

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

BEFORE THE  
SECURITIES COMMISSIONER

FIRST NATIONAL SERVICES;  
MARC A. RONA;  
and their officers, directors,  
agents, and employees;

ORDER FOR HEARING  
SUBPOENA DUCES TECUM  
REQUEST FOR ADMISSIONS  
NOTICE OF HEARING  
NOTICE OF PENALTIES  
NOTICE OF COSTS

Respondents,

COPY

WHEREAS,

(1) the Securities Commissioner issued a Cease & Desist Order against the Respondents on February 2, 1994; and

(2) the Respondents, through their attorney, have responded to the Cease & Desist Order and have requested a hearing;

THEREFORE, IT IS ORDERED that:

(1) a HEARING will be held for this matter at 1:00 p.m. on Friday, March 4, 1994, in the Missouri River Room at the state capitol in Bismarck, North Dakota, for the following allegations and issues of dispute:

(a) the name and address of each person in North Dakota to whom the Respondents mailed a "SAVINGS SUMMARY" or "Personal Statement" from February 3, 1989 to February 2, 1994;

(b) the name, address, and amount of payment for each person in North Dakota who has paid money to the Respondents for any "SAVINGS SUMMARY" or "Personal Statement" or oral request between February 3, 1989 and February 2, 1994;

(c) whether or not the Respondents have engaged in activities as an "investment adviser" or "investment adviser representative" or "dealer" or "salesman," as defined in NDCC 10-04-02, for any oral statements or written materials offered or sold by the Respondents in North Dakota;

(d) whether or not the Respondents have violated NDCC 10-04-10 for their failure to register in North Dakota as a dealer, salesman, investment adviser. or investment adviser representative, as defined in NDCC 10-04-02;

(e) whether or not the Respondents have engaged in fraudulent practices, in violation of NDCC 10-04-15, for their offer and sale in North Dakota of "SAVINGS SUMMARY" and "Personal Statement" written materials which state that cash is held in a federally insured account in the name of specific North Dakota investors, that an investment of only twelve dollars (\$12) will return a cash payment of \$4997 plus \$2000 of "Service Extras," that investors owe the Respondents ten dollars (\$10) for a service charge, two dollars (\$2) for a rush fee, and a total of twelve dollars (\$12) for the Personal Statement; and that investors should provide the Respondents with various numbers and personal information for their bank account and ABA routing number;

(f) any other relevant issues involving the Respondents;

(2) pursuant to this SUBPOENA DUCES TECUM of NDCC 10-04-16.1, the Respondents shall provide to Nancy J. Lewis in the Office of the Securities Commissioner the following information, to be received on or before 3:00 p.m. on Wednesday, March 2, 1994:

(a) the name, address, and amount of payment for each person in North Dakota who has paid money or provided bank account information to the Respondents for any "SAVINGS SUMMARY" or "Personal Statement" or other written materials or oral requests of the Respondents from February 3, 1989 to February 2, 1994;

(b) copies of any written materials, seminar scripts, mailing lists, or telephone scripts used by the Respondents for the offer or sale of a "Personal Statement" or "SAVINGS SUMMARY" or oral or written presentations in North Dakota from February 3, 1989 to February 2, 1994,

(c) the number of people in North Dakota who received each of the oral presentations or written materials in (b),

(d) copies of any pleadings, applications, written correspondence, transcripts of testimony under oath, exhibits at hearings or in litigation, orders, consent agreements involving the Respondents' materials, and orders or injunctions entered against the Respondents by any state or federal agency, and any other hearings or litigation involving the Respondents between February 3, 1989 and February 2, 1994, for issues involving the mailing of a "SAVINGS SUMMARY" or

"Personal Statement" or other similar mass-marketing solicitation mailed or delivered to consumers,

(e) the name, business address, and telephone number of each employee, agent, or salesperson of the Respondents who mailed a "SAVINGS SUMMARY" or "Personal Statement" to a person in North Dakota from February 3, 1989 to February 2, 1994, and the name, address, and amount of payment of each person in North Dakota who paid each employee, agent, or salesperson of the Respondents,

(f) copies of any documents, including internal files and records, of the Respondents for the offer or sale of the "SAVINGS SUMMARY" or "Personal Statement" solicitations in North Dakota from February 3, 1989 to February 2, 1994, excluding documents prepared for the Respondents that are included within the attorney-client privilege, but including sales reports and mailing lists and customer lists;

(g) copies of all written documents, bank records, agreements, and contracts to prove that "federally insured cash has been held in the name" of each person in North Dakota who received a "Personal Statement" or "SAVINGS SUMMARY" from the Respondents from February 3, 1989 to February 2, 1994;

(h) copies of all licenses, registration certificates, and other written documents to prove that the Respondents have been authorized by any government agency to conduct a sweepstakes contest or lottery in North Dakota;

(3) according to this REQUEST FOR ADMISSIONS, the Respondents shall either admit or deny the following ALLEGATIONS OF FACT AND STATEMENTS OF LAW:

(a) the Respondents have offered and sold "SAVINGS SUMMARY" and "Personal Statement" written materials through a method of mass-mailing and mass-marketing in North Dakota during the period from February 3, 1989 to February 2, 1994;

(b) the Respondents have engaged in activities as an investment adviser and as an investment adviser representative, as defined in NDCC 10-04-02(3) and (4), in their offer and sale of the "SAVINGS SUMMARY" and "Personal Statement" in North Dakota;

(c) the Respondents have violated NDCC 10-04-10(3) and (4) for their failure to register as an investment adviser and as an investment adviser representative in North Dakota;

(d) the Respondents have violated NDCC 10-04-15 and have engaged in fraudulent practices for the mass mailing of their "SAVINGS SUMMARY" and "Personal Statement" documents in North Dakota;

(e) the "Personal Statement" mailed by the Respondents to North Dakota residents includes the following deceptive, false, and misleading statements of material facts that:

(1) the recipient has an account with First National Services and an automated claim number;

(2) this is a "personal" statement and not a mass mailing that is impersonal;

(3) the recipient owes \$10.00 for a service charge;  
(4) the recipient owes \$2.00 for a rush fee;  
(5) the recipient owes \$12.00 for total charges;  
(6) federally insured cash is being held in the name of the recipient of the Personal Statement;

(7) failure to fill out the Personal Statement and return it to First National Services will result in forfeiture of all federally insured cash being held in the name of the recipient;

(f) the "SAVINGS SUMMARY" mailed by the Respondents to North Dakota residents includes the following deceptive, false, and misleading statements of material facts that:

(1) the recipient has a savings account with First National Services;

(2) the recipient has a "Regular Savings" account with an "Ending Balance" of \$4997.00;

(3) \$4997.00 cash in the name of the recipient is held in a federally insured account and will be transferred via a bank wire transfer, certified check, cashier's check, or in cash as soon as First National Services receives the recipient's Automated Claim Number and verification of personal information;

(4) in addition to the \$4997.00 of ending balance in the savings account, the recipient can receive an additional \$2000.00 of interest as a supplement if the

recipient returns the Personal Statement with the service charge of \$10.00;

(5) "interest information" includes a specific Automated Claim Number, a beginning date, an ending date, an entry of \$2000.00 for total interest in the name of the recipient;

(6) the "SAVINGS SUMMARY" mailed to the specific name and address of the recipient also states that "All funds are on deposit. Your cash is ready to be transferred;"

(7) the "SAVINGS SUMMARY" also states that "After designated deadline all cash will be withdrawn," but the designated deadline is not prominently specified on the document, and consumers would be confused by the language and statements of the "SAVINGS SUMMARY;"

(8) small print at the bottom of the Personal Statement and SAVINGS SUMMARY states that the recipient can receive \$2000.00 of service extras by returning the upper portion of the Personal Statement and \$10.00 in the envelope provided;

(9) the Personal Statement and SAVINGS SUMMARY state that the investor can receive \$4997.00 of cash savings and \$2000.00 of interest for an investment of \$10.00 by regular service or for an investment of \$12.00 for the Special Service Rush Fee;

(10) a statement in small print on the back of the Personal Statement and SAVINGS SUMMARY states that "no purchase is required," but the statement contradicts the \$12.00 fee assessed in the Personal Statement;

(11) a statement in small print on the back of the Personal Statement and SAVINGS SUMMARY states that "all participants including payment will receive the Service Extras with a redeemable cash value of over \$2000.00;"

