



COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE ACTION NO. 2020-AH-00013

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

V.

PREVETT ENERGY GROUP, INC.,
KENNETH RAY PREVETT JR, and
CLAYCOMB GLOBAL INDUSTRIES, LLC

RESPONDENTS

**DEPUTY COMMISSIONER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND FINAL ORDER**

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An Administrative Hearing was held in this matter on April 22 and 23, 2025, at the Mero Underwood Building, 500 Mero Street, Frankfort, Kentucky. The Complainant, Department of Financial Institutions ("DFI" or "Department"), was represented by Michael Barnett, Staff Attorney. The Respondents Prevett Energy Group, Inc. ("PEG") and Kenneth Ray Prevett, Jr. ("Prevett") were represented by Noel Mark Botts, Attorney at Law. The Respondent Claycomb Global Industries LLC ("Global Industries") was represented by Richard Head, Attorney at Law. Charles Miller, former Hearing Officer, Public Protection Cabinet, presided.

The subject of the hearing was DFI's Administrative Complaint filed on April 14, 2020, against the Respondents. Specifically, the hearing focused on whether the sale of investment contracts to Annie Miller ("Miller") and Tommy Claycomb ("Claycomb") amounted to the unlawful sale of unregistered securities in contravention of the KRS, as well as whether the circumstances surrounding those sales amounted to fraud or deceit against a person in contravention of the KRS. On October 14, 2025, Clay Patrick, Hearing Officer, Public Protection

Cabinet, having reviewed the record, including all exhibits and written submissions by the parties, issued a Recommended Findings of Fact, Conclusions of Law, and Recommended Order ("Recommended Order").¹ After careful consideration of the record, including the Recommended Order and the duly filed exceptions, for the reasons set forth herein, the Department's Deputy Commissioner hereby enters this Findings of Fact, Conclusions of Law, and Final Order adopting, in part, and modifying, in part, the Hearing Officer's Recommended Order.² These Findings are set forth in narrative form for clarity, consistent with the format of the Recommended Order.

FINDINGS OF FACT

A. Adoption of Hearing Officer's Recommended Conclusions of Fact, Except as Modified Herein.

1. Introduction

This is an administrative proceeding against an individual, Prevett, and two separate entities, PEG and Global Industries (collectively "Respondents"). The Complainant's allegations center on the sale of investment contracts: the "Overseas Financial Investment Project" ("OFIP") and the Venture Capital Contract.

The Complainant alleges that the Respondents "took advantage of Miller, an elderly lady and former friend of Claycomb, by knowingly and intentionally selling her worthless investments." (Recommended Order at 1). The Complainant further alleges that Respondents

¹ The administrative hearing in this matter was presided over by Hearing Officer Charles Miller, who subsequently left the employment of the Public Protection Cabinet's Office of Administrative Hearings ("OAH") prior to issuing a Recommended Order. In accordance with applicable procedures, the OAH assigned Hearing Officer Clay Patrick to complete the Recommended Order. Prior to preparing the Recommended Order, Hearing Officer Patrick conducted a review of the entire record, including the hearing transcripts, all admitted exhibits, and all written submissions of the parties.

² As the Department of Financial Institutions Commissioner Marni Gibson served as a witness in the administrative hearing of this matter, she has delegated for purposes of this administrative action, pursuant to KRS 286.1-011(3), all the duties and powers of the Commissioner, including those listed in KRS 13B.030, to DFI Deputy Commissioner, Kenneth Pennington. This Final Order is therefore being entered by Deputy Commissioner Pennington.

Prevett and PEG offered and sold a fraudulent investment to Claycomb and Global Industries in the form of the Venture Capital Contract. The Complainant further alleges that these investments are “securities” as defined in the KRS, but they were never registered with the DFI as required under law. (Recommended Order at 1).³

Miller recently passed away at 92 years of age. She was a widow for the last 10 years of her life and had known Claycomb for many years. (Recommended Order at 1). Most recently, Claycomb sold a tract of commercial real estate for her for \$2,225,000. Miller sought out Claycomb to help her invest some of the proceeds from the sale of the commercial real estate tract. Claycomb, in turn, introduced Miller to Prevett. Claycomb and Prevett had been acquainted since the late 1980s, when they met at an insurance school in Louisville. (Recommended Order at 2).

When they first met, Prevett told Miller that he was an investment agent with Charles Schwab. After some discussions, Miller gave Prevett \$200,000 to invest in a Charles Schwab account. Claycomb reported that Prevett was upset that Miller only invested \$200,000 of the sale proceeds from the sale of the commercial real estate. Nonetheless, over the next few months Miller had several phone conversations and meetings with Prevett at Miller’s home to discuss her Charles Schwab investments. (Recommended Order at 2).

2. Overseas Financial Investment Project (“OFIP”)

At the end of May 2017, Claycomb went to Miller’s house and said that Prevett had contacted him to tell Miller that Prevett had another investment opportunity that involved investing in overseas produce. While Claycomb was at Miller’s house, Miller called Prevett and put him on speakerphone so that he could talk to Claycomb and Miller about this “other investment” which Prevett claimed “stood to make Miller at least \$100,000 if she would invest at a certain level.” A

³ The sale of the Venture Capital Contract by Prevett to Claycomb is not expressly addressed in the Recommended Order but is addressed in the additional findings adopted in this Final Order.

couple of days later Miller spoke with Prevett, again over the phone, and he reiterated the investment to her. (Recommended Order at 2).

