

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

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IN THE MATTER OF: GARY L. PITTSFORD )  
\_\_\_\_\_)

FILE NO. 0600423

**CONSENT ORDER OF WITHDRAWAL OF APPLICATION**

TO THE RESPONDENT: Gary L. Pittsford  
(CRD#: 364258)  
4736 Lakewood Hills Drive  
Anderson, Indiana 46011

C/o Castle Advisory Group LLC  
9820 Westpoint Drive Suite 100  
Indianapolis, Indiana 46256-3335

C/o Robert M. Koeller Attorney At Law  
Ittenbach, Johnson, Trettin & Koeller  
6350 North Shadeland, Suite 4,  
Indianapolis, Indiana 46220

WHEREAS, Respondent on the 13th day of March 2007 executed a certain Stipulation to Enter Consent Order of Withdrawal of Application (the "Stipulation"), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, Respondent has admitted to the jurisdiction of the Secretary of State and service of the Amended Notice of Hearing of the Secretary of State, Securities Department, dated February 5, 2007, in this proceeding (the "Notice") and Respondent has consented to the entry of this Consent Order of Withdrawal of Application "Consent Order").

WHEREAS, by means of the Stipulation, the Respondent acknowledged, without admitting or denying the truth thereof that the following allegations contained in the Amended Notice of Hearing shall be adopted as the Secretary of State's Findings of Fact:

1. That on December 19, 2005, Castle Advisory Group, LLC, a registered investment adviser, filed a Form U-4 application for registration of the Respondent as an investment adviser representative in the State of Illinois.

2. That on December 19, 2006, a Summary Order of Denial (the "Order") was issued by the Secretary of State denying this application. Pursuant to the terms of the Order, on January 10, 2007 the Respondent requested a hearing.
3. That on September 22, 1999, the United States Securities and Exchange Commission (SEC) entered ORDER INSTITUTING A PUBLIC ADMINISTRATIVE AND CEASE AND DESIST PROCEEDINGS in ADMINISTRATIVE PROCEEDING PURSUANT TO SECTIONS 203 (f) AND 203 (k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING SANCTIONS AND CEASE AND DESIST ORDER (Order) Regarding FILE No. 3-10023 which imposed the following sanctions upon the respondent:
  - A. cease and desist from committing or causing any violations and any future violations of Sections 206(1), 206(2), and 207 of the Advisers Act;
  - B. censured;
  - C. barred from association with any investment adviser with the right to reapply for association after one year from the date of this Order; and
  - D. pay a civil money penalty in the amount of \$5,000.
4. That the Order found:
  - a. The respondent, age 52, and a resident of Anderson, Indiana, has been the sole shareholder, president and director of G.L. Pittsford & Associates, Inc., since at least 1983. Since 1980, the Respondent has also been the president and one of two directors of Sulphur Implement Corporation.
  - b. G.L. Pittsford & Associates, Inc. ("Pittsford") (File No. 801-19294), an Indiana corporation, had its principal place of business in Indianapolis, Indiana. It registered with the Commission as an investment adviser on July 22, 1983. Pittsford began managing clients' assets in 1986. In 1997, Pittsford provided investment management services on a discretionary basis to approximately 100 clients with accounts having an aggregate market value of approximately \$42.1 million in assets under management and financial planning services to approximately 300 to 400 clients on an hourly or fixed-fee basis. Pittsford withdrew its registration as an investment adviser, effective December 18, 1998.

