

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of David C. Gess,	)	<b>ORDER FOR CIVIL</b>
CRD # 2224271,	)	<b>PENALTY AND NOTICE</b>
	)	<b>OF RIGHT TO REQUEST</b>
Respondent	)	<b>A HEARING</b>

.....

The North Dakota Securities Commissioner has advised the respondent, David C. Gess, that the Commissioner is prepared to commence formal action pursuant to North Dakota Century Code Chapter 10-04 and finds as follows:

1. Respondent is a securities agent currently employed by and associated with Synergy Investment Group, LLC, (Synergy) a firm headquartered in Lexington, KY. Synergy is, and for all times relevant to this matter, has been registered as a dealer in North Dakota. Respondent is currently registered as an agent in North Dakota.
2. Respondent is the subject of multiple customer complaints that make various allegations, including unsuitable recommendations, unauthorized trading, and misrepresentation.
3. From 1999 to 2000, Respondent had been employed by Saperston Asset Management, Inc. (Saperston) and was properly registered as an agent in North Dakota. While employed by Saperston, Gess made three transactions on behalf of a North Dakota resident. Each of those transactions were made without the authorization of the North Dakota resident client. Additionally, each of the trade confirmations were inappropriately marked as "unsolicited".
4. Pursuant to section 10-04-15 N.D.C.C., no person may engage in fraudulent conduct in connection with the offer for or sale of any security in North Dakota. The activities described above were conducted in violation of this section.

5. Pursuant to section 10-04-16(1) N.D.C.C., the Commissioner may assess civil penalties in an amount not to exceed \$10,000 for each violation of the Securities Act. The facts set forth above are sufficient grounds to assess civil penalties against the respondent.

6. This order is necessary and appropriate in the public interest for the protection of investors.

### ORDER FOR CIVIL PENALTY


It is Hereby ORDERED, that the Respondent, David C. Gess is assessed a civil penalty of \$10,000 which is due and payable to the Securities Commissioner immediately upon the execution of this Order.

### NOTICE OF RIGHT TO REQUEST HEARING

YOU ARE NOTIFIED that pursuant to §10-04-12 N.D.C.C. you may request a hearing before the Securities Commissioner if such a request is made in writing WITHIN FIFTEEN (15) DAYS AFTER THE RECEIPT OF THIS ORDER. The respondents have the right to be represented by legal counsel at the hearing.

Signed and Sealed this 10 day of September, 2003.



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

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of David C. Gess, )  
 )  
 Respondent. )

**AFFIDAVIT OF SERVICE  
BY MAIL**

.....  
I, Jacqui Ferderer, being first duly sworn, state that I am a citizen of the United States over the age of twenty-one years and not a party to or interested in the above-entitled proceeding.

On, September 8, 2003, I deposited in the Central Mailing Bureau of the United States Post Office Department in the State Capitol in Bismarck, North Dakota, true and correct copies of the following document:

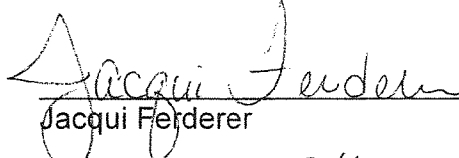
**ORDER FOR CIVIL PENALTY AND  
NOTICE OF RIGHT TO REQUEST A HEARING**

A copy of the above document was securely enclosed in an envelope with postage prepaid, sent via Certified U. S. mail, return receipt requested, and addressed to each of the following:

David C. Gess  
Synergy Investment Group, LLC  
2069 Heather Way  
Lexington, KY 40503

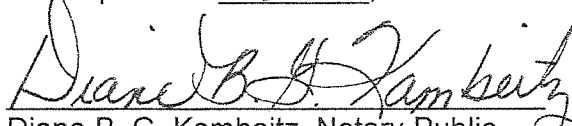
Jeffrey D. Jones  
Synergy Investment Group, LLC  
1660 Dale Earnhardt Blvd  
Kannapolis, NC 28083

To the best of my knowledge, information, and belief, the address given above is the actual mailing address of the party intended to be served.

  
\_\_\_\_\_  
Jacqui Ferderer

Subscribed and sworn to before me on September 8<sup>th</sup>, 2003.

DIANE B.G. KAMBEITZ  
Burleigh County, State of North Dakota  
My Commission Expires April 25, 2006  
STATE OF NORTH DAKOTA  
Notary Public Seal

  
\_\_\_\_\_  
Diane B. G. Kambeitz, Notary Public  
Burleigh County, North Dakota  
My commission expires 4/25/2006