

ADMINISTRATIVE PROCEEDING
BEFORE THE
MARYLAND SECURITIES COMMISSIONER

IN THE MATTER OF:

*

Deak Reynolds Company

*

IA FILE NO. 2013-3128

DOCKET NO. 2013-0428

and

*

Edward K. Reynolds

*

*

Respondents

* * * * *

CONSENT ORDER

WHEREAS, pursuant to Section 11-405 of the Maryland Securities Act, Corporations and Associations Article, Title 11, Annotated Code of Maryland (2007 Repl. Vol. and 2013 Supp.) (the "Securities Act"), Deak Reynolds Company ("DRC") submitted an application for registration as an investment adviser to the Maryland Division of Securities (the "Division"); and

WHEREAS, based upon information contained in DRC's application and in the Division's records, the Maryland Securities Commissioner (the "Commissioner") has concluded that grounds exist to allege that DRC ("DRC" or "Respondent DRC") and DRC's principal, Edward K. Reynolds ("Reynolds" or "Respondent Reynolds"), (collectively, "Respondents") violated sections 11-302(e) and (f), 11-401, 11-402, and 11-411(c) of the Securities Act; and

WHEREAS, the Commissioner and the Respondents have reached an agreement in this action whereby the Respondents consent to the terms of this Consent Order; and

WHEREAS, the Respondents waive their right to a hearing and any rights they may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Consent Order; and

WHEREAS, the Commissioner has determined that it is in the public interest to issue this Consent Order;

THEREFORE, before the holding of a hearing in this matter, without trial or final adjudication of any issue of fact or law, and prior to the issuance of a final order in this proceeding, the Commissioner finds:

I. JURISDICTION

1. The Commissioner has jurisdiction in this proceeding pursuant to section 11-701.1 of the Securities Act.

II. RESPONDENTS

2. DRC is a sole proprietorship and, at all times relevant to this matter, has maintained a place of business in St. Mary's County, Maryland. DRC is currently solely owned by Reynolds.

3. At all times relevant to this matter, Reynolds has maintained a place of business in St. Mary's County, Maryland. From January 22, 1991 to August 8, 2003, Reynolds was registered as an investment adviser representative for Deak Reynolds Co. ("Deak Inc."), an investment adviser formerly incorporated in Maryland and then owned by Reynolds' father, HR. On August 8, 2003, Reynolds' investment adviser representative registration was terminated by Deak Inc., and Reynolds has not been registered as an investment adviser representative or as an investment adviser since that time. Reynolds also is a lawyer, with a practice that concentrates in estate and trust planning and administration.

III. FINDINGS OF FACT

4. In August 1984, Deak Inc. became registered as an investment adviser with the Securities and Exchange Commission. The company was owned by HR.

5. In 1990, Maryland laws requiring investment advisers to register with the Securities Division went into effect.

6. In late 1990, Deak Inc. filed an investment adviser registration application with the Division, and filed applications on behalf of its two investment adviser representatives, Reynolds and HR.

7. As part of their investment adviser representative applications, HR and Reynolds submitted requests to waive the investment adviser examination requirement. Based upon their education and/or experience, and at the discretion of the Commissioner, HR's and Reynold's requests were granted.

8. In January 1991, the investment adviser and investment adviser representative registrations were made effective.

9. Deak Inc. and its two representatives remained registered with the Division through December 2001, at which time the firm terminated its registration with the Division and became a notice filer. At the time, the firm's Form ADV reflected that it was managing client assets exceeding \$25,000,000.

10. On or about August 8, 2003, Deak Inc. filed a Form U5 through the IARD system to terminate Reynolds' affiliation and investment adviser representative registration with Deak Inc. The reason given for Reynolds' termination on the Form U5 filed by Deak Inc. was that he "wanted to work only in his law practice." According to its Form ADV, HR then became the sole person providing advice on behalf of the firm. Reynolds states he was unaware of the Form U5 filing by Deak Inc. and was unaware that his registration had been terminated.

11. Reynolds has not been registered as an investment adviser or as an investment adviser representative since August 8, 2003, but states he was unaware of that status until advised by Division staff in the summer of 2013.

12. At the end of 2005, Deak Inc. amended its Form ADV to indicate that it was managing less than \$25,000,000 of client assets and, thus, no longer was eligible to remain registered with the SEC.

13. On or about November 22, 2005, the firm submitted an application to register as an investment adviser with the Division. Deak Inc.'s application listed HR as the sole owner and the only person giving investment advice, and in a letter filed with the Division in late 2005, HR described his firm as "a very small organization with one full time employee and a part time secretary/assistant."

14. Deak Inc.'s application was made effective on January 20, 2006. Deak Inc. remained registered as an investment adviser with the Division until December 31, 2007, when it submitted a full Form ADV-W terminating its registration.

