

**ADMINISTRATIVE PROCEEDING**

**BEFORE THE**

**SECURITIES COMMISSIONER OF SOUTH CAROLINA**

**IN THE MATTER OF:** )  
 )  
**Joyce M. Loney** )  
**(a/k/a “Anna Loney”) and** )  
**Shaker Enterprises, Inc.,** )  
 )  
                    **Respondents.** )

**ORDER TO CEASE & DESIST**

**File No. 11027**

WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”), pursuant to authority granted in the South Carolina Uniform Securities Act of 2005 (the “Act”), S.C. Code Ann. §§ 35-1-101 to 35-1-703 (Supp. 2011), on or about April 14, 2011, received information regarding activities of Joyce M. Loney, a/k/a Anna Loney (“Loney”) and Shaker Enterprises, Inc. (“Shaker”) which could constitute violations of the Act;

WHEREAS, the information led the Division to open and conduct an investigation of Loney and Shaker (collectively, the “Respondents”) pursuant to S.C. Code Ann. § 35-1-602.

NOW, THEREFORE, in connection with the investigation, the Division determined that the Respondents have engaged in and may be about to engage in acts or practices constituting violations of the Act and hereby includes in this Order to Cease and Desist (“Order”) a statement of the reasons for the Order, a statement of the civil penalty sought as a result, and a notice that a hearing will be scheduled if a Respondent requests a hearing.

## FACTUAL HISTORY

1. Respondent Loney, at all times relevant herein, was present in South Carolina and utilized an address of 1109 12<sup>th</sup> Street, Port Royal Island, South Carolina 29935.
2. Respondent Shaker, at all times relevant herein, represented its address to be 1109 12<sup>th</sup> Street, Port Royal Island, South Carolina 29935.
3. Neither Respondent Loney nor Respondent Shaker is registered or, at any time herein, was registered as a broker-dealer, agent, investment advisor, investment advisor representative, or in any other capacity which would allow them to transact business in securities in or from the State of South Carolina.
4. On or around August 16, 2010, a potential investor, Investor AC, a resident of Ohio, contacted Loney via the Internet seeking information on a fund that Loney represented she used to trade for others.
5. Following the initial contact, Investor AC engaged Loney to trade for him.
6. The parties' agreement was memorialized in an email from Loney to AC dated August 18, 2010. In the e-mail, Loney represented:

I Joyce M. Loney agree to trade a futures account in the amount of \$7500 dollars for [AC]. All profits are to be reinvested and a monthly statement will be provided to [AC]. The commission is 10% includes broker fees & market feed. This will be deducted upon withdraws.
7. Following receipt of the e-mail above, but still on August 18, 2010, AC wired \$7,500 to an account Loney represented as being hers so Loney could begin trading on his behalf.

8. Loney did not disclose to AC that the account she had him wire his monies for investment to was overdrawn at the time the wire was received or that portions of AC's funds went to pay overdraft fees on the account.
9. Loney also did not disclose to AC that she did not trade any of the money invested with her by AC on August 18, 2010, for him.
10. On or about August 25, 2010, following representations that Loney had seven licensed traders working out of her offices, that she traded for several NASCAR guys "plus several others," and that she had made money on AC's first investment, AC invested \$7,500 more with Loney.
11. The money was sent to the same bank account as before, which was a personal credit union account jointly owned by Loney and her spouse.
12. As before, AC's second investment was not traded but was used to pay overdraft fees; telephone, utility, and insurance bills; and grocery, restaurant and other expenses. Loney did not tell AC she used his money for personal expenses; instead she represented to AC she was trading the funds and earning him returns.
13. AC received an email from Loney dated September 7, 2010, with an attachment which was represented to be AC's August statement. The statement reflected the balance of AC's account had appreciated from \$15,000 to \$15,775 since the account's opening the previous month. The statement is represented to be from Shaker Enterprises, Inc. The mailing address reflected on the statement for Shaker is 1109 12<sup>th</sup> Street, Port Royal Island, SC 29935.
14. AC received an email from Loney dated October 4, 2010, with an attachment which was represented to be AC's September statement. The statement reflected the balance of AC's

account had increased \$3,200 since the prior statement, bringing the account value to \$18,975. The statement is represented to be from Shaker Enterprises, Inc. The mailing address reflected on the statement for Shaker is 1109 12<sup>th</sup> Street, Port Royal Island, SC 29935.

15. On or about October 21, 2010, based on the returns Loney and Shaker represented they had been making in AC's account, AC invested another \$5,000 with Respondents.
16. This third investment, which also was to be traded on AC's behalf, was received by Loney and credited to AC's account on or around October 21, 2010.
17. AC received an email from Loney dated November 3, 2010, with an attachment which was represented to be AC's October statement. The statement both reflected the additional deposit by AC of \$5,000 on or about October 21, 2010, and that the balance of AC's account had increased \$2,700 since the prior statement, bringing the account value to \$26,675. The statement is represented to be from Shaker Enterprises, Inc. The mailing address reflected on the statement for Shaker is 1109 12<sup>th</sup> Street, Port Royal Island, SC 29935.
18. AC received an email from Loney dated December 20, 2010, with an attachment which was represented to be AC's November statement. The statement reflected that trading conducted in AC's account had increased the balance by \$1,725 in November, 2010, and \$700 from December 1, 2010, through December 17, 2010. The total account value as of December 17, 2010, was indicated to be \$29,100. The statement is represented to be from Shaker Enterprises, Inc. The mailing address reflected on the statement for Shaker is 1109 12<sup>th</sup> Street, Port Royal Island, SC 29935.

