

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF FINANCIAL INSTITUTIONS
Complaint No. 03-AH-018

**DEPARTMENT OF FINANCIAL INSTITUTIONS
OF THE COMMONWEALTH OF KENTUCKY**

PETITIONER

v.

FINAL ORDER

RISE, INC., et al.

RESPONDENT

Upon motion of Respondent Rise, Inc. ("Rise"), for the Commissioner of the Department of Financial Institutions ("Commissioner") to vacate the final order entered on January 7, 2004 and enter this new final order, the Commissioner being duly and sufficiently advised, finds and orders as follows:

1. The Department of Financial Institutions ("Department") filed a complaint against Rise, on November 6, 200³, alleging that Rise's registered representative Bret O'Brien had put two customers, [REDACTED] and [REDACTED], in margin accounts that they did not understand and purchased unsuitable securities for their accounts without their prior authorization.

2. Rise failed to file a response to the complaint within the 20-day period provided. However, Rise denies the allegations of the complaint that Mr. O'Brien had put [REDACTED] and [REDACTED] in margin accounts that they did not understand and purchased unsuitable securities for their accounts without their prior authorization.

3. Because of Rise's failure to respond, a final order in the nature of a default judgment was entered by the Commissioner on the Department's complaint against Rise on January 7, 2004.

4. Following the entry of the final order, Rise's attorney, Schuyler J. Olt, filed his affidavit, dated February 10, 2004, stating that Rise is not responsible for the failure to file a timely response to the Department's complaint.

5. Rise and the Department have conferred regarding the allegations of the Department's complaint. Rise, while denying the allegations of the complaint, has terminated the employment of Mr. O'Brien, effective February 26, 2004, and has filed a Form U-5 with the NASD's Central Registration Depository with all applicable disclosure reporting pages, and agreed to make the offer of restitution set out at paragraph 10.

Accordingly, IT IS ORDERED that

6. The final order entered on January 7, 2004 is vacated and set aside.
7. Rise shall at all times act in compliance with the Kentucky Securities Act.
8. Rise shall establish written supervisory policies and procedures regarding margin account activity that will insure the proper use of such accounts and the suitability requirements for customers who wish to open a margin account.
9. No margin account shall be opened by Rise for any present or future customer until a principal of the firm has given his or her approval.
10. Rise shall make offers of restitution to ~~Mr. White~~ and ~~Mr. Dink~~. Rise offers to pay ~~Mr. White~~ a total of \$13,000 in restitution. Payment to ~~Mr. White~~ shall be made over time, with interest on the unpaid principal at 8% per annum, with the first payment of \$2,600 to be made immediately and the balance to be paid in 30 equal monthly installments of \$383.64 by

the fifteenth of every month thereafter. Rise offers to pay [REDACTED] a total of \$23,000 in restitution. Payment to [REDACTED] shall be made over time, with interest on the unpaid principal at 8% per annum, with the first payment of \$4,600 to be made immediately and the balance to be paid in 30 equal monthly installments of \$678.75 by the fifteenth of every month thereafter. Acceptance by [REDACTED] or [REDACTED] or both of them of the offers of restitution set forth in this paragraph are conditioned on their each providing Rise with a release of all claims against it.

11. Rise shall communicate its offers of restitution to [REDACTED] and [REDACTED]. Rise shall provide the Department with a written summary report as to the results of the offers of restitution, including copies of all documentation of the offer, and whether [REDACTED] and [REDACTED] ultimately accept or reject the offers of restitution.

12. The offers of restitution required pursuant to this Order shall be made no later than fifteen (15) days after the entry date of this Order. All other undertakings required of the Respondents in this Order shall begin to be implemented no later than fifteen (15) days after the entry date of this Order and shall be completed within a reasonable time thereafter.

This is a final and appealable order.

Entered and signed this th 26 day of March, 2004.



Ken Pennington
Deputy Commissioner
Department of Financial
Institutions
Commonwealth of Kentucky
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