- c. Sulphur Implement Corporation ("SIC") is an Indiana privately held corporation, with its principal place of business in Sulphur Springs, Indiana that sells farm equipment and implements.
- d. This proceeding involves violative conduct of the Respondent, acting through his wholly owned registered investment adviser, Pittsford, including certain misleading statements and failure to disclose material information by the Respondent to certain advisory clients concerning their investments in SIC.
- e. SIC was founded in 1980 by a small group of initial investors, including the Respondent, his father and brother. From 1980 to the present, SIC has raised approximately \$4.4 million in a series of private placements of common stock and promissory notes. Almost all of this money has been raised from investment advisory clients of Pittsford. From at least 1988 to the present, SIC has had operating losses every year, and needed the investors' funds raised by Pittsford to continue to operate.
- f. In July 1993, the Respondent, Pittsford, and SIC resolved a dispute with two SIC shareholders, who were also formerly Pittsford's advisory clients, by promising to redeem their shares of SIC stock under a payment schedule ("1993 redemption agreement"). Under the 1993 redemption agreement, the Respondent, Pittsford, and SIC agreed to jointly and severally pay the SIC shareholders a total of \$398,000, not including interest. Between 1993 and the present, SIC made redemption payments of approximately \$120,879 towards the 1993 redemption agreement.
- g. The Respondent, Pittsford, and SIC remain jointly and severally liable for approximately \$325,000, plus interest, under this agreement.
- h. In November 1994, The Respondent, Pittsford, and SIC resolved another dispute with two SIC shareholders who were also former Pittsford advisory clients by promising to redeem their shares of SIC under a payment schedule ("1994 redemption agreement"). Under the 1994 redemption agreement, G. Pittsford, Pittsford, and SIC agreed to jointly and severally pay a total of \$398,600. Between 1994 and the present, SIC paid approximately \$221,750 towards the 1994 redemption agreement. The Respondent, Pittsford, and SIC remain jointly and severally liable for approximately \$195,000, plus interest, under this agreement.
- i. Between approximately July 1994 and December 1997 (the "relevant period"), the Respondent caused four of Pittsford's

advisory clients to invest approximately \$1.2 million in unregistered common stock and promissory notes of SIC without adequately disclosing the material conflicts of interest arising from the Respondent's and Pittsford's financial interests in and relationship with SIC. Due to these interests in and relationship with SIC, the Respondent and Pittsford had a material conflict of interest in recommending investments in SIC to their clients. In particular, the Respondent failed to adequately disclose to Pittsford's SIC clients that:

- i. Pittsford, the Respondent and SIC had jointly and severally agreed to pay for the redemption of SIC stock under the 1993 and 1994 redemption agreements in the aggregate amount of \$796,600, and a substantial portion of those redemption obligations remained unpaid;
  - ii. SIC needed to raise substantial funds from investors in order to pay for the SIC stock redemption obligations under the 1993 and 1994 redemption agreements, and to the extent that new investor funds enabled SIC to make partial payments on the redemption agreements, the financial obligations of Pittsford and the Respondent were reduced; and
  - iii. The Respondent was president and one of two directors of SIC, and exercised effective control over it.
- j. Beginning in 1986 and continuing through the relevant period, Pittsford's quarterly statements, sent to its advisory clients, reported the value of SIC stock at \$200 per share, which was the original purchase price the clients paid for the shares. The value was reported in a column entitled "Current Value." This column generally reported the current market value based on available market quotations. However, Pittsford did not disclose that the listed value of SIC stock reflected the original purchase price, and not current market value. SIC has always been a closely held stock and has never been publicly traded. Market quotations have never been available for SIC stock. Throughout the relevant period, the book value of the stock was at all times substantially less than \$200 per share, and SIC never made an operating profit. Accordingly, it was misleading to value the stock at \$200 per share. The Respondent was aware that SIC stock was valued at the original purchase price of \$200 per share on quarterly client account statements.