Afterwards, Miller decided to invest in this project, and just a day or two before issuing the initial check for \$100,000, on June 5, 2017, Claycomb called Miller and told her that Prevett confirmed the initial amount of \$100,000 and further told him that the check for the initial amount should be made out to Claycomb's company, Global Industries. (Recommended Order at 2-3).

Just a few days after giving Claycomb the \$100,000 check, Claycomb called Miller and said that Prevett told him an additional \$50,000 investment was needed and that she, once again, should invest and that she should, as she did before, make the check out to Claycomb's company and Claycomb. Miller issued the check as instructed on June 17, 2017. The details of the OFIP investment were "nebulous and confusing". Even Prevett himself could not "keep the details of the investment straight". Between the time of his deposition, August 15, 2024, and the formal hearing, April 22, 2025, it appeared that Prevett was "confusing produce with fuel contracts". (Recommended Order at 3).

A few days later, Miller met Claycomb at Staples in Elizabethtown and Claycomb said that Prevett told him that another \$50,000 was needed to invest. At that point, Miller became suspicious and called Prevett herself. She spoke with him on several occasions over the phone for the next couple of weeks. Prevett continued to tell Miller that she would be getting her money back with the return he promised. However, she did not issue another \$50,000 check as requested. (Recommended Order at 3).

The sum and substance of Miller's complaint which she filed with the DFI, is that she invested \$150,000 with Global Industries but received no return on her investment. Nor has she received her funds back. After a couple of weeks, Prevett stopped answering Miller's phone calls.

Miller then withdrew her money from the Charles Schwab account which she had given to Prevett to invest when they first met. At some point thereafter, Claycomb gave her one check for \$4,975 saying it was for a trial deposit. Miller did not receive any other monies from Claycomb or Prevett, or any of their companies, besides the \$4,975 check. (Recommended Order at 3-4).

3. Securities

Chad Harlan (“Harlan”), currently the Assistant Director of the Securities Division of the Kentucky DFI, testified at the Formal Hearing that the DFI received a complaint from Miller. The Complaint alleges that she invested \$150,000 with Claycomb’s Global Industries but received no return on her investment, nor did she receive her money back, apart from the amount of the trial deposit referenced hereinabove. She alleges that she was misled and that she was provided with inflated projections as to what the investment would yield for her. (Recommended Order at 4).

Harlan further testified regarding the failure to register with the DFI. Regarding the OFIP, Harlan testified that the investment documents demonstrate that the contracts constitute securities under Kentucky law. He acknowledged that he had reviewed documents provided to him by Claycomb. These agreements were signed by Miller and Claycomb. Miller was the investor on these contracts. The issuer on these contracts is Global Industries. The first two paragraphs of the investment contracts, in exhibits 2 and 3, state that the investor has the opportunity to invest into a \$10 million stand by letter of credit (“SBLC”) and that the investor would be entitled to 30% of the net profits. It goes on to say that the original investment will be paid back within four weeks and Miller’s portion of the profits would be \$2,500 each week thereafter for a total of 36 weeks. Hearing Exhibit 4 has similar language. Harlan testified that these returns are grossly inflated. Harlan offered that, in the investment industry, this would be an unheard-of rate of return. Harlan

was not aware of any sort of investment that would generate returns like those set out in the exhibits. (Recommended Order at 4-5).

Harlan testified that the term “security” under Kentucky law is defined by statute to encompass a wide range of financial instruments. Specifically, KRS 292.310(19) defines a security as “any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit sharing agreement, collateral trust certificate, preorganization certificate for subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group of index of securities.” (Recommended Order at 5). Harlan testified he was of the opinion that the contracts entered into by Miller were securities but were not registered with the Commonwealth’s DFI as required by law. (Recommended Order at 6).

Regarding the Venture Capital Contract, Marni Rock Gibson (“Gibson”), the Commissioner of the Department of Financial Institutions, testified at the formal hearing regarding Exhibit 6, that “... [o]n its face, this does appear to be a security.” Furthermore, Anthony McKinney, a Financial Institutions Examiner Certified II, in discussing Exhibit 6, offered the following:

Question: There is another document which was left there previously. It’s under there. It’s a --- Venture-Capital contract. Would you please look at that?

Mr. Barnett: And for the record, the witness is reviewing Exhibit 6.

Question: In your opinion, is that document a security?

Answer: Yes.

Question: And what is that based upon?

Answer: The same analysis as the prior three, that this appears to be an investment contract and also a profit-sharing agreement.

Harlan further testified that he participated in the interview of Claycomb. He recalled that Claycomb indicated he had mental problems. Prevett and Miller were both aware of Claycomb's mental problems. (Recommended Order at 6).

Prevett had no money of his own in this investment. However, he guaranteed that Miller would make money on this investment. No one advised Miller that she could lose all of her investment. (Recommended Order at 6).

Prevett was also involved in setting up Global Industries and directed how and where to forward/wire Miller's investment funds, to a partner of Prevett who resided out of the country, a man named Elesio Alba ("Alba") who resided in the Dominican Republic. At the time that Miller executed the contracts, neither Prevett, nor the contracts themselves, were registered with DFI. Prevett has never been registered as an issuer agent, or otherwise, with the DFI. (Recommended Order at 6).

