

STATE OF IDAHO
COUNTY OF KOOTENAI) SS
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CLERK DISTRICT COURT

DEPUTY

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**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR KOOTENAI COUNTY**

STATE OF IDAHO, DEPARTMENT OF
FINANCE, SECURITIES BUREAU,

Plaintiff,

vs.

JACK LEE SMILEY,

Defendant.

Case No. CV 07-2341

**JUDGMENT, PERMANENT INJUNCTION
AND ORDER APPOINTING RECEIVER**

On August 28, 2008, this Court entered its Order on Motions to Strike and Memorandum Decision and Order Granting Plaintiff's Motion for Summary Judgment (Decision) in the above-captioned action.

Now, pursuant to such Decision, THE COURT HEREBY FINDS, as a matter of law, that Defendant JACK LEE SMILEY (Defendant), violated the Idaho Uniform Securities Act (2004), Idaho Code § 30-14-301 (the Act) by offering or selling unregistered securities in Idaho;

THE COURT FURTHER FINDS, as a matter of law, that Defendant violated the Act and the Code by transacting securities and commodities business in Idaho while not properly registered under the Idaho Uniform Securities Act (2004) or under the Idaho Commodity Code;

THE COURT FURTHER FINDS, as a matter of law, that Defendant committed securities and commodities fraud within the meaning of and in violation of Idaho Code §§ 30-14-501 and 30-1506 by misrepresenting and omitting facts in connection with the offer or sale of a security and commodity;

THE COURT FURTHER FINDS, as a matter of law, that Defendant committed securities and commodities fraud within the meaning of and in violation of Idaho Code §§ 30-14-501 and 30-1506 by engaging in acts, practices, and a course of business which operated or would operate as a fraud or deceit upon any person;

THE COURT FURTHER FINDS, as a matter of law, that Defendant violated Idaho Code § 30-14-402(a) by failing to register as an agent when engaging in the offer or sale of securities.

THE COURT FURTHER FINDS that all Joint Venture Agreements entered into by investors with Defendant for the purchase of Iraqi Dinars are VOID and UNENFORCEABLE, in that they are in violation of the Idaho Uniform Securities Act (2004) and in violation of the Idaho Commodities Code.

NOW THEREFORE, the Court hereby ORDERS, ADJUDGES, and DECREES as follows:

INJUNCTIVE RELIEF

Defendant JACK LEE SMILEY is permanently enjoined from engaging in any acts, practices, courses of business, omissions, and misrepresentations that would constitute violations of the Idaho Uniform Securities Act (2004), Title 30, Chapter 14, or the Idaho Commodity Code, § 30-1501 *et seq.* or any successor acts and in particular, that he be permanently enjoined from:

(A) Selling or offering for sale nonexempt securities in any form in the state of Idaho until such time as the securities have been registered with the Idaho Department of Finance (Department) in accordance with the Act;

(B) Selling or offering for sale nonexempt securities or commodities in any form in the state of Idaho until such time as the Defendant JACK LEE SMILEY has registered as a broker-dealer or agent for a broker-dealer or issuer with the Department, in accordance with the Act and with the Code;

(C) While engaged in or in connection with the offer, sale or purchase of any security or commodity in the state of Idaho:

(1) Employing any device, scheme or artifice to defraud any investors or prospective investors;

(2) Making any untrue statement of material fact or omitting to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made, not misleading;

(3) Engaging in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person;

(4) Aiding, abetting, counseling, inducing or causing any other person to engage in any of the types of conduct described in paragraphs (C)(1) through (C)(3) above; and

(D) Defendant JACK LEE SMILEY is further prohibited from claiming the availability of, using, or offering or selling securities or commodities under any exemptions under the Act or under the Code without receiving the prior written consent of the Director of the Idaho Department of Finance.

