

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Agkota Holdings, )  
 Inc., International Joint Ventures )  
 Association, Preferred Home Loans, )  
 -Founders Club, Inc., Verlin )  
 -Swartzendruber, Terry Nitschke, )  
 -Duane Moos, Norman Nitschke, )  
 -William Ebele, and their Officers, )  
 Directors, Agents and Employees )  
 Respondents )

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CONSENT ORDER

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The North Dakota Securities Commissioner has advised the Respondent, Terry Nitschke, that he is prepared to commence formal action pursuant to NDCC Chapter 10-04 and has determined as follows:

1. On April 9, 1998, the North Dakota Securities Commissioner issued a Cease and Desist Order and Notice of Right to Request a Hearing against the above-captioned respondents, including Terry Nitschke, based on apparent violations of the Securities Act.
2. Respondents, Agkota Holdings, Inc.; and International Joint Venture Association; are businesses which were operated by Respondent, Verlin Swartzendruber and other above-named respondents, were located at the offices at 1923 6<sup>th</sup> Ave. SE, Suite 108 in Aberdeen, SD 57402. Respondents, Preferred Home Loans, Inc.; and Founder's Club, Inc.; are businesses which were operated by Respondent, Verlin Swartzendruber, were located at the offices at 1923 6<sup>th</sup> Ave. SE, Suite 108 in Aberdeen, SD 57402.

3. Neither Agkota Holdings, Inc.; International Joint Venture Association; Preferred Home Loans, Inc.; nor the Founders Club, Inc.; are or ever were registered with the North Dakota Securities Commissioner as a broker/dealer in North Dakota.

4. Respondents, Verlin Swartzendruber, Terry Nitschke, Duane Moos, Norm Nitschke, and William Ebele are natural persons. Neither Verlin Swartzendruber, Terry Nitschke, Duane Moos, Norm Nitschke nor William Ebele are now or have ever been registered with the North Dakota Securities Commissioner as salesmen in North Dakota.

5. Respondents, Verlin Swartzendruber, Terry Nitschke, Duane Moos, Norm Nitschke, and William Ebele operated and managed an investment program through the International Joint Venture Association (the "investment program"). Investors, who included North Dakota residents, provided money to the International Joint Venture Association in the form of membership fees, exchanged property (cash) and blocked assets (other property).

6. The respondents' plan for the investment program was to pool the investment moneys, leverage those moneys and to engage in a High Yield Trading Program, which would involve the active purchases and sales of Bank Debentures.

7. According to documents retained by the respondents and shown to investors, the investors' money is guaranteed from loss by a Bank Endorsed Guarantee, which is issued to secure the principal for the contract period.

Respondents told investors and potential investors that the investor funds are never put at risk.

8. According to the respondents' plan, any profits or returns on the investment, if realized, would be based in substantial part on the efforts and expertise of the respondents and not on the individual efforts or expertise of the investors.

9. The investment program was not registered with the North Dakota Securities Commissioner as a security in North Dakota. The investment program is not an exempt security under §10-04-05 N.D.C.C., nor was it offered through an exempt securities transaction under §10-04-06 N.D.C.C.

10. The respondents have been unable to provide and the Commissioner, after an investigation of this matter, has been unable to find any credible evidence that the bank debenture trading program, as discussed above, actually exists. The investment program, as a whole, constitutes a "scheme or artifice to defraud" investors and potential investors. The investigation of the Commissioner demonstrates that respondent, Terry Nitschke, did not have knowledge of the fraudulent nature of the investment program, nor did he have any intent to defraud investors. Instead, Terry Nitschke believed that this was a legitimate trading program and, not having made any independent inquiries, was relying upon the statements of respondent, Verlin Swartzendruber, in reaching that conclusion.

11. Through the respondents' investment program, respondents collected \$300,000 in cash and over \$2,300,000 in blocked assets. The investment funds

were collected of residents of several states, including North Dakota. In excess of \$800,000 in cash and blocked assets was collected from North Dakota residents.

12. Respondent, Verlin Swartzendruber, acted as the manager of Agkota Holdings, Inc. and the International Joint Venture Association and participated in the offer and/or sale of investment interests in International Joint Ventures Association to virtually all of the investors.

13. Respondent, Terry Nitschke, is an insurance agent who is licensed with the North Dakota Insurance Commissioner.

14. Respondent, Terry Nitschke, participated in the offer and/or sale of investment interests in International Joint Ventures Association to several persons including the following:

- a. John Scott
- b. Lee Hollan
- c. Don Erickson
- d. Terrance and Deborah Johnson
- e. Rose Glas
- f. Ron Thomsen
- g. Lee Schobinger and Family
- h. Vivian Stolz
- i. Shirley Sweet
- j. Dale Jakela
- k. B & B Farm

15. The facts set forth above demonstrate that Respondent, Terry Nitschke, engaged in multiple violations of the Securities Act.

16. The information set forth above is sufficient grounds for the Commissioner to assess civil penalties in an amount not to exceed \$10,000 for each violation of the Securities Act, pursuant to §10-04-16(1) N.D.C.C.

17. The following Order is necessary and appropriate in the public interest.

**NOW, THEREFORE, IT IS ORDERED, THAT:**

1. Respondent, Terry Nitschke, shall not transact any securities business with any person in North Dakota unless the securities are offered through an organization which is registered as a dealer or properly exempted under NDCC Chapter 10-04.
2. Respondent, Terry Nitschke, shall not act as a securities salesman for any securities business with any person in North Dakota unless he is registered as a salesman or properly exempted under NDCC Chapter 10-04.
3. Respondent, Terry Nitschke, shall pay a civil penalty of \$2,500 to the Office of the Securities Commissioner pursuant to NDCC §10-04-16.
4. Respondent, Terry Nitschke, shall pay \$1,500 to the Office of the Securities Commissioner to reimburse the Commissioner for investigative costs in the amount pursuant to §10-04-16.1 N.D.C.C and §28-32-08 N.D.C.C.
5. Respondent, Terry Nitschke, will make himself available to testify at any proceeding convened against any other person involved in this matter, regardless of form of proceeding or the jurisdiction of the prosecuting authority.
6. Respondent, Terry Nitschke, is hereby released from the Cease and Desist Order issued by the Commissioner on April 9, 1998.
7. This Order shall be effective upon signature of the Commissioner.

Signed and Sealed this 28<sup>th</sup> day of May, 1999.



Syver Vinje

Syver Vinje  
North Dakota Securities Commissioner  
State Capitol-5th Floor  
600 East Boulevard Ave.  
Bismarck, ND 58505-0510  
(701) 328-2910

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 )  
 Respondents )

CONSENT TO ENTRY  
OF ORDER

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The undersigned, Terry Nitschke, states that he has read the foregoing Consent Order and that he knows and fully understands its contents and effects. He further acknowledges that he has waived his rights to a hearing with respect to this matter consents, upon the advise of his attorney, to entry of the Consent Order by the Securities Commissioner without admitting or denying the findings of fact and conclusions of law contained herein. It is further expressly understood that the Consent Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

Dated this 28 day of MAY, 1999.

Terry Nitschke  
 Terry Nitschke  
 2110 E. Thayer Ave.  
 Bismarck, ND 50501

Subscribed and Sworn before me this 28<sup>th</sup> day of MAY, 1999

Kathleen E. Kunz  
 Notary Public

(Notary Seal)

State: ND County: Burleigh  
 My Commission Expires: 2-8-03