15. Deak Inc. has not been registered as an investment adviser since December 31, 2007.

16. In August 2013, Reynolds, having been prompted to do so by Charles Schwab with whom his accounts were placed, submitted an application to register DRC as an investment adviser with the Division.

17. DRC's application disclosed that it was currently providing discretionary portfolio management services to 39 clients with approximately \$15,000,000 of assets.

18. In response to the Division's inquiry into DRC's advisory activities, Reynolds told the Division that he has continuously been providing advisory services to clients since 1991 and currently has approximately 38 clients. According to Reynolds, most of those 38 clients' accounts have been managed continuously without interruption since 1991 by HR and Reynolds together, and following HR's death in 2009 solely by Reynolds. Reynolds further told the Division that he continued providing advisory services through his father's firm, and took on greater responsibility of managing clients' assets as his father's health declined.

19. Reynolds has not been registered as an investment adviser or as an investment adviser representative since August 2003.

20. Thirteen of the 38 advisory clients are trusts for which Reynolds acts as either trustee or co-trustee. Most, if not all, of the trust clients are charged an asset under management fee.

21. Respondents did not enter into written advisory contracts with the trust clients, as required by section 11-302(e) of the Securities Act and COMAR 02.02.05.03.

22. In his capacity as trustee or co-trustee for the trust clients, Reynolds had the ability to take possession of the trusts' assets and, thus, had custody of the trusts' assets.

23. Respondents have not engaged an independent CPA to annually conduct a surprise verification of the trust assets over which the Respondents have custody, as required by section 11-302(f) of the Securities Act and COMAR 02.02.05.04.

24. Respondents have not engaged an independent CPA to annually audit DRC's balance sheet, as required by section 11-411(c) of the Securities Act and COMAR 02.02.05.17.

25. In 2013, the Division informed Reynolds that his investment adviser examination is no longer valid because he has not been registered as an investment adviser or as an investment adviser representative for greater than a two year period. Reynolds submitted a waiver of the examination, but the waiver was not approved by the Commissioner.

IV. CONCLUSIONS OF LAW

THE COMMISSIONER, THEREFORE, CONCLUDES AS A MATTER OF LAW:

26. Respondents violated section 11-401 of the Securities Act by acting as an unregistered investment adviser or investment adviser representative.

27. Respondent DRC violated section 11-402 of the Securities Act by employing Reynolds as an unregistered investment adviser representative.

28. Respondents violated section 11-302(e) of the Securities Act by failing to enter into written advisory contracts with their trust clients.

29. Respondents violated section 11-302(f) of the Securities Act by failing to engage an independent CPA to conduct a surprise verification of the trust assets over which the Respondents had custody for calendar years 2006 to the present.

30. Respondents violated section 11-411(c) of the Securities Act by failing to engage an independent CPA to audit Respondent DRC's balance sheet for calendar years 2006 to the present.

V. CONSENT TO CEASE AND DESIST AND OTHER RELIEF

NOW, THEREFORE, IT IS HEREBY ORDERED, and Respondents expressly consent and agree that:

31. Respondents shall permanently cease and desist from engaging in activities in violation of sections 11-401, 11-402, 11-302(e) and (f), and 11-411(c) of the Securities Act and the regulations promulgated under the Securities Act.

32. Respondents shall pay to the Office of the Attorney General back registration fees plus interest of \$2,725, representing investment adviser registration fees for calendar years 2008 - 2013 and investment adviser registration fees for Edward Reynolds for calendar years 2004 - 2007.

33. Respondents shall pay to the Office of the Attorney General a monetary civil penalty of \$7,500, pursuant to section 11-701.1 of the Securities Act.

34. Respondent DRC's application for registration in this State is hereby made effective as of the date of this Order, subject to the following conditions:

A. By no later than July 15, 2014, DRC's principal, Reynolds, shall take and successfully pass the Series 65 examination administered by the Financial Industry Regulatory Authority (FINRA), and shall submit proof of passing the appropriate examination to the Division.

B. If, by July 15, 2014, DRC's principal has failed to successfully complete the Series 65 examination, or has failed to submit proof of passing the Series 65 examination to the Division, DRC's conditional registration shall be automatically revoked as of that date.

35. Respondents shall in all future activities in Maryland comply fully with the Securities Act and the rules and regulations promulgated thereunder.

DATE OF THIS ORDER:

SO ORDERED:

Melanie Senter Lubin
Securities Commissioner

CONSENTED TO:

—

Edward K. Reynolds

On this ____ day of _____, 2014, personally appeared _____, signer of the foregoing Consent Order, who did duly acknowledge his/her signature to be his/her free act and deed.

Notary Public

My Commission Expires: _____

Seal:

Deak Reynolds Company

by Edward K. Reynolds, Owner

On this ____ day of _____, 2014, personally appeared _____, signer of the foregoing Consent Order, who did duly acknowledge his/her signature to be his/her free act and deed.

Notary Public

My Commission Expires: _____

Seal: