

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Investment Advisory)
Services and Thomas H. Marsden,)
)
 Respondents.)

CONSENT ORDER

.....
The North Dakota Securities Commissioner has advised the Respondents, Investment Advisory Services and Thomas H. Marsden, that the Commissioner is prepared to commence formal action pursuant to North Dakota Century Code Chapter 10-04 and has determined as follows:

1. The Respondent, Investment Advisory Services, is an investment adviser headquartered in Fargo, North Dakota. For all times relevant to this matter, Investment Advisory Services has been registered as an investment adviser in North Dakota.
2. The Respondent, Thomas H. Marsden, is the owner of Investment Advisory Services and serves as an investment adviser representative of Investment Advisory Services. Marsden has never been registered as an investment adviser representative of Investment Advisory Services, but such registration is not required as Marsden is the sole proprietor of Investment Advisory Services and is also its sole investment adviser representative. Marsden has been the sole proprietor of Investment Advisory Services since its inception, and for all times relevant to this matter.
3. On October 13, 2003, employees from the North Dakota Securities Department conducted an examination of Investment Advisory Services. The following were among issues noted during the examination:
 - a. Investment Advisory Services did not have an investment advisory contract with each of its clients.
 - b. The client account agreement, as had been executed by some clients and had been maintained among Investment Advisory Services' files, did not contain a fee schedule or provide information about the fees to be charged for the services provided.
 - c. Investment Advisory Services had not maintained a current copy of its ADV Part II, or offered to provide the same to any of its clients.
 - d. Most of the client files did not contain any information relating to the investment objectives or risk temperament of the individual client.
 - e. Investment Advisory Services did not maintain a file of incoming or outgoing correspondence.
 - f. Investment Advisory Services did not have a privacy policy and did not communicate any privacy policy to clients.

4. In a letter from the Securities Department dated November 24, 2003, the issues discussed in paragraph 3, above, were communicated to the Respondents. The letter requested that respondents provide a plan of action detailing their proposed efforts to resolve these concerns. This plan of action was to be provided by January 30, 2004.
5. The November 24, 2003 letter also required that the deficiencies be corrected within six months. It further stated: "a follow-up exam will be conducted in the next six to nine months wherein penalties maybe (sic) assessed for violations noted during the follow-up exam."
6. On July 21, 2004, employees of the North Dakota Securities Department visited Investment Advisory Services with the intention of conducting an examination of the same. During the conversation that followed, Marsden stated that he had addressed some of the concerns raised in the November 24, 2003 letter. Marsden acknowledged, however, that he had not addressed all of the issues, and that he had not secured customer agreements with his clients or secured the updated investment objectives and risk assessments of his clients. He was told that he would have 30 days to resolve all outstanding issues raised in the November 24, 2003 letter.
7. In a follow-up letter dated July 28, 2004, it was noted that the Respondents progress had been unsatisfactory and that the deficiencies would need to be corrected by August 31, 2004. Respondents were warned that after a follow-up exam, "any violations will be subject to penalties at the discretion of the Commissioner."
8. On October 7, 2004, employees from the North Dakota Securities Department conducted an examination of Investment Advisory Services. During that examination, the following facts were noted:
 - a. Form ADV Part II had not yet been updated.
 - b. Not all customers had signed customer accounts in their files. The Respondents did not seek to get a customer agreement with clients who had less than \$25,000 under the management of Investment Advisory Services.
 - c. Not all customers had risk assessments or investment objectives documented in their files. The Respondents did not seek to get risk assessment or investment objective documents regarding clients who had less than \$25,000 under the management of Investment Advisory Services.
9. Based on the foregoing, the Respondents have not kept and maintained all files as required to be maintained by Section 10-04-10.1 N.D.C.C. and Section 73-02-07-01 N.D.A.C.

10. Pursuant to Section 10-04-16 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 any person found in an administrative action to have violated any provision of the chapter 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 Respondents pursuant to Section 10-04-16(1) N.D.C.C.
11. Based on the Findings set forth above, the Securities Commissioner issued an "Order for and Notice of Civil Penalty, and Notice of Right to Request a Hearing" (Penalty Order) on November 22, 2004. Respondents requested a timely hearing.
12. Respondents acknowledge their rights to a hearing on this matter and waive these rights to a hearing and withdraw their request for a hearing.
13. Respondents agree to resolve this matter with the Securities Commissioner by this Consent Order.
14. The following Order is necessary and appropriate in the public interest and for the protection of investors.