ORDER APPOINTING RECEIVER

I

IT IS ORDERED that the plaintiff, Idaho Department of Finance, is hereby appointed as Receiver, and that Receiver shall take control of Jack Lee Smiley's funds, assts and property wherever situated, with the powers set forth herein, including powers over all funds, assets, premises (whether owned, leased, occupied, or otherwise controlled), choses in action, books, records, and other property belonging to or in the possession of or control of Jack Lee Smiley, and the Receiver is hereby authorized, empowered, and directed:

A) to have access to, to marshal and take control of all funds, assets, premises (whether owned, leased, occupied or otherwise controlled), choses in action, papers, books, records in whatever media, and other property, wherever located, belonging to, in the custody, control or possession of Jack Lee Smiley, with full power to take such steps as he deems necessary to secure such premises, funds and property;

B) to have control of, and to close, transfer, or otherwise take possession of all accounts, securities, commodities positions, funds, or other assets of, or in the name of Jack Lee Smiley at any bank, brokerage firm or financial institution which has possession, custody or control of any assets or funds of Jack Lee Smiley, wherever situated;

C) to take such action as is necessary and appropriate to preserve and take control of, and to prevent the dissipation, concealment, or disposition of any assets in the possession, custody, name, or control of Jack Lee Smiley;

D) to hold in his possession, custody and control all assets, securities, commodities positions, monies and property, together with all profits, dividends, interest or other income attributable thereto, of whatever kind deposited by Jack Lee Smiley, with Jack Lee Smiley, or into an account in the name of Jack Lee Smiley, pending further order of this Court;

E) to make or authorize such payments and disbursements from the funds and assets under his control pursuant to the Order, and to incur, or authorize the incurrence of, such expenses and make, or authorize the making of, such agreements as may be reasonable, *this includes making direct restitution of Dinars to investors who desire that remedy; the Receiver is to make every effort to determine which investors want the Dinars they paid for;*

F) to engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, commodities traders, registered representatives, futures commission merchants, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers; and *the Receiver to make interim accounts to the Court and to defense counsel any time any Dinars are sold; no monetary disbursements other than Dinars as mentioned above to individuals will be made until all Dinars are sold.*

G) to take possession, have access to, and to review all mail or any other communication, in any form, of Jack Lee Smiley or of his agents.

II

IT IS FURTHER ORDERED that, in connection with the appointment of the Receiver provided for above:

H) Jack Lee Smiley and all officers, agents, servants, employees, attorneys-in-fact, shareholders, consultants, accountants, advisers, counsel and other persons, and Defendants in this action, who are in custody, possession, or control of any customer or client information, assets, books, records, or other property belonging to or in the custody or control of Jack Lee Smiley shall forthwith give access to and control of such property to the Receiver, and shall forthwith grant to the Receiver, or such other person whom the Receiver may designate, authorization to be the signatory as to all accounts at banks, brokerage firms, commodities firms or financial institutions which have possession, custody or control of any assets or funds in the name of or for the benefit of Jack Lee Smiley.

I) The Receiver is authorized, empowered, and directed without further leave of the Court, to liquidate and convert into money all of the assets, property, estate, effects and interests of every nature held in his possession and control pursuant to this Order, by selling, conveying, and disposing of the property, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the persons or parties entitled to the proceeds, and with due regard to the realization of their true and proper value and to deposit such proceeds into a trust account, pending further order of the Court.

J) The Receiver is authorized to invest any and all money or proceeds in his possession and control in the United States Treasury instruments or in a money market account that invests solely in United States Treasury instruments.

K) All banks, brokerage firms, commodities firms, financial institutions, and other business entities which have possession, custody or control of any assets, funds or accounts in the name of or for the benefit of Jack Lee Smiley shall cooperate expeditiously in the transfer of funds, other assets and accounts to the Receiver or at the direction of the Receiver.

L) All banks, brokers, dealers, commodities firms, futures commission merchants, depositories or any other financial institution shall not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, commodities positions, funds, or accounts in the name of or for the benefit of Jack Lee Smiley except upon instructions from the Receiver or his designees.

M) The Receiver shall have the authority to issue subpoenas for documents and testimony consistent with the Idaho Rules of Civil Procedure.

N) Defendant and his respective officers, agents, servants, employees, and attorneys-in-fact, consultants, accountants, advisers and counsel cooperate with and assist the Receiver, including, if deemed necessary by the Receiver, by appearing for deposition testimony and

producing documents, and shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the Receiver in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the Receiver of the funds, assets, premises, and choses in action described above.

O) The Receiver shall not return to Jack Lee Smiley customers any securities, commodities positions, or other assts deposited with Jack Lee Smiley or into an account in the name of Jack Lee Smiley or any dividends, interest, or other income or profits earned thereon or the proceeds from the sale of any securities, commodities positions, or other assets without further Order of this Court.

