

# STATE OF NORTH CAROLINA



**Department of The  
Secretary of State**

IN THE MATTER OF:

**THE NORTH CAROLINA SECURITIES DIVISION,**

Petitioner,

vs.

**TED WEST,**  
520 North Lee Street  
Whiteville, North Carolina 28472

**WEST INSURANCE AGENCY  
OF N.C., INC.**  
801 N. Raleigh Street  
Suite C-1  
Angier, North Carolina 27804

**SUMMARY ORDER  
TO CEASE AND DESIST**

FILE NO. 02-010-CC

Respondents.

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Pursuant to the authority granted by Chapter 78A of the North Carolina General Statutes (the North Carolina Securities Act), hereinafter referred to as the "Securities Act," and the rules promulgated thereunder, the Securities Division of the Department of the Secretary of State, hereinafter referred to as the "Division," has investigated the activities of **TED WEST,**

individually and doing business as **WEST INSURANCE AGENCY of N.C., INC.**, (hereinafter, referred to as Respondents), to determine if they have engaged in, or are about to engage in, any act or practice constituting a violation of the Securities Act or any rule or order thereunder.

**THE DIVISION** has filed an Administrative Petition against the above-named Respondents seeking, among other remedies, a Summary Cease and Desist Order pursuant to the provisions of N.C.G.S. §78A-47(b)(2).

**THE SECRETARY OF STATE**, acting by and through her duly authorized Deputy Securities Administrator, from the investigation and the information derived therefrom, and for the protection and preservation of the public welfare and in the public interest, makes the following:

#### **FINDINGS OF FACT**

1. The Respondent **TED WEST** is a natural person, who upon information and belief is the former owner and sole proprietor of West Insurance Agency of N.C., Inc. Respondent's business activities include engaging in now and in the past the solicitation of members of the public in North Carolina to invest in payphone units purchased from Superior Capital Group Investments and leased back to Select Payphone Providers of America, Inc. to manage on behalf of the investor.

2. Respondent **WEST INSURANCE AGENCY OF N.C., INC.**, upon information and belief, is/was a business located at 801 N. Raleigh Street, Suite C-1, Angier, North Carolina 27804.
  
3. From March through the end of 2000, Respondents offered and sold investments in payphone units to members of the public in North Carolina. The investments consisted of the offer and sale of Superior Capital Group Investments' payphone units to investors and the simultaneous leaseback of the payphone units to Select Payphones to manage on behalf of the investor. The payphone units were located in Nevada and California and the investors were located in North Carolina.
  
4. Respondents represented to potential investors that the purchase and leaseback investments involve a capital outlay on behalf of the investor to Superior Capital Group Investments with the expectation of a 13% monthly return on the investment. The Respondents represent that the investment is risk-free. In addition the Respondents represent that after a period of 5 years Superior Capital Group Investments will purchase the payphones back from investors for the original purchase price. The Respondents tell the investors that the investment is safe because it is insured.
  
5. The Respondents' offer and sale of the investment in the payphone units and leaseback agreements described in paragraphs 3 and 4 constitutes an "offer" and sale" of a "security" as those terms are defined pursuant to N.C.G.S. §§78A-2(8) and 78A-2(11).

6. The securities offered and sold by the Respondents to persons in North Carolina were not registered with the Securities Division of the Department of the Secretary of State under the provisions of the North Carolina Securities Act prior to or at the time of being offered or sold to persons in North Carolina and were not exempt from registration nor covered under federal law, in violation of N.C.G.S. §78A-24.
  
7. From March through the end of 2000, Respondents were not registered as dealers or salesmen of securities with the Securities Division of the Department of the Secretary of State under the provisions of the North Carolina Securities Act. During this period, Respondents were acting as “dealers” or “salesmen” within the meaning of N.C.G.S. §§78A-2(2) and 78A-2(9).
  
8. From March through the end of 2000, Respondents engaged in and may continue to engage in transacting business as dealers or salesmen of securities by offering and selling securities to persons in North Carolina, while the Respondents are not and were not registered as dealers or salesmen of securities with the Securities Division of the Department of the Secretary of State under the provisions of the North Carolina Securities Act, in violation of N.C.G.S. §78A-36(a).
  
