

**IN THE DISTRICT COURT OF PONTOTOC COUNTY
STATE OF OKLAHOMA**

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)
)
Plaintiff,)
)
v.)
)
Yankee Financial Group, Inc.,)
Vasily Kouznetsov *aka* David Anderson,)
Gary J. Giordano, and)
Richard Francis Kresge,)
)
Defendants.)

Case No. *C03-586*

FILED
Book _____ Page _____
OCT 17 2003
JANIS ROWSEY, Court Clerk
Pontotoc County, Oklahoma
By _____ Deputy

**PETITION FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF**

COMES NOW the Plaintiff, Oklahoma Department of Securities, *ex rel.* Irving L. Faught (Department), and for its claims against the above-named Defendants, alleges and states as follows:

INTRODUCTION

1. This case involves violations of the Oklahoma Securities Act (the "Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 & Supp. 2002), by Yankee Financial Group, Inc. (Yankee Financial), Vasily Kouznetsov *aka* David Anderson (Anderson), Gary J. Giordano (Giordano), and Richard Francis Kresge (Kresge), (collectively, the "Defendants").
2. The Department alleges that Defendant Anderson a) transacted business in the state of Oklahoma as an agent of Yankee Financial without benefit of registration under the Act; b) failed to observe high standards of commercial honor and just and equitable

principles of trade in connection with a customer account; c) misappropriated customer funds; and d) perpetrated fraud in connection with the offer, sale or purchase of securities.

3. The Department further alleges that Defendant Yankee Financial a) transacted business in the State of Oklahoma as a broker-dealer prior to January 9, 2002, without benefit of registration under the Act; b) employed an agent who transacted business in the state of Oklahoma without benefit of registration under the Act; c) failed to obtain and provide proper customer documentation in connection with the purchase of "penny stocks;" and d) failed to set up adequate supervisory procedures to prevent violations of securities laws, rules and regulations.

4. The Department further alleges that Defendants Yankee Financial, Giordano and Kresge failed to supervise Anderson by allowing Anderson a) to open and transact business on behalf of an Oklahoma resident when neither Anderson nor Yankee Financial was registered under the Act; and b) to effect "penny stock" transactions in violation of Rule 15g-9 promulgated under the Securities Exchange Act of 1934 (the "1934 Act").

JURISDICTION

5. The Administrator of the Department brings this action pursuant to Section 406.1 of the Act and is the proper party to bring this action against the Defendants.

6. Pursuant to Sections 2 and 413 of the Act, Defendants, in connection with their activities and the offer, sale, and purchase of securities in and/or from this state, are subject to the provisions of the Act. By virtue of their transaction of business and commission of other acts in this state, Defendants are subject to the jurisdiction of this Court and to service of summons within or outside of this state.

DEFENDANTS

7. Defendant Yankee Financial became registered as a general securities broker-dealer with the NASD Regulation, Inc. (NASDR)¹ on August 27, 1986. Yankee Financial became registered as a general securities broker-dealer under the Act on January 9, 2002, and is currently registered under the Act.

8. Defendant Anderson became registered with the NASDR as an agent of Yankee Financial on October 8, 2001. Anderson's registration with the NASDR and his employment with Yankee Financial terminated on August 9, 2002. Anderson is not currently registered as an agent under the Act and, at all times material hereto, was not registered under the Act as an agent of Yankee Financial.

9. Defendant Giordano became registered with the NASDR as an agent and principal of Yankee Financial on September 25, 2001. Giordano became registered under the Act as an agent of Yankee Financial on January 15, 2002. Giordano's employment with Yankee Financial ended in October 2002. Giordano then became registered under the Act on October 16, 2002, as an agent of Clark Street Capital, Inc. (Clark Street) and is currently registered under the Act. During his employment with Yankee Financial, Giordano was responsible for supervising the activities of Anderson.

¹The National Association of Securities Dealers (NASD) was established under the authority granted by the 1938 Maloney Act amendments to the 1934 Act. The NASD is the self-regulatory organization of the securities industry responsible for regulating The Nasdaq Stock Market as well as the over-the-counter securities market. The Nasdaq Stock Market has two tiers: The Nasdaq National Market, on which the most actively traded securities of the Nasdaq's larger companies are traded, and the Nasdaq Small Cap Market for emerging growth companies. The NASD operates subject to U.S. Securities and Exchange Commission oversight.

The NASDR was established in 1996 as a subsidiary of the NASD in order to separate the regulation of broker-dealer professionals from the operation of The Nasdaq Stock Market. NASDR provides the federal regulation of U.S. stockbrokers and brokerage firms. The regulatory responsibilities of the NASDR are carried out, in part, through registration, education, testing, on-site examination and discipline of its members.

10. Defendant Kresge is the chief executive officer and president of Yankee Financial. Kresge became registered as a general securities principal and agent with the NASDR on August 27, 1986. Kresgne became registered as a financial and operations principal with the NASDR on February 8, 1991. Kresge has not been registered under the Act in any capacity.

NATURE OF THE CASE

11. On September 20, 2001, a Pontotoc County, Oklahoma resident (Investor) opened an account with Yankee Financial through Anderson. Anderson had previously acted as Investor's agent at LH Ross Company Inc. (LH Ross), a broker-dealer for which Anderson had solicited Investor to open an account via an unsolicited telephone call.

12. At the time the account at Yankee Financial was opened, Investor was 81 years of age.

13. Investor opened his Yankee Financial account with cash deposits of \$150,000. Shares of stock in AT&T, Capstone Turbine Corp., Sovereign Bancorp and Stewart Enterprises were transferred from Investor's LH Ross account to his Yankee Financial account (the "Transferred Shares"). The stocks were valued at approximately \$200,000 when transferred to Investor's Yankee Financial account.

Failure to Observe High Standards of Conduct

14. At the time Investor opened his account at Yankee Financial, he instructed Anderson to enter a stop loss order to sell any stock held in his Yankee Financial account at such time that the market price of the stock dropped 15% below Investor's purchase price.

15. On October 2, 2001, Anderson purchased, on behalf of Investor, 70,900 shares of E Machinery Net Inc. (EMAC), at \$2.10 per share for a total cost of \$149,895. Anderson told Investor that he could expect the price of the EMAC stock to rise to at least \$3.00 or \$3.50 per share.

16. By November 30, 2001, the price of EMAC had dropped to 33¢ per share. The stop loss order requested by Investor should have been executed on or before November 30, 2001. The stop loss order was never executed. By letter dated August 13, 2002, Investor was informed by EMAC's Board of Directors that EMAC had closed its offices, laid off the employees and "essentially ceased doing business." Investor has an unrealized loss of \$149,895 on his purchase of shares of EMAC.

17. In October 2001, Anderson recommended that Investor sell the Transferred Shares in his Yankee Financial account. Anderson sold all of the Transferred Shares on behalf of Investor. The gross proceeds of the sale totaled \$151,476.12.

18. From the proceeds of the sale of the Transferred Shares, along with additional cash deposits of approximately \$850,000, Anderson purchased 1,000,000 shares of Silver Star Foods Inc. (SSTF) for the account of Investor.

19. The SSTF stock was purchased for the account of Investor in five transactions in November of 2001, at \$1.00 per share, for a total price of \$1,001,517.25. Anderson told Investor that he could expect the price of the SSTF stock to rise to \$8.00 to \$15.00 per share.

20. One hundred forty thousand (140,000) shares of SSTF were sold from Investor's account at \$1.75 per share on February 15, 2002, for total proceeds of

\$243,940.57, leaving Investor with 860,000 shares of SSTF. Investor realized a gross gain of \$105,000 on the sale.

21. By June 30, 2001, the price of the SSTF stock had dropped to 55¢ per share. The stop loss order requested by Investor should have been executed prior to June 30, 2001. The stop loss order was not executed as instructed by Investor. On July 1, 2003, Investor sold 230,000 shares of SSTF at .025 cents a share for total proceeds of \$5,750. On July 25, 2003, Investor sold 300,000 shares of SSTF at .0194 cents a share for total proceeds of \$5,820. Investor's realized gross loss from the July transactions was \$518,430. As of July 31, 2003, Investor had an unrealized loss of \$322,410 on his remaining 330,000 shares of SSTF.

22. Between January 9, 2002, and July 29, 2002, Investor placed an additional \$1,155,673.04 in cash into his Yankee Financial account.

23. On January 23, 2002, Anderson purchased 240,000 shares of stock in Western Media Group Corporation (WMGC) for Investor's account. WMGC was purchased for \$1.25 per share, for a total cost of \$301,005.75. Anderson advised Investor that the per share price of WMGC could be expected to rise to at least \$4.00 or \$5.00.

24. By January 30, 2002, the price of the WMGC stock had dropped to \$1.05 per share. The stop loss order requested by Investor should have been executed on or before January 30, 2002. The stop loss order was not executed as instructed by Investor.

25. On June 24, 2003, Investor sold his stock in WMGC for .2575 cents per share for total proceeds of \$61,782.10, realizing a \$239,223.65 net loss on his WMGC transactions.

26. Between February 15, 2002, and March 7, 2002, Anderson purchased 2,450,000 shares of Golden Chief Resources Inc. (GCHR) for Investor's account. The GCHR stock was purchased for an average cost of .0956 cents per share, for a total cost of \$234,330.75.

27. By March 31, 2002, the price of GCHR had dropped to .04 cents a share. The stop loss order requested by Investor should have been executed on or before March 31, 2002. The stop loss order was not executed as instructed by Investor. As of July 31, 2003, Investor's stock in GCHR was valued at \$44,100 or .018 cents per share, for an unrealized loss of \$190,230.75.

28. In April, May, and August 2002, Anderson, on behalf of Investor, purchased 288,000 shares of stock in Career Worth Inc. (CRWO) at an average cost of \$2.996 per share, for a total cost of \$862,866. CRWO now trades under the name of U.S. Homes & Properties Inc. (USHM.PK).

29. By September 30, 2002, the price of USHM.PK had dropped to \$1.00 per share. The stop loss order requested by Investor should have been executed on or before September 30, 2002. The stop loss order was not executed as instructed by Investor. As of July 31, 2003, Investor's shares of USHM were valued at one cent (1¢) per share, for an unrealized loss of \$859,986.

30. From the time Investor opened his account, until Anderson's employment at Yankee Financial was terminated in August 2002, Investor deposited cash totaling \$2,156,919.09 and transferred securities valued at approximately \$200,000 into his Yankee Financial account. As of July 31, 2003, Investor had realized gross losses of \$653,553 and

unrealized losses of \$1,431,501 on the stocks recommended, purchased and sold by Anderson.

31. The stop loss order placed by Investor when his account was opened at Yankee Financial was never executed as instructed by Investor, thereby, dramatically increasing the amount of Investor's losses.

Misappropriation of Customer Funds

32. On or about September 4, 2001, on Anderson's recommendation, Investor mailed Anderson a cashier's check in the amount of \$250,000 for the purchase of 250,000 shares of the "Cyber Vision Fund." Neither the receipt of the check nor the investment in the Cyber Vision Fund was reflected on Investor's account statements from Yankee Financial. Yankee Financial claims no knowledge of the Cyber Vision Fund.

33. Investor's \$250,000 check was endorsed "Cyber Vision Fund" on September 9, 2001. The check was then endorsed "Pay to the Order of Acct #01574000357." The cashier's check was deposited to the account of International Brands, Inc. at Farmington Savings Bank, Farmington, Connecticut.

