

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Thomas V. Kozlowski, )  
 )  
 Respondent )

**CONSENT ORDER**

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The North Dakota Securities Commissioner has conducted an investigation into the above-captioned matter, has advised the respondent, Thomas V. Kozlowski, 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, Thomas V. Kozlowski (CRD #1842334), has been registered, from time to time, as an agent in North Dakota with various dealers registered in North Dakota since 1988. Kozlowski is not currently registered as an agent in North Dakota.
2. The agent registration of Mr. Kozlowski was based on the examinations that Mr. Kozlowski passed, which consist of the series 6 and the series 63 examinations. Kozlowski has never passed the series 7 or 62 examinations, and for all times relevant to this matter, was qualified to conduct only those transactions in securities covered by the series 6 examination.
3. During the year 1999, Mr. Kozlowski recommended and facilitated approximately twenty transactions in stocks and real estate investment trusts on behalf of some of his clients. Many of these transactions were conducted by Ryan Keel, a series 7 agent who was then affiliated

with Mr. Kozlowski and was acting at the direction of Mr. Kozlowski. Kozlowski received \$12,284.13 in commissions based on these transactions.

4. With regard to one transaction referenced above (Dakota REIT, a real estate investment trust) Kozlowski solicited the transaction, acted as registered representative in executing this transaction through a subscription agreement, and received commissions based on the transaction. Additionally, Kozlowski executed the transaction on behalf of a Minnesota resident while Dakota REIT was not a registered security in Minnesota, and while Dakota REIT was relying upon the intrastate exemption to the federal securities laws. Kozlowski conferred with the issuer and then completed the subscription agreement indicating that the client's address was Kozlowski's own office address, in an apparent attempt to avoid the intrastate limitations of the offering.
5. In an order dated December 31, 1985, the Minnesota Department of Commerce suspended the insurance agent registration of the respondent in Minnesota. This order was not disclosed when Mr. Kozlowski applied to be registered as a securities agent.
6. In July of 1987, the respondent applied to be registered as an insurance agent in North Dakota. His application was denied based on the Minnesota suspension order, discussed above. This denial was

not disclosed to the Commissioner when Mr. Kozlowski applied to be registered as a securities agent.

7. In April of 1989, the respondent applied to be registered as an insurance agent in North Dakota. He did not properly disclose the order discussed above during that application, and his application was denied as a result thereof. This denial was not disclosed to the Commissioner when Mr. Kozlowski applied to be registered as a securities agent.
8. The facts set forth in paragraphs 2-4, above, demonstrate that the respondent engaged in securities transactions while not properly registered as an agent with regard to those transactions, as required by section 10-04-10 N.D.C.C. Respondent engaged in approximately 20 transactions in violation of this section, and received \$12,284.13 based on this activity.
9. The facts set forth in paragraph 4 also demonstrate that the respondent engaged in fraudulent activity in an apparent attempt to avoid detection while engaging in, what was apparently perceived by Mr. Kozlowski as a securities registration violation in Minnesota, or a violation of federal securities laws. This activity was conducted in violation of section 10-04-15 N.D.C.C.
10. The facts set forth in paragraphs 5-7, above, demonstrate that the respondent failed to disclose three items to the Commissioner in

numerous agent registration applications with the Commissioner since 1988. Such activities were in violation of section 10-04-15 N.D.C.C.

11. 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.
12. Respondent acknowledges its right to a hearing on this matter and waive this right to a hearing and to present arguments to the Commissioner.
13. Respondent agrees 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. Respondent is hereby assessed a civil penalty of \$50,000, \$35,000 of which shall be suspended and shall never become due and payable as long as the Respondent complies with each of the following:
  - a. Respondent shall pay \$15,000 to the North Dakota Securities Department according to the following terms:

i. Beginning in February of 2004 and continuing through June of 2005, Respondent shall pay \$500 per month on or before the fifteenth day of each month.

ii. On or before June 30, 2005, Respondent shall make a balloon payment for the balance of \$15,000 less moneys paid pursuant to paragraph i, above.

b. Respondent shall not engage in the business of selling securities in North Dakota, unless or until he is registered as a securities agent and properly affiliated with a registered dealer.

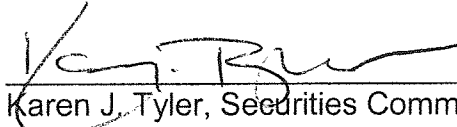
c. Respondent shall not engage in any violations of the North Dakota Securities Act.

2 ~~15~~. Respondent shall not apply to be registered as an agent in North Dakota until the Respondent (1) has made all payments as required by paragraph 1a, above, and (2) has taken and passed the series 7 or 62 examination.

3 ~~16~~. This Order shall be effective upon signature of the Commissioner.

Signed and Sealed this 12<sup>th</sup> day February, 2004.



  
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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

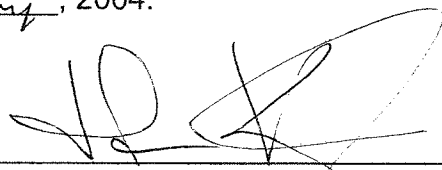
In the Matter of Thomas V. Kozlowski, )  
 )  
 )  
 Respondent. )

**CONSENT TO ENTRY  
OF ORDER**

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

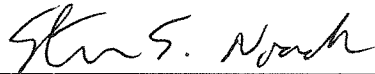
1. He has read the foregoing Consent Order, and knows and fully understand its contents and effects.
2. He has been advised of his right to a hearing with regard to this matter, and has specifically waived his right to a hearing.
3. He has been advised that any willful violation of this order is a Class 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. 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 Respondent and the Securities Commissioner, there being no other promises or agreements, either expressed or implied.
5. He 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. Mr. Kozlowski does not admit to the legal conclusions drawn by the Commissioner in the foregoing Consent Order.
6. He 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 10<sup>th</sup> day of February, 2004.



Thomas Kozlowski  
1111 Westrac Drive, Suite 100  
Fargo, ND 58103-2384

Subscribed and Sworn before me this 10<sup>th</sup> day of February, 2004.



Notary Public

State: \_\_\_\_\_ County: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(Notary Seal)