9. In connection with the offer and sale of the aforesaid security to persons in North Carolina, Respondents either directly or indirectly made untrue statements of a material fact and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, in violation of N.C.G.S. §78A-8(2).

10. In violation of N.C. G.S. §78A-8(2) the Respondents directly and indirectly made untrue statements of a material fact, in that they represented to potential investors that the payphone unit investments were risk-free and insured against loss.
  
11. The Respondents, in violation of N.C.G.S. § 78A-8(2), omitted to state to potential investors that:
  - a) the payphone unit investment marketed by the Respondents is a security and it was not registered under the North Carolina Securities Act prior to being offered and sold to members of the public in North Carolina in violation of N.C.G.S. §78A-24; and
  - b) during the time the payphone unit investments were offered and sold, the Respondents were not registered as dealers or salesmen of securities pursuant to the provisions of the North Carolina Securities Act, in violation of N.C.G.S. §78A-36(a).
  
12. Respondents presently continue to have the ability to offer and sell securities to persons in North Carolina in violation of the provisions of N.C.G.S. §§78A-24, 78A-36 and 78A-8.

## CONCLUSIONS OF LAW

1. The Secretary has statutory authority pursuant to N.C.G.S. §78A-47(b)(2) to enter and issue a temporary Cease and Desist Order against the Respondents.
2. There is reasonable cause to believe the Respondents have engaged in willful violations of the North Carolina Securities Act, specifically N.C.G.S. §§78A-8, 78A-24 and 78A-36(a).
3. There is reasonable cause to believe the Respondents will continue to commit acts and omissions in violation of the North Carolina Securities Act.
4. It is necessary and appropriate for the protection and preservation of the public interest that the Respondents be summarily ordered to cease and desist from making offers and sales of securities in violation of the North Carolina Securities Act and, in connection with such solicitations, making untrue statements of a material fact and omitting to state material facts necessary to make statements made, in light of the circumstances under which they were made, not misleading.

Upon review of the facts and conclusions of law presented, I find that the public interest would be irreparably harmed by the delay inherent in issuing an order under the provisions of N.C.G.S. §78A-47(b)(1).

**IT IS THEREFORE ORDERED THAT**, pursuant to the authority contained in N.C.G.S. §78A-47(b)(2), that Respondents shall immediately cease and desist:

- a. offering for sale, soliciting offers to purchase, or selling, to the public in North Carolina, the securities of the payphone unit investment or any security of any issuer, howsoever denominated, unless and until such securities have been registered pursuant to the provisions of the Securities Act; and
- b. offering for sale, soliciting offers to purchase, or selling, in or from North Carolina, the securities of the payphone unit investments and any security of any issuer, howsoever denominated, unless and until said persons become registered as dealers or salesmen pursuant to the provisions of the Securities Act; and
- c. in connection with the offer, sale or purchase of any security, making false statements of material facts or omitting to state material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading.

**NOTICE IS HEREBY GIVEN** that the Respondents may request a hearing upon this matter by transmitting such request, in writing and within thirty (30) business days of receipt of this document, to David S. Massey, Deputy Securities Administrator, Securities Division, Department of the Secretary of State, Post Office Box 29622, Raleigh, North Carolina 27626-0622. A copy of any such request shall be served by first-class mail upon Nancy Ann Vecchia, Enforcement Attorney, Securities Division, Department of the Secretary of State, Post Office Box 29622, Raleigh, North Carolina 27626-0622. If such a request is made, this matter shall be scheduled for a hearing in

accordance with Chapter 150B of the North Carolina General Statutes within twenty (20) days after receipt by the Deputy Securities Administrator of the written request. If no request for a hearing, other responsive hearing, or submission is received by the Deputy Securities Administrator within thirty (30) business days of the receipt of service hereof, this Summary Order to Cease and Desist shall become final and remain in effect unless it is modified or vacated by the Secretary of State in her capacity as Administrator of the North Carolina Securities Act.

**WITNESS MY HAND AND THE OFFICIAL SEAL** of the North Carolina Department of the Secretary of State, this the 31st day of January, 2005.



**ELAINE F. MARSHALL  
SECRETARY OF STATE OF NORTH CAROLINA and  
SECURITIES ADMINISTRATOR,**

By: DAVID S. MASSEY  
**DEPUTY SECURITIES ADMINISTRATOR**