

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: JAMES A. BAYER

)
)
) FILE NO. 0100677
)

ORDER OF PROHIBITION AND FINE

TO THE RESPONDENT: James A. Bayer
 4705 Oakridge Park Drive
 St. Louis, MO 63129

WHEREAS, the record of the above captioned matter has been reviewed by the Secretary of State or his duly authorized representative;

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions are deemed to be proper and are hereby concurred with by the Secretary of State;

WHEREAS, the proposed Findings of Facts and Conclusions of Law and Recommendations of the Hearing officer, John K. Ellis, in the above-captioned matter have been read and examined; and

WHEREAS, the proposed Findings of Fact are correct and are adopted by the Secretary of State as follows:

1. The evidence and exhibits have been offered and received from the Department and a proper record of all proceedings has been made and preserved as required by law;
2. The Hearing Officer has ruled on all motions and objections timely made and submitted;
3. The Hearing Officer and the Secretary of State, Illinois Securities Department have jurisdiction over the party herein and the subject matter dealt with herein, due and proper notice having been previously given as required by statute in this Matter;

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4. As no Answer was filed, the Respondent is therefore deemed to be in default;
5. That James A. Bayer has a last known business address of 4705 Oakridge Park Drive, St Louis Mo. 63129 and is an agent of Alpha Telcom, Inc.;
6. That from on or about September 8, 2000 through November, 2000 James A. Bayer offered and sold to at least one Illinois resident an investment in payphone leases issued by Alpha Telcom, Inc and ATC, Inc. a/k/a American Telecommunications Company, Inc.;
7. The transaction involved the purchase of payphones and related equipment by investors from ATC, Inc. a/k/a/ American Telecommunications Company, Inc. and concurrently a payphone lease agreement between the investor and Alpha Telcom, Inc. in which Alpha Telcom would manage the payphones and related equipment and receive 70% of the adjusted gross revenue of the payphone(s) and the investor was to receive 30% of the adjusted gross revenues for a period of three years.
8. That the payphone leasing agreement is an investment contract and is a security as that term is defined pursuant to Section 2.1. of the Illinois Securities Law of 1953 [815 ILCS 5/1 et seq.] (the "Act");
9. That Section 5 of the Act provides, inter alia, that all securities except those exempt under Section 3 of the Act or those offered and sold in transactions exempt under Section 4 of the Act shall be registered with the Secretary of State prior to their offer or sale in the State of Illinois;
10. That Section 12.A of the Act provides, inter alia, that it shall be a violation of the Act for any person to offer or sell securities except in accordance with the provisions of the Act;
11. That at all times relevant hereto, James A. Bayer failed to file an application for registration of the above-referenced securities with the Secretary of State prior to their offer or sale in the State of Illinois;

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12. That Section 12.D of the Act provides, inter alia, that it shall be a violation of the Act for any person to fail to file with the Secretary of State any document or application required to be filed under the provision of the Act;
13. That section 8.A. of the Act states, inter alia, that, except as otherwise provided in subsection A, every salesperson shall be registered as such with the Secretary of State;
14. That Section 12.C of the Act states, inter alia, that it shall be a violation of the Act for any person to act as a salesperson unless registered as such, where such registration is required.
15. That Respondent, James A. Bayer, was not registered in Illinois as a salesperson during the relevant time period of the sales of securities in the State of Illinois;
16. That by virtue of the foregoing, James A. Bayer has violated Sections 12.A, C and D of the Act;
17. That Section 11.E(2) of the Act provides, inter alia, that if the Secretary of State shall find that any person has violated subsection C or D of Section 12 of the Act, the Secretary of State may by written order prohibit the person from offering or selling any securities in this State;
18. That Section 11.E(4) of the Act provides, inter alia, that if the Secretary of State, after finding that any provision of the Act has been violated, may impose a fine as provided by rule, regulation or order not to exceed \$10,000.00 for each violation of the Act; and
19. That by virtue of the foregoing, James A. Bayer is subject to a fine of up to \$10,000.00 per violation and an order which permanently prohibits the Respondent from offering or selling securities in the State of Illinois.

WHEREAS, the proposed Conclusions of Law are correct and are adopted by the Secretary of State as follows:

1. After proper notification, the Complainant may proceed with a hearing in the Respondent's absence. (735 ILCS

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5/1-105 and 5/2-1301; Ryan v. Bening, 1978, 22 Ill. Dec. 873, 66 Ill. App.3d 127, 383 N.E.2d 681; Koenig v. Nardullo, 1968, 99 Ill. App. 480, 241 N.E.2d 567) Significantly, the Notice of Hearing outlines that a default judgment may be entered against a Respondent who fails to appear or answer the charge(s);

2. The Respondent's actions, representations, and/or omissions made in connection with the offer or sale of unregistered securities are a violation of Section 12.A. The Respondent's actions, representations, and/or omissions made in connection with a failure to register as a salesperson with the Secretary of State are a violation of Section 12.C. The Respondent's actions, representations, and/or omissions made in connection with a failure to file the required Application for Registration with the Secretary of State are a violation of Section 12.D;
3. That by virtue of the foregoing, the Respondent is subject to an Order of Prohibition in the State of Illinois and/or granting such other relief as may be authorized under the Act; and
4. Because of the Findings of this Order, the documents admitted as Secretary of State Exhibits Numbers 1-13, as well as the fact that the Respondent failed to answer the charges or appear at the hearing, the entry of a written Order of Prohibition pursuant to 815 ILCS 5/11.E(2) which permanently prohibits the offer or sale of securities by the Respondent in the State of Illinois, and a fine up to \$10,000.00 per violation pursuant to 815 ILCS 5/11.E(4), are proper in this matter.

WHEREAS, the proposed Recommendations of the Hearing Officer are adopted by the Secretary of State;

NOW THEREFORE IT IS HEREBY ORDERED: That pursuant to the foregoing Findings of Fact, Conclusions of Law, and the Recommendations of the Hearing Officer, the Respondent is permanently prohibited from offering or selling securities in the State of Illinois and to pay a fine of \$15,000 payable by certified check or money order within 30 (thirty) days from the date of entry of this order.

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ENTERED: This 15th day of March, 2004

Jesse White ~~DF~~

Jesse White
Secretary of State
State of Illinois

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Illinois Securities Law of 1953, as amended, 815 ILCS 5/1 et seq. (the "Act"). Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

This is a final order subject to administrative review pursuant to the Administrative Review Law, 735 ILCS 5/3-101 et seq. and the Rules and Regulations of the Act (14 Ill. Admin. Code, Ch. I, Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.

Attorney for the Secretary of State:
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