(12) First National Services asks recipients to send them the name, address, phone number, personal account number, and ABA routing number for the financial institution of the recipient, and this information is not necessary for the Respondents to mail a certified check to the recipient for \$6997.00, if a cash account actually exists in the recipient's name, and the true reason for the Respondents to collect personal bank account numbers from the recipients of the mass mailing is for the Respondents to use the bank accounts of recipients for unauthorized transfers of funds by the Respondents;

(g) in written materials mailed to North Dakota investors, the Respondents claim that an investor immediately can receive a \$6997.00 cash payment in return for a \$12.00 investment, and such investment contracts offered and sold by the Respondents involve fraudulent practices, in violation of NDCC 10-04-15;



(4) for each of the denied ALLEGATIONS OF FACT AND STATEMENTS OF LAW, the Respondents shall:

(a) describe in detail the specific facts and law that are the basis for the denial,

(b) attach legible copies of any documents that support the claims of denial or that the Respondents intend to introduce as exhibits at the hearing for this matter,

(c) list the name, address, and telephone number of each person whom the Respondents intend to call as a witness at the hearing for this matter, and describe briefly the material facts and issues for which the witness is expected to testify, and describe the specific qualifications and relevance of any expert witnesses who are expected to testify at the hearing;

(5) failure of the Respondents to describe in detail their basis for denial of specific ALLEGATIONS OF FACT AND STATEMENTS OF LAW may result in a decision by the Securities Commissioner that the allegations and statements have been admitted by the Respondents and may be the basis for FINDINGS OF FACT AND CONCLUSIONS OF LAW in an Order prepared by the Securities Commissioner after the hearing date;

(6) the Respondents immediately shall Cease and Desist from all activities involving the offer or sale of securities, investment advice, or investment contracts in North Dakota;

(7) the CEASE & DESIST ORDER, dated February 2, 1994, is REVOKED and the civil penalties assessed against the Respondents in the Order are dismissed without prejudice and will be reconsidered after the scheduled hearing;

(8) according to NDCC 10-04-12(4), the Respondents may appear at the hearing in their own behalf or they may be represented by an attorney to present evidence and witnesses;

(9) this Order for Hearing shall be delivered to the Respondents' attorney by FAX machine and by certified mail;

(10) YOU ARE NOTIFIED that the above-cited violations, if proven, are sufficient grounds for the imposition of civil penalties under NDCC 10-04-16(1) of an amount that shall not exceed ten thousand dollars (\$10,000) for each violation, and the Respondents may have joint and several liability to pay any civil penalties assessed after the hearing for this matter;

(11) NDCC 10-04-12(4) requires a stenographic record of the hearing, and NDCC 10-04-13(3)(a) requires the appellant to pay reasonable transcript costs. Therefore, on the day of the hearing, the Respondents shall pay a certified check in the amount of \$500 to stenographer "Emineth & Associates" before the hearing begins. The stenographer shall refund any unused portion of the \$500 to the Respondents within 30 days after the time for appeal has expired.

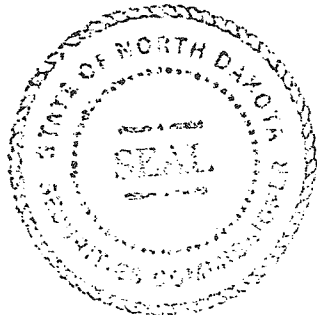
If reasonable costs for a stenographer or transcripts exceed \$500, then the Respondents shall pay the additional costs to the stenographer before receiving the transcripts for appeal;

(12) AMERICANS WITH DISABILITY ACT NOTIFICATION: the Respondents promptly shall notify the Securities Commissioner if a party or witness to be called at the hearing has a disability that will require auxiliary aids or service at the hearing;

(13) time is of the essence for the prompt scheduling of the hearing for this matter, for the Respondents' admissions or denials of the ALLEGATIONS OF FACT AND STATEMENTS OF LAW, for the production of documents and detailed descriptions of a basis for denial of allegations and statements, and for the listing of witnesses and descriptions of the facts and issues for their expected testimony; and, therefore, A FAILURE BY THE RESPONDENTS TO COMPLY WITH ANY TERMS OF THIS ORDER MAY RESULT IN CIVIL PENALTIES OR OTHER APPROPRIATE REMEDIES IN LAW AND EQUITY.

Dated at Bismarck, North Dakota on February 22, 1994.

(Seal)



*Cal Hoovestol*

Cal Hoovestol  
Securities Commissioner