"Penny Stock" Transactions

34. In order to prevent fraudulent, deceptive or manipulative practices in connection with the purchase or sale of a "penny stock,"² SEC Rule 15g-9 requires that a broker-dealer, prior to selling or effecting the purchase of a penny stock in a customer's account, approve the customer's account for such transaction³, unless the transaction is

²Generally, penny stocks are non-Nasdaq and non-exchange-listed equity securities, priced at less than \$5 per share.

³ As a general rule, prior to the transaction, the broker-dealer must:

exempt.⁴ Yankee Financial failed to approve Investor's account for "penny stock" transactions prior to effecting the purchases of the EMAC, SSTF and WMGC stock (the "Penny Stocks").

FIRST CAUSE OF ACTION

(Violation of Section 201 of the Act: Failure to Register as a Broker-Dealer and/or Agent and Employing an Unregistered Agent)

35. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 34 above.

36. Defendant Anderson, by virtue of his efforts and activities in representing Yankee Financial in effecting or attempting to effect purchases or sales of securities, is an agent, as defined in Section 2 of the Act. Defendant Anderson is not and, at all times relevant hereto, was not registered under the Act as an agent of a broker-dealer or issuer, as required by Section 201 of the Act. [See Affidavit attached hereto as Exhibit A.] By

-
- (a) obtain information with regard to the person's financial situation, investment experience and investment objectives;
 - (b) determine if the person is capable of evaluating the risks of transactions in penny stocks; and
 - (c) deliver to the person:
 - (1) a written statement setting forth the basis on which the broker-dealer determined the account should be approved;
 - (2) a "Risk Disclosure Document Relating to the Penny Stock Market";
 - (3) a written statement that it is unlawful to effect a transaction unless the broker-dealer has obtained a written agreement to the transaction setting forth the identity and quantity of the penny stock;
 - (4) a written statement that the person should not sign and return the written statement to the broker-dealer if it is not accurate and that the broker-dealer is required to provide such written statement to the customer; and
 - (5) obtain from the person a manually signed and dated copy of the written statement required to be provided to the customer.

⁴ Exempt transactions are generally those transactions with an issuer that do not involve a public offering or transactions in which the customer is an established customer. An "established customer" means any customer for whom a broker-dealer carries an account and who in such account:

- (i) Has effected a securities transaction or made a deposit, more than one year previously; or
- (ii) Has made three purchases of penny stocks on separate days from different issuers.

reason of the foregoing, Defendant Anderson has violated, and unless enjoined, will continue to violate Section 201 of the Act.

37. Defendant Yankee Financial, by virtue of its efforts and activities in engaging in the business of effecting transactions in securities for the account of others or for its own account, is a broker-dealer, as defined in Section 2 of the Act. Defendant Yankee Financial was not registered under the Act as a broker-dealer when it effected transactions in the account of Investor in October, November and December of 2001, as required by Section 201 of the Act. [See Affidavit attached hereto as Exhibit B.] Defendant Yankee Financial, by virtue of its employment of Anderson, who transacted business in this state as an agent without benefit of registration under the Act, violated Section 201 of the Act. By reason of the foregoing, Defendant Yankee Financial has violated, and unless enjoined, will continue to violate Section 201 of the Act.

SECOND CAUSE OF ACTION

(Violation of Section 101(2) of the Act: Untrue Statements of Material Facts and Omissions of Material Facts in Connection With Offer, Sale or Purchase of Securities)

38. Plaintiff realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

39. Defendant Anderson, in connection with the offer, sale or purchase of securities, directly and indirectly, made untrue statements of material facts including, but not limited to, the following:

- a. that Investor was investing money in Cyber Vision Fund;
- b. that a stop loss order would be entered for Investor's account; and

- c. the projected increase in the market price of the securities purchased for Investor's account.

40. Defendant Yankee Financial, in connection with the offer, sale or purchase of securities, directly and indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading including, but not limited to, the following matters:

- a. that Defendants Yankee Financial and Anderson were not registered under the Act as a broker-dealer or agent at all times relevant hereto; and
- b. the risks involved in the purchase of the low cost, speculative securities purchased for Investor's account.