Neither Prevett nor Claycomb paid Miller any money out of the OFIP investment. Neither of these investors inquired of Miller as to her net worth, nor whether she could sustain substantial losses if, in fact, they occurred. No risk disclosures were made to Miller by either Prevett or Claycomb. All of Miller's investment proceeds went through Claycomb and Claycomb told Miller that this investment was going to make her \$1,000,000. Prevett went so far as to "guarantee" Miller that she would make money from this investment. (Recommended Order at 6-7).

4. Prevett's Actions

The testimony is clear that Miller suffered financial loss because of deceitful and misleading investment advice wherein she was encouraged to invest in the non-registered

securities referenced hereinabove. Both Prevett and Claycomb bear responsibility for Miller's loss. Furthermore, no one has denied that PEG is controlled, and owned by, the respondent, Prevett. No one has denied that he bears responsibility for actions taken on behalf of his corporation. There is an issue, however, with respect to who bears the responsibility for the actions of Global Industries. The indications are that both Claycomb and Prevett are responsible for the actions of Global Industries. Prevett played a central role in the formation and operation of Global Industries. He was aware of Claycomb's mental illness, and was instrumental in making sure Miller's funds were paid to Alba in the Dominican Republic. He provided the wiring instructions for Claycomb to utilize to accomplish this. He was further responsible for forming Global Industries. The record is also replete with testimony that Prevett was aware of Claycomb's mental issues, and that he had been mentally ill for some time. (Recommended Order at 7).

Prevett was the catalyst for the formation of Global Industries. A confirmation of this fact was Claycomb's statement, wherein he testified that: "He said I got to make an LLC for you. I didn't ask for one. I'm just going to get the money."⁴ This was further reinforced by reference to Exhibit 12, the Articles of Organization for Global Industries, when he stated that it is the document he created for me." Prevett also instructed Claycomb to wire Miller's monies to Alba's bank in the Dominican Republic. Prevett was undoubtedly involved in the formation and operation of Claycomb Industries. (Recommended Order at 7-8).

5. Claycomb's Actions

On or about June 2017, Prevett approached Claycomb about a nebulous overseas investment (OFIP) with Alba. Prevett told Claycomb the investment was a sure thing, and that the money would be back in 30 days. Prevett promised millions of dollars. Claycomb never met Alba.

⁴ Hearing Tr. at 178:11-15 (Apr. 22, 2025).

At first, Prevett told Claycomb the investment was a fuel contract, and SBLC. Claycomb did not know what an SBLC was, and did not understand the investment. Nonetheless, Claycomb agreed to solicit money from Miller at Prevett's urging. Miller later recalled that the investment involved overseas produce. Miller did not recall Prevett ever mentioning fuel contracts to her when he discussed the investment. (Recommended Order at 8).

Miller's money is gone. After Claycomb wired Miller's funds to Alba, as Prevett instructed him to do, the funds were never recovered. No evidence indicated that any investment activity was undertaken with those funds. Claycomb issued one check to Miller, in the amount of \$4,975 which Claycomb testified was a trial deposit. Claycomb paid the money directly to Miller, but she never saw any other funds from the investment.

What is clear is that Miller ultimately contracted with Claycomb, paying his company Global Industries \$150,000 to invest in a scheme described by Prevett and Claycomb. Claycomb advised her that her original investment would be returned to her within four weeks, and she would make thousands of dollars weekly for 36 weeks. Despite the OFIP investment contracts constituting a security, Claycomb never registered the contracts with the DFI. Claycomb had Miller sign the contracts and he then wired the money to Alba, a man he had never met, following wiring instructions provided by Prevett. Global Industries was the issuer of the OFIP investment contracts which Claycomb and Miller signed and was responsible for registering the same pursuant to Kentucky law; however, it failed to do so. Harlan, an expert in the industry, described the investment which Claycomb sold Miller as "unheard of", and the rate of return as "unreasonable". (Recommended Order at 8-9).

B. Additional Findings of Fact Necessary for Agency Action.

1. The Venture Capital Contract

On or about June 20, 2017, Prevett separately drafted and presented Claycomb with a “Venture Capital Contract,” on the letterhead of Prevett’s company PEG”.⁵ The Venture Capital Contract ran between PEG and Global Industries and stated that for “participation of 10% of [PEG’s] profits, Global Industries has agreed to wire the venture capital of \$150,000 to Eli Adolfo Alba under this agreement.⁶ Claycomb did not understand how PEG was meant to take Miller’s money, now styled by Prevett as the “venture capital,” and earn profits. Claycomb testified that Prevett maintained “it’s fuel contracts.”⁷ The Venture Capital Contract implies that its profits come from “commodities trading” (“All profits in commodities trading are on a best efforts basis”) and that Global Industries will share in PEG’s “profits under the JV agreement with the transaction number GIMPEXP2017/5.”⁸ Despite testifying at his August 15, 2024, deposition that the profits were to come from “the buying and selling of vegetables, et cetera, across the Latin theater,”⁹ at the final hearing, Prevett testified that the joint venture (“JV”) agreement GIMPEXP2017/5 was “a contract between [Alba] and [Prevett] through Prevett Energy. And it was for the express purpose of purchasing fuel.”¹⁰ Prevett has never produced this contract.¹¹ Prevett testified that his estimate of profits due to Global Industries and thus to Claycomb under the Venture Capital Contract were “completely based on this supposed contract,” the JV agreement, yet he never showed Claycomb the JV agreement.¹² Prevett testified that he had no other JV agreements with Alba to present, that this was the only such “fuel contract” which PEG had ever entered into, and

⁵ Final Hearing Ex. 6, Venture Capital Contract (“Hearing Ex. 6”); Hearing Tr. at 253:16–254:7 (Apr. 22, 2025); Hearing Tr. at 97:13–22 (April 23, 2025).