- k. Prior to December 1997, Pittsford had not filed an amended Form ADV since November 1992, despite material changes in information. During the relevant period, Pittsford filed, on an annual basis, Forms ADV-S that incorrectly certified that it was not required to amend its Form ADV during that period. Between at least 1994 and 1997, Pittsford's Form ADV failed to adequately disclose its and the Respondent's material conflict of interest created by the 1993 and 1994 redemption agreements, and the Respondent's effective control over SIC as president, director and shareholder. The Respondent, as Pittsford's president, was responsible for completing Pittsford's disclosure documents and signed each of the reports and applications submitted to the Commission.
  - l. Section 206(1) of the Advisers Act prohibits an investment adviser from employing any device, scheme or artifice to defraud any client or prospective client. Section 206(2) prohibits an investment adviser from engaging in any transaction, practice, or course of business, which operates as a fraud or deceit upon any client or prospective client.
  - m. To establish a violation under Sections 206(1) and 206(2) it must be demonstrated that misstatements or omissions were material. *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 200 (1963). A fact is considered material if there is a substantial likelihood that a reasonable investor would consider it important. *Basic Inc. v. Levinson*, 485 U.S. 224, 233 (1988). An investment adviser has a duty to disclose to its clients all material information, which might incline an investment adviser to render advice, which is not disinterested. *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. at 191-92.
  - n. During the relevant period, the Respondent caused and willfully aided and abetted Pittsford's violations of Sections 206(1) and 206(2) of the Advisers Act by knowingly providing assistance to Pittsford's conduct as alleged in the preceding paragraphs above.
  - o. During the relevant period, the Respondent willfully violated Section 207 of the Advisers Act by falsely certifying on Pittsford's Forms ADV-S that no amendment to its Form ADV was necessary when it was, as alleged above.
5. That Section 8.E(1)(k) of the Act provides, inter alia that the registration of an investment adviser representative may be denied if the Secretary of State finds that such investment adviser representative has any order entered against him after notice and opportunity for a hearing by the

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United States Securities and Exchange Commission arising from any fraudulent or deceptive act or a practice in violation of any statute, rule, or regulation administered or promulgated by the agency or commission.

6. That the Respondent had notice and opportunity to contest the matters in controversy but chose to settle the matter with the SEC.
7. That by virtue of the foregoing, the Respondent's registration as an investment adviser representative in the State of Illinois is subject to denial pursuant to Section 8.E(1)(k) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged, without admitting or denying the averments, that the following shall be adopted as the Secretary of State's Conclusion of Law:

The Respondent's application for registration as an investment adviser representative in the State of Illinois is subject to denial pursuant to Section 8.E(1)(k) of the Act.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he shall cause to have his application for registration as an investment adviser representative in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply for registration for a period of two (2) years from the entry of this Consent Order.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed that he shall be levied costs incurred during the investigation of this matter in the amount of One Thousand Five Hundred dollars (\$1,500.00). Said amount is to be paid by certified or cashier's check, made payable to the Office of the Secretary of State, Illinois Audit and Enforcement Fund.

WHEREAS, by means of the Stipulation Respondent has acknowledged and agreed he has submitted with the Stipulation a certified or cashier's check in the amount of One Thousand Five Hundred dollars (\$1,500.00) to cover costs incurred during the investigation of this matter. Said check has been made payable to the Office of the Secretary of State, Illinois Audit and Enforcement Fund.

WHEREAS, the Secretary of State, by and through his duly authorized representative, has determined that the matter related to the aforesaid formal hearing may be dismissed without further proceedings.

NOW THEREFORE IT SHALL BE AND IS HEREBY ORDERED THAT:

1. The Respondent shall cause to have his application for registration as an investment adviser representative in the State of Illinois withdrawn within three (3) days from the entry of this Consent Order and will not re-apply

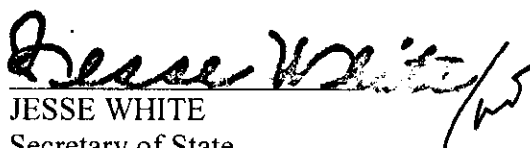
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for registration for a period of two (2) years from the entry of this Consent Order.

2. The Respondent is levied costs of investigation in this matter in the amount of One Thousand Five Hundred dollars (\$1,500.00), payable to the Office of the Secretary of State, Illinois Audit and Enforcement Fund, and on March 13<sup>th</sup>, 2007 has submitted One Thousand Five Hundred dollars (\$1,500.00) in payment thereof.
3. The Summary Order of Denial entered on December 19, 2006 shall be vacated.
4. The formal hearing scheduled on this matter is hereby dismissed without further proceedings.

ENTERED This 13<sup>th</sup> day of March 2007.

  
JESSE WHITE  
Secretary of State  
State of Illinois

NOTICE: Failure to comply with the terms of this Order shall be a violation of the Section 12.D of 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 the 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 Illinois Securities Act, {14 Ill. Admin. Code Ch. I, Section 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.