41. Defendant Anderson, in connection with the offer, sale or purchase of securities, directly and indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading including, but not limited to, the following matters:

- a. that Defendants Yankee Financial and Anderson were not registered under the Act as a broker-dealer or agent at all times material hereto;
- b. the risks involved in the purchase of the low cost, speculative securities purchased for Investor's account;
- c. that Investor's cashier check made payable to the Cyber Vision Fund would be deposited to the account of International Brands Inc.; and
- d. that the Cyber Vision Fund investment was not a product approved by Yankee Financial for offer and sale to its customers.

42. By reason of the foregoing, Defendants Yankee Financial and Anderson, directly and indirectly, violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

THIRD CAUSE OF ACTION

(Violation of Section 101(3) of the Act: Engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person)

43. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

44. Defendants Yankee Financial and Anderson, in connection with the offer, sale or purchase of securities, and through the use of the untrue statements of material fact and the omissions of material fact described in paragraphs 39 through 41 above, engaged in an act, practice, or course of business that operated as a fraud or deceit upon Investor.

45. By reason of the foregoing, Defendants Yankee Financial and Anderson, directly and indirectly, violated, and unless enjoined, will continue to violate Section 101(3) of the Act.

FOURTH CAUSE OF ACTION

(Violation of Rule 660:10-5-42: Failure to Supervise)

46. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

47. Investor's transactions in the Penny Stocks were not exempt transactions for purposes of SEC Rule 15g-9.

48. Prior to effecting the purchases of the Penny Stocks for the account of Investor, Yankee Financial did not provide Investor with the risk disclosure document and written statements required by SEC Rule 15g-9.

49. Prior to effecting purchases of the Penny Stocks for the account of Investor, Yankee Financial did not obtain from Investor the written confirmation required by SEC Rule 15g-9.

50. Defendant Yankee Financial, failed to establish, maintain and enforce procedures to ensure proper supervision of the activities of its agents and to assure their compliance with securities laws.

51. Defendants Yankee Financial, Giordano and Kresge failed to exercise reasonable supervision of Anderson and to ensure compliance with and enforcement of applicable securities laws, rules and regulations.

52. By reason of the foregoing, Defendants Yankee Financial, Giordano and Kresge, directly and indirectly, violated, and unless enjoined, will continue to violate 660:10-5-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (Rules).

FIFTH CAUSE OF ACTION

(Violation of Rule 660:10-5-42: Failure to Execute Stop Loss Order)

53. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

54. Anderson failed to obtain execution of the stop loss order as directed by Investor at the time Investor opened his account with Yankee Financial

55. By reason of the foregoing, Defendant Anderson, directly and indirectly, violated 660-10-5-42 of the Rules.

PRAYER FOR RELIEF

Defendants have engaged in acts and practices in violation of the Act and the Rules and have, as a result of these activities, received a substantial amount of money from Investor. Unless enjoined, the Defendants will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object. A permanent injunction to issue against Defendants is necessary to prevent further violations of the Act.

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 406.1 of the Act, the Department prays for the court to grant the following relief:

I.

A permanent injunction forever enjoining and restraining Defendants from:

- a. transacting business in this state as a broker-dealer or agent;
- b. violating Section 101 of the Act;
- c. violating Section 201 of the Act; and
- d. violating Rule 660:10-5-42 ;

II.

An order requiring Defendants to make restitution to Investor;

III.

An order requiring Defendants, their officers, directors, agents, servants, employees, assigns, attorneys, and all persons, directly or indirectly, acting on their behalf, under their direction and control, and/or in active concert or participation with them, to disgorge all ill-gotten gains;

IV.

An order imposing a civil penalty against each Defendant in the amount of Fifty Thousand Dollars (\$50,000.00); and

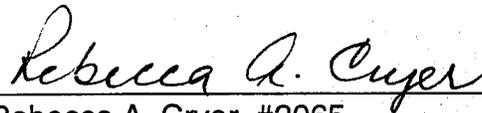
V.

