

COMMONWEALTH OF KENTUCKY
OFFICE OF FINANCIAL INSTITUTIONS
Complaint No. 04-AH-010

THE OFFICE OF FINANCIAL INSTITUTIONS
OF THE COMMONWEALTH OF KENTUCKY

PETITIONER

vs.

ROGPEX, INC.
1287 UNDERWOOD COURT
BOWLING GREEN, KY 42103

Serve:

DAMON R. TALLEY, P.S.C.,
Agent for Service of Process
112 NORTH LINCOLN BLVD.
HODGENVILLE, KY 42748

GREGORY P. ROGERS,
Personally
Director and Incorporator
ROGPEX, INC.
1287 Underwood Court
Bowling Green, KY 42103

RESPONDENTS

FINAL ORDER

PROCEDURAL BACKGROUND

1. An administrative Complaint was filed in this matter pursuant to 808 KAR 10:225 on April 7, 2004. Said Complaint was served upon Respondents by certified mail at the addresses above. The Green Card Receipt indicates that the Complaint served upon Rogpex, Inc., was received April 9, 2004. The copy of the Complaint served personally upon Respondent, Gregory P. Rogers, was also sent by certified mail. However, according to U.S. Postal records, they "attempted to deliver" the "item at 9:30 am on April 20, 2004." The "item" to which they refer was the Complaint served upon Gregory P. Rogers personally at 1287 Underwood Court, Bowling Green, Kentucky

42103. Since the certified mail was not picked up by Respondent, Rogers, another copy of the Complaint was sent again on May 6, 2004 by regular mail, first class with proper postage to that same address so that receipt could not be avoided. As of Tuesday, May 11, 2004, it has not been returned to the Office as being undeliverable. Rogers' business address was served and the certified receipt for such service was signed April 9, 2004.

2. As of May 6, 2004, twenty-seven (27) days have elapsed and no Answer has been filed in the matter. Pursuant to the requirements of 808 KAR 10:225, an Answer must be filed within twenty (20) days of service of the Complaint.

3. Pursuant to 808 KAR 10:225, the failure to file an Answer to an Administrative Complaint authorizes the Commissioner ("Commissioner") of the Department of Financial Institutions ("Department") to enter a Final Order in the matter. Since there is no Answer filed in this matter, the entire record consists of the information obtained by the Department in its investigation and the allegations in the Administrative Complaint filed in this matter.

Intervening Matters

4. Pursuant to KRS 292.500(1) and 292.500(3), the Commissioner, whose role has recently been served (KRS 287.025) in all aspects by the Deputy Commissioner, ("Deputy") is charged with the administration and enforcement of KRS Chapter 292, the Securities Act of Kentucky, ("Act").

5. Pursuant to KRS 292.460, the Commissioner (and Deputy in his or her absence) has the power to make such public or private investigations within or outside of the Commonwealth of Kentucky as she deems necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated or is

about to violate any provision of the Act or the regulations promulgated and Orders entered pursuant to the Act.

6. Pursuant to the authority of Executive Order 2004-031, entered January 6, 2004, by Governor, Ernie Fletcher, the powers and responsibilities of the Department are now vested in the Office of Financial Institutions of the Commonwealth of Kentucky ("Office") and the powers and responsibilities of the Commissioner of the Department (and the Deputy) are now vested in the Executive Director of the Office.

7. During portions of the investigation of this matter, said power and responsibility was also in the hands of either the Commissioner and/or the Deputy.

8. The Executive Director has affirmed all the acts of the Commissioner and/or the Deputy in this matter as applicable. The three are in agreement on this matter.

9. Consequently, the Executive Director may act in the place of the Commissioner and Deputy in this action and this action is now brought by the Office of Financial Institutions rather than the Department of Financial Institutions.

10. Pursuant to KRS 292.460, the Commissioner and/or the Deputy continuing in her absence, and/or the Executive Director, as applicable, have caused an investigation to be made by the staff of the Department and/or Office to determine whether the Respondent(s) or any one or several of them are about to violate or have violated the Act.

11. Said investigation has begun and has progressed to the point where certain facts are apparent and allegations can be made as to whether violations of the Act are about to occur or have occurred.