19. Monetary commissions, which over the period ranged from a low of \$5.00 to a high of \$37.50, were reflected on the account statements AC received from Loney.
20. On February 25, 2011, AC sent an email to Loney requesting a withdrawal of \$1,500 from his account.
21. Loney's response to AC's request for \$1,500 of his account balance was that she was sailing in the Caribbean Islands and unable to get the "trading platform" up because she was too far from land, but that she would send the money to him when she got closer to land.
22. In other emails during the period on or around February 25, 2011, to March 14, 2011, Loney gave different reasons why she could not return funds to AC from his alleged account including (1) she was not near enough land to be able to access the account; (2) the "SEC is requiring me to have the SEC series licenses to trade and account is on hold;" and (3) "I can't send it, I can't even get into the accounts."
23. During the course of his investments, many material facts were not disclosed to investor AC, including the facts:
  - a. Funds given to the Respondents for investment were commingled with personal funds in a bank account controlled by Respondent Loney; and
  - b. Funds given to the Respondents for investment were not deposited or used in futures, hedge fund, or any other type of trading despite representations to the contrary to AC.
24. When asked by Division staff, Respondent Loney admitted she did not invest AC's funds.

25. Respondent Loney claimed the funds were not given to her to trade but, instead, were payments for lessons in how to conduct Forex trading and, therefore, could be used as she desired.
26. No claim of exemption from registration has been filed with the Division by either Respondent or on behalf of either Respondent.

#### **APPLICABLE LAW AND DETERMINATION**

1. The Commissioner has jurisdiction over this matter pursuant to Section 35-1-180 of the Act.
2. In connection with the offer or sale of securities in or from South Carolina, the Respondents violated S.C. Code Ann. §§ 35-1-401 and 35-1-402 by failing to register as a broker-dealer or agent prior to transacting business in South Carolina as a broker-dealer and an agent.
3. In connection with the offer or sale of securities in or from South Carolina, the Respondents violated S.C. Code Ann. § 35-1-501 by making untrue statements of material fact and/or by omitting material facts necessary in order to make the statements made, in light of the circumstances under which they were made not misleading.
4. Based on the foregoing, the Division has determined that Respondents have engaged, are engaging, and/or are about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act.

#### **CEASE AND DESIST ORDER**

NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1), IT IS HEREBY **ORDERED** that the Respondents:

- a. Immediately cease and desist from transacting securities business in or from this State; and
- b. Each pay a civil penalty in the amount of ten thousand dollars (\$10,000.00) per Respondent if this Order becomes effective by operation of law, or, if any Respondent seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.00) for each violation of the Act by that Respondent, and the actual cost of the investigation or proceeding.

#### **REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING**

The Respondents are hereby notified that they have the right to a hearing on the matters contained herein. To schedule a hearing, a Respondent must file with the Securities Division, Post Office Box 11549, Rembert C. Dennis Building, Columbia, South Carolina 29211-1549, attention: Thresechia Navarro, within thirty (30) days after the date of service of this Order a written Answer specifically requesting that a hearing be held to consider rescinding the Order.

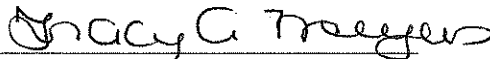
In the written Answer, a Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation of the Order, shall set forth specific facts on which the Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent relies. If a Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, she/it shall so state.

Failure by a Respondent to file a written request for a hearing in this matter within the thirty (30) day period stated above shall be deemed a waiver by that Respondent of her/its right to such a hearing. Failure of a Respondent to file an Answer, including a request for a hearing,

shall result in this Order, including the stated civil penalty, becoming final as to that Respondent by operation of law.

CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS ORDER AND/OR SIMILAR ACTS MAY RESULT IN THE DIVISION'S FILING ADDITIONAL ADMINISTRATIVE ACTIONS AND/OR SEEKING FURTHER ADMINISTRATIVE FINES. WILLFUL VIOLATION OF THIS ORDER COULD RESULT IN CRIMINAL PROSECUTION. REGARDING MATTERS DESCRIBED HEREIN, THIS ORDER DOES NOT PRECLUDE THE FILING OF PRIVATE CAUSES OF ACTION OR THE FILING OF CRIMINAL CHARGES UNDER S.C. CODE ANN. § 35-1-508 OR ANY OTHER APPLICABLE CODE SECTION.

**SO ORDERED**, this 24th day of August, 2011.



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