Such other equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act.

Respectfully submitted,

OKLAHOMA DEPARTMENT OF SECURITIES
Irving L. Faught, Administrator

By:

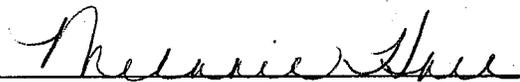


Rebecca A. Cryer, #2065
Melanie Hall, #1209
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, Oklahoma 73102
(405) 280-7700

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

Melanie Hall, of lawful age, being first duly sworn deposes and says: that she is the Deputy Administrator of the Oklahoma Department of Securities, that she has read the foregoing Petition for Permanent Injunction and Other Equitable Relief and knows the contents thereof, and that the matters and things stated therein have been provided to her by staff members of the Department under her authority and direction, and are true and correct to the best of her knowledge, information and belief.

(SEAL)



Melanie Hall, DEPUTY ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES
120 North Robinson, Suite 860
Oklahoma City, OK 73102
(405) 280-7700

Subscribed and sworn to before me this 16th day of October, 2003.



Notary Public

My Commission No.: 01013792
My Commission Expires: August 26, 2005
SEAL

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
First National Center, Suite 860
120 North Robinson
Oklahoma City, Oklahoma 73102
Telephone (405) 281-7700

AFFIDAVIT

STATE OF OKLAHOMA)
) SS.
COUNTY OF OKLAHOMA)

I, Z. Faye Martin Morton, General Counsel of the Oklahoma Department of Securities, swear that I have caused to be examined the registration files of the Oklahoma Department of Securities (Department) pertaining to current and past registered broker-dealer agents in Oklahoma and that no record of a registration as a broker-dealer agent since September 20, 2001, to the present was found pursuant to Section 202 of the Oklahoma Securities Act (Act) for the following:

Vasiliy Kouznetsov
Vasiliy Kouznetsov aka David Anderson

I did find a record of registration for an individual named David Paige Anderson (DOB 08/16/1941, CRD No. 804734) as a broker-dealer agent/investment adviser representative of GENEOS WEALTH MANAGEMENT, INC. (CRD No. 120894) (GENEOS). GENEOS is registered with the Department as a broker-dealer and is registered with the SEC as an investment adviser with an appropriate notice on file with the Department.

(SEAL)



Z. FAYE MARTIN MORTON, GENERAL COUNSEL
of the OKLAHOMA DEPARTMENT OF SECURITIES

Subscribed and sworn to before me this 16 th day of October, 2003.

(NOTARIAL SEAL)



Notary Public

My Commission Expires: **August 26, 2005**
My Commission No.: **01013792**

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
First National Center, Suite 860
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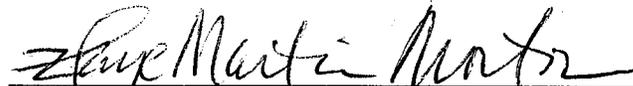
AFFIDAVIT

STATE OF OKLAHOMA)
) SS.
COUNTY OF OKLAHOMA)

I, Z. Faye Martin Morton, General Counsel of the Oklahoma Department of Securities, swear that I have caused to be examined the registration files of the Oklahoma Department of Securities pertaining to current and past registered broker-dealers in Oklahoma and that a record of a registration as a broker-dealer was found pursuant to Section 202 of the Oklahoma Securities Act (Act) for the following:

Yankee Financial Group, Inc. has been registered as a general securities broker-dealer since January 9, 2002, and it is currently registered under the Act.

(SEAL)



Z. FAYE MARTIN MORTON, GENERAL COUNSEL
of the OKLAHOMA DEPARTMENT OF SECURITIES

Subscribed and sworn to before me this 16 th day of October, 2003.

(NOTARIAL SEAL)



Notary Public

My Commission Expires: **August 26, 2005**
My Commission No.: **01013792**