Findings of Fact

Main—Securities Issues

12. The Kentucky Office of Financial Institutions made all reasonable attempts possible to give notice to respondent of these proceedings. The Office's efforts to give notice were reasonable. The Respondent, Rogpex, Inc., received a copy of the Complaint in this matter on April 9, 2004. The Respondent, Gregory P. Rogers, received a certified mail delivery of a copy of the Complaint in this matter at his address of 1287 Underwood Court, Bowling Green, Kentucky 42103 on or about April 9, 2004 and elected not to accept the copy and/or travel to the local post office to claim his copy of the Complaint, thereby waiving his opportunity to have this copy of the Complaint. The Respondent, Gregory P. Rogers, received a copy of the Complaint in this matter on or about May 8, 2004, at his address of 1287 Underwood Court, Bowling Green, Kentucky 42103. The respondent has constructive and actual Notice of these proceedings and has affirmatively chosen not to appear and present a defense.

13. Pursuant to KRS 292.500(1) and 292.500(3), the Commissioner ("Commissioner") of the Department of Financial Institutions, ("Department") is charged with the administration and enforcement of KRS Chapter 292, the Securities Act of Kentucky, ("Act"). Pursuant to the authority of Executive Order 2004-031, entered January 6, 2004, by Governor, Ernie Fletcher, the Executive Director has that same power and authority.

14. Pursuant to KRS 292.460, the Commissioner has the power to make such public or private investigations within or outside of the Commonwealth of Kentucky as she deems necessary to determine whether any registration should be granted, denied or

revoked or whether any person has violated or is about to violate any provision of the Act or the regulations promulgated and Orders entered pursuant to the Act. Pursuant to the authority of Executive Order 2004-031, entered January 6, 2004, by Governor, Ernie Fletcher, the Executive Director has that same power and authority.

15. Pursuant to KRS 292.460, the Commissioner has caused an investigation to be made by the staff of the Department to determine whether the Respondent(s) or any one or several of them are about to violate or have violated the Act. Pursuant to the authority of Executive Order 2004-031, entered January 6, 2004, by Governor, Ernie Fletcher, the Executive Director has that same power and authority and has affirmed and/or continued same.

Respondents

- a) Respondent, Rogpex, Inc. is a Corporation located at 1287 Underwood Court, Bowling Green, Kentucky 42103, according to the Kentucky Secretary of State. Respondent, Gregory P. Rogers, owns Rogpex, Inc. Respondent, Rogers, is a "Control Person," as that term is used in the securities laws. Rogers is responsible for the actions of Rogpex, Inc.

FACTS

- b) The Division of Securities ("Division") has received complaints from [REDACTED] [REDACTED] of Bowling Green, Kentucky.
- c) His complaint involved an investment of \$25,000 he made in a company named Rogpex, Inc.
- d) In 2000, Gregory Rogers, the owner of Rogpex, Inc. solicited [REDACTED] about obtaining "seed money" to develop a non-profit assisted living facility.

- e) On April 8, 2000, ██████████ made an initial partial payment of \$5,000.
- f) Mr. Rogers obtained other partial payments totaling \$25,000 from ██████████ in 2000. Rogers promised ██████████ \$40,000 in return as part of the transaction.
- g) Both parties signed a Letter of Agreement memorializing the transaction on April 9, 2000.
- h) The Division has no record of any filing to register, claim an exemption from registration, or notify the Division of the offering to ██████████
- i) The materials presented to ██████████ did not contain sufficient disclosures concerning the risk involved in the investment in the offering made by Mr. Rogers, the details of the backgrounds of the persons who would be managing the investment project, or a business plan or prospectus. Such failure to disclose constituted no less than three (3) counts of violations of the antifraud provisions of the Act in connection with the offer and sale of an investment in Rogpex, Inc., to ██████████
- j) Mr. Rogers met with a Division staff investigator on October 23, 2003 to discuss the issues concerning the ██████████ investment. According to Rogers, ██████████ ██████████ is the only investor in that particular offering.
- k) In addition to ██████████'s investment, Mr. Rogers also admitted to selling at least \$1,200,000 in interests in oil and gas programs to two out of state investors. Mr. Rogers made no filing with the Division to register, claim an exemption, or notify the Division of these separate offerings.
- l) It is in the public interest that the Executive Director take strong, decisive, and swift action against the Respondents.

THE VIOLATIONS OF THE ACT

COUNTS

16. Respondent, Rogpex, Inc. and Respondent, Rogers, failed to make adequate disclosures to an investor in violation of KRS 292.320(1) in at least three (3) instances (namely ██████████—(a) the risk, (b) the details of the backgrounds of the persons who would be managing the investment project, and (c) through failure of delivery of a prospectus or business plan that would have included things such as Architectural information and financial statements) for no less than *three* (3) counts or violations of the statute [KRS 292.320(1)—instances of failure to disclose].

