

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA

IN THE MATTER OF:)	
)	
Jay Peroni and Faith Based)	NOTICE OF INTENT TO SEEK
Investor, LLC,)	THE REVOCATION OF
)	INVESTMENT ADVISER AND
)	INVESTMENT ADVISER
)	REPRESENTATIVE REGISTRATIONS
)	
Respondents.)	File Number 11025

The Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”), under the authority of the South Carolina Uniform Securities Act of 2005 (the “Act”), S.C. Code Ann. §§ 35-1-101 to 35-1-703 (Supp. 2010), upon due consideration of the subject matter herein and having reason to believe that Jay Peroni (“Peroni”) and Faith Based Investor, LLC (“FBI”) should not be permitted to act as an investment adviser or investment adviser representative, does hereby notify Respondents Peroni and FBI (collectively, the “Respondents”) that the Division intends to seek the issuance of an order, pursuant to S.C. Code Ann. § 35-1-412, revoking Respondents’ registrations as an investment adviser and an investment adviser representative. The Division hereby includes in this Notice of Intent to Seek the Revocation of Investment Adviser and Investment Adviser Representative Registrations (“Notice of Intent”) a statement of the reasons for the order that is sought, a statement of the penalty sought, and a notice that a hearing will be scheduled if either Respondent requests a hearing.

In accordance with S.C. Code Ann. § 35-1-412(g), the Division hereby alleges the following:

RESPONDENTS

1. Respondent Peroni, at all times material herein, was a resident of South Carolina.
2. Respondent Peroni, at all times material herein, maintained control of Respondent FBI.
3. Respondent FBI is a South Carolina corporation, that was incorporated with the South Carolina Secretary of State in 2010.
4. Respondent FBI's filings with the Secretary of State's office indicate a registered address of 1591 Savannah Highway, Charleston, SC 29407.

BOOKS AND RECORDS

5. Pursuant to the Respondents' filings with the Division, the Respondents' principal business address on April 11, 2011, was located at 3022 South Morgan Road, Mt. Pleasant, South Carolina.
6. The South Morgan Road address was indicated in the Respondents' filings as the physical location of books and records required to be maintained by the Respondents.
7. On April 11, 2011, pursuant to its authority under S.C. Code Ann. § 35-1-411(Supp. 2010), the Division attempted to perform a limited scope audit of Respondents' business at the South Morgan Road address.
8. The Division was unable to locate a South Morgan Road in Mount Pleasant, South Carolina through tax records or any other means.
9. The Division located 3022 South Morgan's Point Road, which was the address for a retail location doing business as "Goin' Postal."
10. "Goin' Postal" is a chain of retail shipping and receiving stores which offer numerous services including private mailbox rental and mail forwarding.

11. Based on information and belief, the Respondents leased a private mailbox at the 3022 South Morgan's Point Road location and received mail at that address.
12. Based on information and belief, none of the Respondents' required books and records were kept at the 3022 South Morgan's Point Road location.
13. The Division subsequently attempted to conduct an audit of the Respondents' business at the address previously provided to the Division in Respondent FBI's registration filings in October, 2010. That address was 2228 Branch Creek Drive, Mt. Pleasant, South Carolina.
14. Although Respondent FBI's filings did not indicate that the Branch Creek Drive location was a residential address, the Division observed that the location appeared to be a vacant residence with a Carolina One Realty "For Sale" sign in the front yard.
15. Tax records indicate that the Branch Creek Drive location is not listed in the name of either Respondent at this time.
16. Due to the Respondents' failure to provide an accurate address in which books and records are maintained, the Division was impeded from conducting an audit or inspection.

ADVERTISING

17. The Respondents maintained a website advertising their business ("FBI Website").
18. The FBI Website was accessible to the general public, and advertised a mailing address in South Carolina that was not included on any of FBI's filings with the Division.
19. The FBI Website includes information about the Respondents' investment advisory services, fees, and newsletters.

20. The FBI Website includes numerous testimonial style statements.
21. The FBI Website was not filed with the Division at least ten (10) business days prior to its use as required by S.C. Code Ann. Reg. 13-503.

APPLICABLE LAW

22. Pursuant to S.C. Code Ann. § 35-1-411(c)(1), an investment adviser registered or required to be registered under the Act shall make and maintain the accounts, correspondence, memoranda, papers, books and other records required by rule adopted or order issued under the Act.

23. Moreover, S.C. Code Ann. § 35-1-411(d) provides that:

The records of . . . an investment adviser registered or required to be registered under [the Act] are subject to such reasonable periodic, special, or other audits or inspections by a representative of the Securities Commissioner, within or without this State, as the Securities Commissioner considers necessary or appropriate in the public interest and for the protection of investors.

24. Pursuant to Rule 13-503:

Any prospectus, pamphlet, circular, form letter, advertisement, sales literature, or other advertising relating to a security or investment advice regarding securities, addressed or intended for distribution to prospective investors, including clients or prospective clients of a person registered as an investment adviser, under [the Act], must be filed with the Securities Commissioner at least ten (10) business days prior to use in this State.