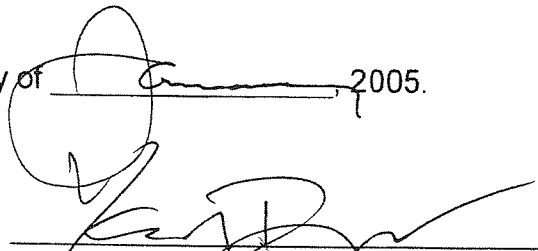
NOW, THEREFORE, IT IS ORDERED, THAT:

1. Respondents are hereby assessed, jointly and severally, a civil penalty in the amount of \$2,500. The penalty shall be paid as follows:
 - a. \$1,500 shall be due and payable upon the execution of this Consent Order.
 - b. \$1,000 shall be suspended and shall become due and payable only after an examination conducted by the Securities Department in 2005, if it is determined that the deficiencies as found in the previous exams and as outlined in this order have not been satisfactorily resolved. If these issues have been satisfactorily resolved, or if the Securities Department does not conduct an exam of the Respondents in 2005, this \$1,000 suspended civil penalty shall never be due and payable.
2. It is understood that no future or ongoing violations, whether discovered through an exam described in paragraph 1(b) above or otherwise, are being resolved through these Consent Order.
3. The Penalty Order issued by the Commissioner on November 22, 2004, as discussed above, is hereby vacated.

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

Signed and Sealed this 20th day of January, 2005.





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

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Investment Advisory)
Services, and Thomas H. Marsden,)
Respondents.)

**CONSENT TO ENTRY
OF ORDER**

.....
Based on mutual concessions and a willingness to resolve all matters discussed in the foregoing Consent Order, each of the undersigned person, on behalf of the Respondents, states that:

1. He has read the foregoing Consent Order, and knows and fully understand its contents and effects.
2. The Respondents have been advised of their rights to a hearing with regard to this matter, and have specifically waived their rights to a hearing.
3. The Respondents have 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. or by a \$35,000 fine with respect to an organization, pursuant to Section 12.1-32-01.1(2) N.D.C.C.
4. The foregoing Consent Order constitutes the entire settlement agreement between the Respondents and the Securities Commissioner, there being no other promises or agreements, either expressed or implied.
5. The Respondents admit the accuracy of the factual determinations of the Commissioner, as set forth in the foregoing Consent Order, and they are specifically precluded from denying those determinations in any forum, public or otherwise.
6. The Respondents consent to entry of the foregoing Consent Order by the Securities Commissioner, and do so willingly for the purpose of resolving the issues described in the foregoing Consent Order.

Dated this 18th day of January, 2005.

Thomas H. Marsden

Thomas H. Marsden (personally and on behalf of Investment Advisory Services)

2501 13th Avenue S., Suite 206
Fargo, ND 58103

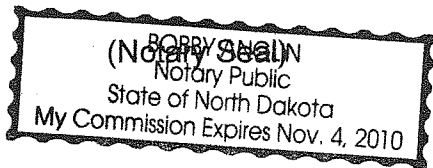
Subscribed and Sworn before me this 18th day of JAN, 2005.

B. A. L.

Notary Public

State: North Dakota County: Cass

My Commission Expires: NOV 4, 2010



January 12, 2005

North Dakota Securities Department
Mr. Matthew Bahrenburg
600 East Boulevard Avenue
State Capitol - 5th Floor
Bismarck, ND 58505-0510

RECEIVED

JAN 13 2005

SECURITIES DEPARTMENT
STATE OF NORTH DAKOTA

Dear Mr. Bahrenburg:

Re: Settlement Proposal per your January 7th memo.

I am in agreement with the above settlement proposal as outlined in your January 7th correspondence. Enclosed is my check for \$ 1,500. I will assume your office will cancel the proposed hearing as stated in your letter. Please notify me if I need to do the same.

I appreciate your efforts to resolve this matter.

Thank You

Sincerely,



Thomas H Marsden, RIA