⁶ Hearing Ex. 6.

⁷ Hearing Tr. at 258:23–259:14 (Apr. 22, 2025).

⁸ Hearing Ex. 6.

⁹ Transcript of Deposition of Kenneth Ray Prevett (“Prevett Dep.”) at 164:5–9 (August 15, 2024).

¹⁰ Hearing Tr. at 129:1–8 (April 23, 2025).

¹¹ Hearing Tr. at 129:13–15 (April 23, 2025).

¹² Hearing Tr. at 129:16–23 (April 23, 2025).

that Prevett had never himself entered into a JV agreement for the purchase and sale of fuel.¹³

Three witnesses for the Department - Harlan, McKinney, and Gibson - testified that the Venture Capital Contract constituted an investment contract and thus a security under Kentucky law.¹⁴ Gibson and Harlan testified that PEG was the issuer of the Venture Capital Contract.¹⁵ Gibson and Harlan testified that the returns expected on the face of the Venture Capital Contract - \$9 million in nine months off of an investment of \$150,000 - were unreasonable.¹⁶ There were no disclosures of the risks of the investment in the Venture Capital Contract.¹⁷

2. Other Additional Findings of Fact

Prevett testified that he solely owned and controlled PEG, and that the company's acts and omissions were his alone.¹⁸ Prevett created Global Industries for Claycomb, naming Claycomb the President, sole member, registered agent, and organizer.¹⁹ Prevett emailed Claycomb several attachments, collectively entered in a .msg file as Exhibit 14 at the final hearing, reflecting the "login credentials with the State of KY" that Prevett created for Global Industries.²⁰ Prevett set Claycomb's password as "Tom\$1D10T."²¹ Prevett included several documents, including a letter titled "Claycomb bank reply.docx," on Global Industries letterhead, which Prevett intended Claycomb to send to banks.²² That letter stated that Global Industries "was set up to do business in commodities trading and real estate development," and that Claycomb had primarily "bought,

¹³ Hearing Tr. at 130:19–131:5 (April 23, 2025).

¹⁴ Hearing Tr. at 63:22–64:6 (April 22, 2025); Hearing Tr. at 78:21–80:4, 211:22–212:17 (April 23, 2025).

¹⁵ Hearing Tr. at 64:7–11 (April 22, 2025); Hearing Tr. at 80:5–9 (April 23, 2025).

¹⁶ Hearing Tr. at 68:19–24 (April 22, 2025); Hearing Tr. at 80:10–24 (April 23, 2025).

¹⁷ Hearing Ex. 6; Hearing Tr. at 68:25–69:2 (April 22, 2025).

¹⁸ Hearing Tr. at 93:20–21, 94:1–19 (April 23, 2025).

¹⁹ Hearing Tr. at 113:3–14 (April 23, 2025); Hearing Ex. 12, Secretary of State Record.

²⁰ Hearing Tr. at 111:4–19 (April 23, 2025).

²¹ Hearing Tr. at 111:14–23 (April 23, 2025).

²² Hearing Tr. at 116:22–25 (April 23, 2025).

sold and developed real estate” together with Prevett for 21 years.²³ At the final hearing, though, Prevett testified that Claycomb had wanted him to open Global Industries for the purpose of “concrete work.”²⁴

Concerned that he was not being repaid as promised, Claycomb began recording calls with Prevett.²⁵ On a recorded call, Prevett told Claycomb, referring to Alba, “It’s his instrument. It’s his instrument, and he doesn’t have to do this with me. Of course, I’m only getting a small piece, you know, \$10 million, unless we come up with another 150. And then we’d get 20 million, but, you know, it is what it is.”²⁶ Prevett promised Claycomb that there was “50 million coming Thursday verified in one shot.”²⁷ On another recorded call, Prevett promised Claycomb: “We’re working out the last details on the last bit of the contract, and money is flowing.”²⁸

On another recorded call, Prevett promised Claycomb that Alba had sent him a copy of the standby letter of credit.²⁹ Prevett never produced such document. Prevett told Claycomb, “You don’t have to worry. But don’t put any more money in, be happy with where you are, and here in about another two or three weeks, you’ll get your money back, and money will start rolling.”³⁰ Prevett insinuated to Claycomb that there was no risk, telling him Alba stated, “Probably make a lot more, sometimes may not make as much, but you never lose any money because they got to have the fuel.”³¹ Contrary to his later testimony upon direct examination, on a call Prevett agreed to provide Claycomb with wire-transfer instructions to Alba.³² Prevett told Claycomb, “Worst-

²³ Hearing Ex. 13, Prevett Email to Claycomb (“Hearing Ex. 13”), at 7; Hearing Ex. 14, Claycomb bank reply.docx (“Hearing Ex. 14”); Hearing Tr. at 164:9–19, 222:1525 (April 22, 2025).

²⁴ Hearing Tr. at 217:1–8 (April 23, 2025).