THE PUBLIC INTEREST

17. It is in the public interest that the Office take action against the Respondents.

18. There is no indication in information in the investigation to date that the Respondents will cease their conduct or cease to violate the Act unless some action is taken to prevent violations of the Act. In fact the information in the investigation demonstrates that the Respondents will continue to violate the Act unless some action is taken. The Commissioner should find, based on the information obtained pursuant to the Department's investigation, that actions alleged to have been done by the Respondents acting alone and/or through agents constitute a present and continuing harm to the investing public of Kentucky.

19. The failure to take remedial steps to enforce the Act in this matter harms other registered persons and/or entities that adhere to the provisions of the Act and the applicable regulations and orders of the Commissioner. The failure to take remedial steps to enforce the Act in this matter would encourage others to ignore the provisions of the

Act and the regulations and orders of the Commissioner promulgated pursuant thereto and this would take the protections afforded the Kentucky investing public by the Act away from the public.

20. In light of the facts alleged herein, it is in the public interest to take action against the entities, issuers and agents named herein to cause them to cease and desist violating the Act, and to take other remedial measures necessary to make investors whole and to prevent such violations of the Act in the future.

21. The Office and the Executive Director have jurisdiction in this matter.

22. Venue is proper in Franklin County, Kentucky.

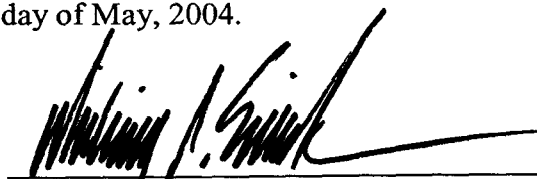
ORDER

IT IS HEREBY ORDERED AS FOLLOWS:

- a.) All of the Respondents herein **SHALL** permanently Cease and Desist violating the Securities Act of Kentucky.
- b.) The Respondent Gregory P. Rogers in his individual capacity, shall immediately offer rescission to all investors in Kentucky for all sales of securities referenced herein, including but not limited to those sales made to ~~Investor~~, together with interest at the legal rate of eight (8%) per cent. Said offer shall be made and completed within thirty (30) days of the entry date of this Order. Respondent, Rogers, shall have the right to seek contribution from other respondent to the extent he has paid part or the entire fine imposed herein but he **SHALL NOT** delay complying with the requirement of offering and honoring this rescission term.

- c.) The Respondent Rogpex, Inc., shall immediately offer rescission to all investors in Kentucky for all sales of securities referenced herein, including but not limited to those sales made to ██████████, together with interest at the legal rate of eight (8%) per cent. Said offer shall be made and completed within thirty (30) days of the entry date of this Order. Liability for Rogers and Rogpex, Inc., shall be joint and several.
- d.) ██████████ *shall be considered* to be a third party beneficiary to this Order and shall be able to enforce its terms as they pertain to him without the joining of the Office of Financial Institutions or the Executive Director.
- e.) A fine of *Fifty thousand dollars* (\$50,000) is hereby imposed jointly and severally on all of the Respondents named herein. Said fine shall be collected from as few or as many respondents as convenient to the Commonwealth of Kentucky. Respondents shall have the right to seek contribution from other respondents to the extent one or several of them have paid part or the entire fine imposed herein. Such seeking of contribution shall not involve the Office or the Commonwealth of Kentucky.
- f.) This is a Final and Appealable Order.

Entered and signed this 12th day of May, 2004.



William P. Emrick
Executive Director
Office of Financial Institutions
Commonwealth of Kentucky
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

CERTIFICATE OF SERVICE

I certify that this **FINAL ORDER** was served by mailing a true and correct copy of same by first class United States Mail, postage prepaid, on this the ____ day of May, 2004 to each of the following:

ROGPEX, INC.
1287 UNDERWOOD COURT
BOWLING GREEN, KY 42103

Serve:

DAMON R. TALLEY, P.S.C.,
Agent for Service of Process
112 NORTH LINCOLN BLVD.
HODGENVILLE, KY 42748

GREGORY P. ROGERS, Personally
Director and Incorporator
ROGPEX, INC.
1287 Underwood Court
Bowling Green, KY 42103

Signature

Name (Printed): Susan Gardner

Position: Administrative Specialist III

Department of Financial Institutions

1025 Capital Center Drive, Suite 200

Frankfort, KY 40601

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