25. Pursuant to Rule 206(4)-1(a) of the Investment Advisers Act of 1940:

It shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business . . . for any investment adviser registered or required to be registered . . . directly or indirectly, to publish, circulate, or distribute any advertisement (1) [w]hich refers, directly or indirectly, to any testimonial of any kind concerning the investment advisor or concerning any advice, analysis, report or other service rendered by such investment advisor[.]

26. Rule 13-502(A)(22) provides that any violation of the Act or a statute or rule promulgated under the Act may be considered dishonest or unethical behavior and may subject an investment adviser or investment adviser representative to sanctions, including revocation of registration. Moreover, Rule 13-502(B) specifically provides that engaging in conduct such as non-disclosure or incomplete disclosure shall also be grounds for denial, suspension or revocation of an investment adviser or investment adviser representative registration.
27. Pursuant to S.C. Code Ann. § 35-1-412(b), if the Securities Commissioner finds that the order is in the public interest and subsection (d) of § 35-1-412 authorizes the action, an order under the Act may revoke, suspend, condition, or limit the registration of a registrant.
28. Pursuant to S.C. Code Ann. § 35-1-412(c), if the Securities Commissioner finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and (13) of § 35-1-412 authorizes the action, an order under the Act may censure, impose a bar, and/or impose a civil penalty in an amount not to exceed \$10,000 for each violation on a registrant.
29. Pursuant to S.C. Code Ann. § 35-1-412(d), a person who:
- (2) wilfully violated or wilfully failed to comply with this chapter or the predecessor chapter or a rule adopted or order issued under this chapter or the predecessor chapter within the previous 10 years; [or]
 - (6) is the subject of an adjudication or determination, after notice and opportunity for hearing. ... that the person wilfully violated ... the Investment Advisers Act of 1940; [or]
 - ...
 - (8) refuses to allow or otherwise impedes the Securities Commissioner from conducting an audit or inspection under Section 35-1-411(d) or refuses access to a registrant's office to conduct an audit or inspection under Section 35-1-411(d);

may be disciplined under S.C. Code Ann. § 35-1-412(a) or (c).

30. Pursuant to S.C. Code Ann. § 35-1-412(g), an order may not be issued under that section, except under S.C. Code Ann. § 35-1-412 (f), without:

- (1) appropriate notice to the applicant or registrant;
- (2) opportunity for hearing; and
- (3) findings of fact and conclusions of law in a record.

REQUEST FOR AN ORDER REVOKING RESPONDENTS' REGISTRATION

WHEREAS, the Respondents have impeded the Division from conducting an audit or inspection in violation of S.C. Code Ann. § 35-1-412(d)(8); and

WHEREAS, the Respondents' use of advertising not previously filed with the Division pursuant to South Carolina Rule 13-503 violates the Act; and

WHEREAS, it is necessary and appropriate, in the public interest, for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act to seek to revoke all registrations of the Respondents in the State of South Carolina;

NOW THEREFORE, the Division requests that the Commissioner grant the following relief against the Respondents:

- a. Pursuant to S.C. Code Ann. § 35-1-412(c), permanently bar the Respondents from conducting securities business in the state of South Carolina; and
- b. Pursuant to S.C. Code Ann. § 35-1-412(b), revoke the Respondents' investment adviser and investment adviser representative registrations; and
- c. Pursuant to S.C. Code Ann. § 35-1-412(c), order each Respondent to pay an administrative fine in an amount not exceeding ten thousand and no/100

(\$10,000.00) dollars for each violation of the Act and each violation of any rule or order promulgated by the Commissioner; and

d. Order any other relief that the Commissioner deems appropriate.

NOTICE AND OPPORTUNITY FOR A HEARING

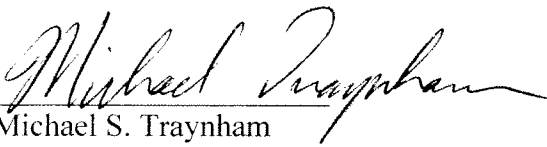
NOTICE is hereby given that the Respondents shall each have thirty (30) days from the date of receipt of this Notice of Intent to give written notice requesting a hearing on the matters contained herein to Thresechia Navarro, Securities Division, Post Office Box 11549, Columbia, South Carolina, 29211-1549. In the written Answer, a Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation in this 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. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.

Within fifteen (15) days of receipt of a written notice requesting a hearing, this matter will be scheduled for a hearing. A Respondent may then appear, with or without the assistance of an attorney, at the hearing to present testimony, evidence, and argument relating to the matters contained herein. In the event such written notice requesting a hearing is not received within the above-stated thirty (30) day period of time, an order revoking the Respondents respective registrations may be entered in this proceeding with no further notice.

By seeking to issue an order revoking the Respondents respective registrations, the Division is not waiving any rights it may have to pursue additional remedies available to it for the above or other violations of the Act committed by the Respondents.

Executed and entered, this the 23rd day of May, 2011.

SOUTH CAROLINA OFFICE OF THE
ATTORNEY GENERAL

By: 

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