²⁵ Hearing Tr. at 265:9–266:14 (April 22, 2025).

²⁶ Hearing Ex. 18, Call Recording001 (“Hearing Ex. 18”), at 6:14–21.

²⁷ Hearing Ex. 18 at 15:18–19.

²⁸ Hearing Ex. 22, Call Recording007 at 3:13–15.

²⁹ Hearing Ex. 21, Call Recording004 (“Hearing Ex. 21”), at 12:2–3.

³⁰ Hearing Ex. 21 at 13:19–25.

³¹ Hearing Ex. 21 at 20:2–5.

³² Hearing Ex. 21 at 27:10–25.

case scenario, you get 9 million instead of 10, or something stupid. I mean, come on now. Millions are millions.”³³

At the time of the issuance of the OFIP contracts and the Venture Capital Contract, Prevett was not registered “with the Department in any capacity.”³⁴ Prevett has never been registered with the Department as an issuer agent.³⁵ PEG has never been registered with the Department as an issuer agent.³⁶ Global Industries has never been registered with the Department as an issuer agent.³⁷ Neither the OFIP contracts nor the Venture Capital Contract were ever registered with the Department as securities.³⁸

Prevett was not a credible witness. Prevett provided inconsistent statements, and his testimony conflicted with documentary evidence. Prevett submitted a false affidavit in this matter, stating that he did not draft the Venture Capital Contract.³⁹ At the final hearing, he stated that he did draft the contract.⁴⁰ At his deposition, Prevett denied drafting the letter for Claycomb to send to banks, blaming it on Claycomb.⁴¹ At the final hearing, Prevett admitted to drafting the letter.⁴²

The documents which Prevett admitted to drafting included a letter meant to present a false narrative to the bank regarding the purpose and history of Prevett and Claycomb’s relationship⁴³, and investment contracts meant for Miller and for Claycomb to sign which promised unreasonable rates of return and presented inadequate risk disclosures.

³³ Hearing Ex. 21 at 33:1–4.

³⁴ Hearing Tr. at 69: 3–7 (April 22, 2025).

³⁵ Hearing Tr. at 69:8–10 (April 22, 2025).

³⁶ Hearing Tr. at 69:11–13 (April 22, 2025).

³⁷ Hearing Tr. at 69:14–18 (April 22, 2025).

³⁸ Hearing Tr. at 69:19–25 (April 22, 2025).

³⁹ Hearing Ex. 27, July 12, 2024, Affidavit of Ken Prevett; Hearing Tr. at 101:6–103:18 (April 23, 2025).

⁴⁰ Hearing Tr. at 97:13–22 (April 23, 2025).

⁴¹ Prevett Dep. at 25:1–27:16.

⁴² Hearing Tr. at 142:1–6 (April 23, 2025).

⁴³ Hearing Ex. 13 at 7; Hearing Ex. 14; Hearing Tr. at 222:15–25, 229:18–231:11 (April 22, 2025).

Prevett's testimony regarding the details of the investments was confusing and inconsistent. According to Miller and to Prevett's August 15, 2024, deposition, Alba was meant to use Miller's money to trade in produce in Latin America, making Miller an enormous profit.⁴⁴ However, during the final hearing, Prevett testified that Alba's relative was meant to use the money to secure Prevett some sort of airline-fuel contract.⁴⁵

CONCLUSIONS OF LAW

A. Adoption of Hearing Officer's Recommended Conclusions of Law, Except as Modified Herein.

1. Liability of the Parties and Joint and Several Liability

The Deputy Commissioner adopts the finding that the Respondents' resulting obligations to Miller run jointly and severally and adds additional legal analysis. Based on the actions described herein, Prevett was partially responsible for the formation and control of Global Industries, as well as for the conduct of Global Industries, the entity to which Miller paid \$150,000, for her interests in the unregistered securities. Although Claycomb is not named individually as a party in this matter, the record establishes that Claycomb's conduct materially contributed to the actions of Global Industries. The evidence further demonstrates that Global Industries functioned as the alter ego of Claycomb and an instrumentality to perpetrate fraud, for both Prevett and Claycomb. (Recommended Order at 9).

As the sole, controlling owner of PEG, Prevett is vicariously liable for PEG's acts and omissions. Likewise, PEG is the alter ego of Prevett and is vicariously liable for Prevett's acts and omissions by the doctrine of *respondeat superior*. The record further supports a finding that Prevett

⁴⁴ Hearing Tr. at 98:18–20, 112:24–113:10 (April 23, 2025).

⁴⁵ Hearing Tr. at 106:10–107:5 (April 23, 2025).

acted as an agent of PEG's, as that term is defined by KRS 292.310(1). (Recommended Order at 10).

Accordingly, Prevett, PEG, and Global Industries are each liable for their respective conduct, and Prevett is liable for the conduct of PEG and Global Industries. The imposition of joint and several liability is warranted where the record establishes that respondents acted in concert or through agency and alter-ego relationships to effectuate the unlawful sale of securities and to cause harm to the investor. Based on the evidence and the Hearing Officer's findings, which the Deputy Commissioner adopts, the imposition of joint and several liability is warranted as to the ordered restitution. The Respondents' resulting obligations to Miller therefore run jointly and severally. (Recommended Order at 9).