P) The costs, fees and expenses of the Receiver incurred in connection with the performance of his duties described herein, including the costs and expenses of those persons who may be engaged or employed by the Receiver to assist him in carrying out his duties and obligations hereunder shall be paid out of the proceeds or other assets of Jack Lee Smiley, or any and all assets under the control of the Receiver pursuant to this Order. All applications for costs, fees and expenses for services rendered in connection with the Receiver shall be made by application setting forth in reasonable detail the nature of the services and shall be heard by the Court.

Q) No bond shall be required in connection with the appointment of the Receiver. The Receiver and all other persons who may be engage or employed by the Receiver to assist him in carrying out his duties and obligations hereunder shall not be liable for any act or omission of the Receiver or such person, respectively, or any of their partners, employees, or agents, unless it shall be proven that the Receiver or such other person acted or omitted to act willfully and in bad faith. This provision hall apply to claims based on conduct of the Receiver and all other persons

who may be engaged or employed by the Receiver hereunder during the term of the appointment by this Court, even if such claims are filed after the termination of any such appointment.

III

IT IS FURTHER ORDERED that, in addition to the powers, duties and responsibilities as set forth herein, the Receiver shall be authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and adjust actions in any state, federal or foreign court or proceeding of any kind as may in his sole discretion be advisable or proper to recover or conserve funds, assets and property of Jack Lee Smiley.

IV

R) IT IS FURTHER ORDERED that Jack Lee Smiley and his officers, directors, employees, agents, and counsel shall transfer to the Receiver, as and when directed by him, any and all funds, property, documents or records of Jack Lee Smiley, in whatever form, that may be in their possession, custody or control; and that any signatories on any and all Jack Lee Smiley accounts at banks, brokerage firms, commodities firms or financial institutions which have possession, custody or control of any assets or funds in the name of or for the benefit of Jack Lee Smiley, shall forthwith take all steps necessary to relinquish their signatory authority as to said accounts including, but not limited to, accounts containing securities or other assets that Jack Lee Smiley's customers have transferred, transmitted or otherwise delivered to Jack Lee Smiley.

S) IT IS FURTHER ORDERED that Jack Lee Smiley's income from Social Security and from a military disability are exempt from this judgment and are not to be subject to the receiver's powers hereunder.

MONEY JUDGMENT

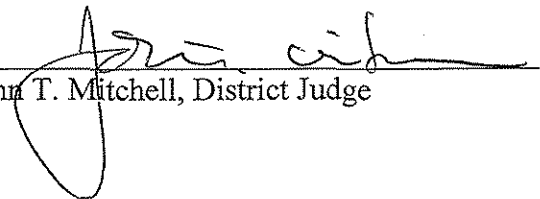
The Department is hereby awarded a money judgment against Defendant JACK LEE SMILEY in which he will make full restitution to the investors, pursuant to Idaho Code § 30-14-

603(b)(2)(C) and Idaho Code § 30-1511(1)(b)(iv), in the amount of **\$1,195,009**. This amount will be offset by any sums the receiver is able to recover. The investors shall be given the opportunity to take delivery of their share of the Dinars, if they so choose. The Dinars transferred to investors will be valued in US dollars and that amount will also be deducted from the amount of restitution owed by Defendant JACK LEE SMILEY.

The Department is further awarded **\$140,000.00** in penalties pursuant to Idaho Code §§ 30-14-603(b)(2)(C) and 30-1511(1)(b)(i).

Each party will bear its own attorney fees and costs in this action.

DATED this 23rd day of September, 2008.


John T. Mitchell, District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 2008, I caused a true and accurate copy of the foregoing JUDGMENT AND PERMANENT INJUNCTION to be served on the following by the designated means:

Alan Conilogue	[	] U.S. mail, postage prepaid
Deputy Attorney General	[	] certified mail
PO Box 82720	[	] overnight mail
Boise, ID 83720-0031	[	] via facsimile: (208) 332-8016
Susan Patricia Weeks	[	] U.S. mail, postage prepaid
James, Vernon & Weeks, PA	[	] certified mail
1626 Lincoln Way	[	] overnight mail
Coeur d'Alene, ID 83814	[	] via facsimile: (208) 664-1684
John L. Runft	[	] U.S. mail, postage prepaid
Runft & Steele Law Offices	[	] certified mail
1020 W. Main Street, Ste 400	[	] overnight mail
Boise, ID 83702	[	] via facsimile: (208) 343-3246

Clerk