of return ranging from 3 to 20 percent. In addition, Wise orally guaranteed higher annual returns, ranging from 12 to 22 percent per year. These representations were false. Defendants did not pay these returns. Although Wise returned some moneys to investors and paid some investors’ personal bills, such payments were less than the promised returns.

g. The Complaint further alleged that, as a third misrepresentation, Wise told his investors that he would repay the investors’ principal on short notice. These representations were made orally as well as in writing in the Notes and in a written “Power Point” presentation. Contrary to these representations, when investors requested repayment of their principal, Wise failed to do so. When some investors asked for their money back, Wise simply ceased communicating with them and ended payments to them or to their creditors. The failure of Wise and Whispering Winds Properties to pay the promised returns to investors led to the November 3, 2008 involuntary Bankruptcy Petitions against them.

6. Based on these allegations in the Complaint and Defendants’ failure to answer or otherwise respond to the Complaint, the District Court entered Permanent Injunctions against Wise and each of the Entity Defendants enjoining them from future violations of Section 17(a) of the Securities Act, as well as violations of Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5. The Judgment was in the form of a bifurcated judgment

with appropriate amount of disgorgement, prejudgment interest and/or civil penalty to be set by the Court at a later date. The District Court also continued its prior Orders freezing assets, preventing the destruction of documents and ordering accountings.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act;

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Elizabeth M. Murphy
Secretary