2. Claim Preclusion

Claim preclusion does not apply to this action, nor to any claims in this administrative proceeding. Claim preclusion does not apply as between Miller's civil lawsuit against Prevett and this administrative action against Prevett, PEG, and Global Industries. There is no identity of the parties or the causes of action.⁴⁶ (Recommended Order at 9-10). This reasoning is discussed further below in response to the submitted exceptions.

3. Overseas Financial Investment Project

The OFIP contract is deemed an investment contract and a security under Kentucky law. (KRS 292.310(19)). (Recommended Order at 10).

Global Industries was the "issuer" of the OFIP contract as that term is defined by KRS 292.310(13). (Recommended Order at 10).

⁴⁶ *Coomer v. CSX Transportation, Inc.*, 319 S.W.3d 366, 371 (Ky. 2010) citing *Yeoman v. Commonwealth, Health Policy Board*, 983 S.W.2d 459,465 (Ky. 1998).

Global Industries violated KRS 292.340 because it was required to register the OFIP contracts, pursuant to KRS 292.340, prior to its first offering for sale, but it failed to do so. (Recommended Order at 10).

Prevett violated KRS 292.320 by, in connection with the offer, sale, or purchase of the OFIP contract to Miller, directly or indirectly imparting to Miller (through Claycomb) promises of unreasonably high returns, knowing that nothing underpinned those estimates. Prevett's statements, directly or through Claycomb, constituted a device, scheme, or artifice to defraud; an untrue statement of material fact; an omission to state a material fact; and engagement "in any act, practice, or course of business which operated as a fraud or deceit" upon Miller. (Recommended Order at 10-11).

Global Industries⁴⁷ violated KRS 292.320 by, in connection with the offer, sale, or purchase of the OFIP contract to Miller, through Claycomb, imparting to Miller promises of unreasonably high returns, guaranteeing the return of Miller's investment, and failing to adequately disclose risks. Global Industries' statements and omissions, directly and through Prevett, constituted a device, scheme, or artifice to defraud; an untrue statement of material fact; an omission to state a material fact; and engagement "in any act, practice, or course of business which operated as a fraud or deceit" upon Miller. (Recommended Order at 11).

4. Other Findings of Law

It was not established that Annie Miller was not an accredited investor at any time relative to this proceeding. (Recommended Order at 10).

Regulation D does not apply to shield the Respondents.⁴⁸ (Recommended Order at 11-12).

⁴⁷ This finding has been revised from the Recommended Order to ensure accurate party identification.

⁴⁸ *Brown v. Earthboard Sports USA, Inc.*, 481 F.3d 901, 915 (6th Cir. 2007) (interpreting Kentucky law and finding that an issuer who makes no effort or attempt to comply with all of the strictures of Rule 506 cannot later seek safe harbor in other provisions of Regulation D); 17 C.F.R. §§ 230.501-508, Preliminary Note 6 (2005) ("Regulation D is

Respondent's violations were directed toward and resulted in monetary damage to Miller when Miller was over sixty years of age. (Recommended Order at 12).

Miller's estate is entitled to restitution, plus pre- and post-judgment interest.⁴⁹ (Recommended Order at 12).

Prevett violated KRS 292.330(3) because he was required under KRS 292.330(3) to register with the DFI as an issuer agent but failed to do so. (Recommended Order at 10)

B. Additional Conclusions of Law Supporting the Agency's Determination

The "Venture Capital Contract" is an investment contract and a security under KRS 292.310(19). PEG was the issuer of the Venture Capital Contract as that term is defined by KRS 292.310(13).

PEG violated KRS 292.340 because it was required under KRS 292.340 to register the Venture Capital Contract prior to first offering it for sale and failed to do so.

Prevett and PEG offered and sold the Venture Capital Contract directly to Claycomb and Global Industries.

Prevett violated KRS 292.320 by, in connection with the offer, sale, or purchase of the Venture Capital Contract to Claycomb, directly or indirectly imparting to Claycomb promises of unreasonably high returns, knowing that nothing underpinned those estimates; by guaranteeing the return of Claycomb's investment and failing to adequately disclose risks; and by lying to Claycomb about the existence of money already "flowing," contracts already in place, and a "JV agreement" which Prevett never showed Claycomb and has never produced. Prevett's statements and omissions constituted a device, scheme, or artifice to defraud; an untrue statement of material

not available to any issuer for any transaction that... is a part of a plan or scheme to evade the registration provisions of the Act.").

⁴⁹ KRS 292.470(2); KRS 360.040.

fact; an omission to state a material fact; and engagement “in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”

Prevett violated KRS 292.320 by, in connection with the offer, sale, or purchase of the Venture Capital Contract to Claycomb, drafting the Venture Capital Contract to misstate PEG’s relationship with Alba, exaggerating Prevett’s history with Alba to Claycomb, exaggerating to Claycomb Prevett’s own experience with the supposed underlying fuel contracts or joint-venture agreements, and drafting the bank-reply letter intending to present a false narrative to banks about the purpose and history of Prevett and Claycomb’s relationship; such direct or indirect statements or omissions constituting a device, scheme, or artifice to defraud; an untrue statement of material fact; an omission to state a material fact; and engagement “in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”

PEG violated KRS 292.320 by, in connection with the offer, sale, or purchase of the Venture Capital Contract to Claycomb, through Prevett imparting to Claycomb promises of unreasonably high returns, knowing that nothing underpinned those estimates; by guaranteeing the return of Claycomb’s investment and failing to adequately disclose risks; and, through Prevett, lying to Claycomb about the existence of money already “flowing,” contracts already in place, and a “JV agreement” which PEG never showed Claycomb and has never produced. PEG’s statements and omissions, through Prevett, constituted a device, scheme, or artifice to defraud; an untrue statement of material fact; an omission to state a material fact; and engagement “in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”

RULINGS ON EXCEPTIONS

A. Res Judicata

1. Claim Preclusion

The victim in this case, Miller, previously sued Respondents Prevett and his company, PEG (collectively, the “Prevett Respondents”) in Hardin Circuit Court. DFI was not involved in that civil suit. The Prevett Respondents have argued that the doctrine of res judicata bars the prosecution of this administrative case.

