

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of David A. Skjerven; )  
 )  
 Respondent. )

CONSENT ORDER

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The North Dakota Securities Commissioner has advised the Respondent, David A. Skjerven, that the Commissioner is prepared to commence formal action pursuant to North Dakota Century Code Chapter 10-04 and has determined as follows:

1. Respondent, David A. Skjerven, for times relevant to this matter, has been registered as an agent of InterSecurities, Inc., a dealer registered with the Securities Department. Respondent was qualified by examination to conduct securities transactions in mutual funds and variable insurance products, and his registration was limited to such activities.
2. Respondent is not currently registered as an agent, nor is he affiliated with any dealer.
3. During May and July of 2002, Respondent sold two notes to a resident of North Dakota. This activity took place in the Respondent's office in Fargo, North Dakota. The subject notes are securities, as defined by Section 10-04-02 N.D.C.C.
4. Respondent did not inform the North Dakota resident investor of how the funds were to be used, or even what entity would be using the funds.
5. The funds used to purchase these notes were withdrawn from an IRA account, and these funds were not maintained as IRA funds.
6. The notes were not registered with the Securities Department under Sections 10-04-07, 10-04-07.1, 10-04-08 or 10-04-08.1 N.D.C.C.; are not exempt securities under Section 10-04-05 N.D.C.C; have not been offered for sale or sold in exempt transactions under Section 10-04-06 N.D.C.C.; and are not federal covered securities or have not properly filed as federal covered securities under Section 10-04-08.4 N.D.C.C.
7. Respondent did not get the approval of InterSecurities, Inc. prior to the transactions. Such activity has been declared to be an unethical or deceptive business practice by Section 73-02-09-02 N.D.A.C., and is also prohibited by NASD rules.

8. Pursuant to Section 10-04-04 N.D.C.C., no person may sell a security in this state unless the security is registered, exempt from registration, or is a federal covered security. The facts set forth above demonstrate that Respondent engaged in 2 violations of this section.

9. Pursuant to Section 10-04-10(2) N.D.C.C., no agent may offer for sale or sell any securities within or from this state, unless registered as an agent in North Dakota or the securities are sold through exempt transactions under Section 10-04-06 N.D.C.C. The facts described above demonstrate that the Respondent engaged in 2 violations of this provision.

10. Pursuant to Section 10-04-15 N.D.C.C., no person may, in connection with the offer, sale or purchase of any security, make an untrue statement of material fact or a material omission of fact, or to engage in a scheme or artifice to defraud investors. The facts set forth above demonstrate that Respondents engaged in 2 violations of this section.

11. Pursuant to Section 10-04-16(1) N.D.C.C., when it shall appear to the Commissioner that any person has engaged in, or is engaging in, or is about to engage in any act or practice which is declared illegal in this chapter, the Commissioner may issue any order and collect civil penalties against such person in an amount not to exceed \$10,000 for each violation. The violations described above are sufficient grounds for the Commissioner to assess civil penalties against the Respondent pursuant to Section 10-04-16(1) N.D.C.C.

12. Respondent has repaid the notes, with interest, upon the investor's request. The tax liability for the early withdrawal from the IRA is not currently known.

13. Respondent acknowledges his right to a hearing on this matter and waives this right to a hearing and to present arguments to the Commissioner.

14. Respondent agrees to resolve this matter with the Securities Commissioner by this Consent Order.

15. The following Order is necessary and appropriate in the public interest and for the protection of investors.

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

1. Respondent shall not offer for sale and/or sell any security in North Dakota unless that security is registered or exempt from registration under Chapter 10-04 N.D.C.C.

2. Respondent shall not transact any securities business with any person in North Dakota unless he is registered as an agent or is properly exempt from registration under Chapter 10-04 N.D.C.C.

3. Respondents shall not engage in any fraudulent conduct in North Dakota in violation of Section 10-04-15 N.D.C.C.

4. Within 30 days of the demand of the North Dakota resident investor, Respondent shall pay the North Dakota resident investor a sum of money equal to the tax liability resulting from the transaction described in this Consent Order, and the reasonable costs associated with determining that liability.

5. Respondent shall pay a civil penalty of \$10,000. \$3,000 of the civil penalty is due upon the execution of this Consent Order. \$7,000 of the civil penalty is suspended and shall never become due and payable if the Respondent complies with the requirements of paragraph 4, above, and does not otherwise violate this Consent Order.

6. This Order shall be effective upon signature of the Commissioner.

Signed and Sealed this 15<sup>th</sup> day of February, 2005.



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

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

BEFORE THE  
SECURITIES COMMISSIONER  
STATE OF NORTH DAKOTA

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In the Matter of David A. Skjerven; )  
 )  
Respondent. )

CONSENT TO ENTRY  
OF ORDER

.....  
Based on mutual concessions and a willingness to resolve all matters discussed in the foregoing Consent Order, the undersigned respondent states that:

1. He has read the foregoing Consent Order, and knows and fully understands its contents and effects. He has been advised of his right to a hearing with regard to this matter, and has specifically waived that right.
2. The Respondent has been advised that any willful violation of this order is a Class B Felony pursuant to Section 10-04-18(1) N.D.C.C. and is punishable by a \$10,000 fine and 10 years' imprisonment, with respect to a natural person, pursuant to Section 12.1-32-01(3) N.D.C.C.
3. The foregoing Consent Order constitutes the entire settlement agreement between the Respondent and the Securities Commissioner, there being no other promises or agreements, either expressed or implied.
4. The Respondent admits the accuracy of the factual determinations of the Commissioner, as set forth in the foregoing Consent Order, and is specifically precluded from denying those determinations in any forum, public or otherwise.
5. The Respondent consents to entry of the foregoing Consent Order by the Securities Commissioner, and does so willingly for the purpose of resolving the issues described in the foregoing Consent Order.

Dated this 5 day of February, 2005.

*David A. Skjerven*

David A. Skjerven  
818 Main Ave., Suite 5  
 Fargo, ND 58103

Subscribed and Sworn before me this 5 day of February, 2005.

*Cherie L. Heskin*

Notary Public  
State: \_\_\_\_\_ County: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

(Notary Seal)

CHERIE L. HESKIN  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires FEB. 10, 2005