Res judicata in broad comprises two similar defenses: issue preclusion and claim preclusion. For claim preclusion to bar further litigation, certain elements must be present. “First, there must be identity of the parties. Second, there must be identity of the causes of action. Third, the action must have been resolved on the merits.”⁵⁰

In his April 21, 2025, Order on Respondents’ Motion for Reconsideration, Hearing Officer Miller found that the Prevett Respondents’ claim preclusion argument fails as a matter of law as “DFI was not a party to Annie Miller’s civil action against Prevett and Prevett Energy. Moreover, Annie Miller is not a party to DFI’s administrative action against the Prevett Respondents.”⁵¹ The Hearing Officer further found “that Annie Miller’s claims in her civil action for conversion, unjust enrichment (equitable estoppel), breach of fiduciary duty, and breach of contract are substantively different than the claims asserted against the Prevett Respondents by DFI in its Administrative Complaint that controls in this action.”⁵² The Hearing Officer further found that “[t]he only cause of action alleged in Annie Miller’s civil action that bears some substantive similarity to any of the claims asserted by DFI in its administrative action against the Prevett Respondents is Ms. Miller’s

⁵⁰ *Yeoman v. Com., Health Pol'y Bd.*, 983 S.W.2d 459, 464–65 (Ky. 1998) (quoting *Newman v. Newman*, 451 S.W.2d 417, 419 (Ky. 1970)).

⁵¹ Apr. 21, 2025, Order on Resp’ts’ Mot. for Reconsideration at 3.

⁵² *Id.*

blue-sky securities fraud claim filed pursuant to KRS 292.320. However, as previously noted DFI was not a party to Ms. Miller’s civil action in the Hardin Circuit Court.”⁵³

The Deputy Commissioner finds - consistent with the Recommended Order and Hearing Officer Miller’s April 21, 2025, Order - that the Prevett Respondents’ *res judicata* defense based upon the doctrine of claim preclusion fails as a matter of law.

Issue Preclusion

That hearing officer expressly reserved ruling on the Prevett Respondents’ issue-preclusion argument as “premature.”⁵⁴ On April 28, 2025, that hearing officer ordered post-hearing briefing on issue preclusion.⁵⁵ But before the parties filed briefs, that hearing officer left the position, and a new hearing officer was appointed. The Recommended Order did not mention issue preclusion.

Issue preclusion would apply between this administrative action and Miller’s civil suit only if an issue was (1) identical in both cases, (2) actually litigated, (3) actually decided, and (4) necessary to the prior judgment.⁵⁶ The Prevett Respondents’ arguments fail because the issues litigated in the two cases were not identical. The hearing officer ruled that only one count of Miller’s complaint - for violation of Kentucky’s blue-sky law - involved similar legal issues to any part of the Department’s case.⁵⁷ But the Hardin Circuit Court’s summary-judgment order disposing of Miller’s civil suit addressed only whether Prevett made direct misrepresentations to Miller in connection with her personal investment. By contrast, the Department proved at the final hearing of this case a broader fraudulent scheme involving multiple investors, including conduct related to the Venture Capital Contract with Claycomb. These matters were never addressed in Miller’s suit.

⁵³ *Id.*

⁵⁴ *Id.*; Hearing Tr. at 223:9–224:1 (April 23, 2025).

⁵⁵ Apr. 28, 2025, Post-Hearing Order.

⁵⁶ *Yeoman v. Commonwealth Health Policy Bd.*, 983 S.W.2d 459, 464–65 (Ky. 1998).

⁵⁷ Apr. 21, 2025, Order on Resp’ts’ Mot. for Reconsideration at 4 (“The only count of the Administrative Complaint that involve similar legal issues to the claims adjudicated by the Hardin Circuit Court by entry of its summary judgment is Annie Miller’s civil blue-sky fraud claim.”).

Because Miller was not a party to the Venture Capital Contract, and because Miller's claim never encompassed the broader practices proven at hearing, the issues decided in the two proceedings are not identical.

Further, Kentucky law recognizes that issue preclusion is ordinarily invoked by someone not a party to the prior case.⁵⁸ Courts have "question[ed] the propriety" of applying issue preclusion where the party asserting it was itself a party in the prior case.⁵⁹ Here, the Prevett Respondents were parties to Miller's suit. They cannot use that same case to shield themselves from administrative enforcement. Further, the Department was not a party to the civil suit and had no right to intervene nor to appeal. As a matter of law, the Department lacked in Miller's civil suit any "full and fair opportunity to present [its] case."⁶⁰

For the reasons stated hereinabove, the Deputy Commissioner finds that the Prevett Respondents' *res judicata* defense based upon the doctrine of issue preclusion fails as a matter of law.

B. Appeal Statement Issue

The Respondents Prevett and PEG argue that the Recommended Order is legally defective because it did not include a statement of their exception and appeal rights. This exception is overruled. The omission of an appeal or exceptions statement in the Hearing Officer's Recommended Order does not constitute reversible error. A recommended order issued under KRS Chapter 13B is interlocutory and does not constitute final agency action, and no right to judicial review attaches until issuance of a final order under KRS 13B.140. Any failure to include notice

⁵⁸ *Miller v. Administrative Office of the Courts*, 361 S.W.3d 867, 872 (Ky. 2011) (quoting *Moore v. Commonwealth*, 954 S.W.2d 317, 318 (Ky. 1997)).

⁵⁹ *Black v. CMT Trucking*, No. 2004-CA-001079-WC, 2005 WL 267568, at 5 (Ky. App. Feb. 4, 2005) (unpub.), aff'd, No. 2005-SC-0168-WC, 2005 WL 2679997 (Ky. Oct. 20, 2005) (unpub.).

⁶⁰ *Moore*, 954 S.W.2d at 318.

regarding internal review procedures is procedural and non-jurisdictional. Further, the record reflects that the party raising this objection timely filed written exceptions to the Recommended Order, demonstrating notice of and access to the internal review process. This Final Order provides proper notice of judicial review rights under KRS 13B.140. In the absence of any showing of prejudice to a party's substantial rights, any such omission is harmless and cured by entry of this Final Order.

C. Other Exceptions

To the extent other exceptions are inconsistent with the adopted Finding of Facts and Conclusions of Law, they are overruled.

RECOMMENDED PENALTY

A. Adoption of Hearing Officer's Recommended Penalty, Except as Modified Herein

In the Recommended Order, the Hearing Officer recommended that the Respondents be ordered to cease and desist from violations of the Securities Act of Kentucky, KRS 292 et seq. The Hearing Officer further recommended that the Respondents be Ordered to pay restitution, jointly and severally, to the Estate of Annie Miller in the amount of \$145,025 plus pre- and post- judgment interest. These recommendations are herein adopted.

B. Imposition of Additional Penalties

Under the Securities Act of Kentucky, the Commissioner may impose civil fines against any person who violates that law in an amount up to \$20,000 per violation, "except when the violation is directed at or results in monetary damage to one or more individuals who are sixty years of age or older, the commissioner may impose an additional fine not to exceed twenty thousand dollars (\$20,000) per violation."⁶¹ When this case was filed in 2020, the Department pled

⁶¹ KRS 292.500(14)

for “Respondents to pay a fine in the amount of thirty thousand dollars” in addition to “restitution to the investors.” In its Proposed Findings of Fact and Conclusions of Law, the Department asked “that the Respondents be fined, jointly and severally, \$30,000.” The hearing officer recommended that the Respondents be ordered to pay restitution to Miller’s estate in full, plus pre- and post-judgment interest, and did find, within the language of KRS 292.500(14), that Miller was over sixty at the time the violations occurred. However, the recommended order did not include a civil penalty.

Restitution is imposed to ensure compensation to harmed investors, while civil fines are imposed to protect the public interest and deter future violations. Here, joint-and-several restitution is imposed against each Respondent in order to ensure full compensation to the harmed investor. Although liability for the underlying violations extends to each respondent, the Deputy Commissioner retains discretion to assess civil penalties based on each Respondent’s relative culpability and conduct. Substantial evidence in the record establishes that Prevett, acting individually and through his alter-ego entity PEG, exercised primary control over the unlawful scheme, bore heightened responsibility for the violations, and engaged in conduct that was more culpable than that of the other Respondent, Global Industries. Different civil penalties are warranted where respondents do not share equal levels of responsibility or culpability. The Deputy Commissioner therefore finds it appropriate to assess a civil penalty against Prevett and his alter-ego entity PEG, while declining to impose a civil penalty against Global Industries.

FINAL ORDER

THEREFORE, based on the foregoing findings of fact and conclusions of law, and pursuant to KRS 292.470, KRS 292.500, and KRS 13B.120, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Respondents be ordered to cease and desist from violations of the Securities Act of Kentucky, KRS 292 et seq; and
2. The Respondents be Ordered to pay restitution, jointly and severally, to the Estate of Annie Miller in the amount of \$145,025 plus pre- and post- judgment interest.
3. Respondents Prevett and Prevett Energy Group, Inc. be fined, jointly and severally, \$30,000.
4. To prioritize remediation of investor harm, restitution to the Estate of Annie Miller shall be paid in full before any civil penalty assessed in this Order is due or collected.

This is a **FINAL AND APPEALABLE ORDER**. The **EFFECTIVE DATE** of this Order shall be the date reflected on the certificate of service attached to this Order.

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 292.490 and KRS 13B.140, you are hereby notified that any person aggrieved by this Final Order of the Deputy Commissioner may obtain a review of the Order by the Franklin Circuit Court. If you choose to appeal, you must file a written petition asking for review within thirty (30) days after the date reflected on the certificate of service attached to this Final Order. A copy of the petition must be served upon the Commissioner.

SO ORDERED this 5th day of January, 2026.



KENNETH PENNINGTON

DEPUTY COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certified that a true copy of the forgoing was sent via certified and/or electronic mail, this 5 day of January, 2026 to the following:

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