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CLERK OF THE SEDGWICK COUNTY DISTRICT COURT
CASE NUMBER: SG-2024-MV-000159
PII COMPLIANT



Court: Sedgwick County District Court
Case Number: SG-2024-MV-000159
Case Title: In the Matter of Nathaniel L. Smith, et al
Type: ORD: Judgment Journal Entry of Judgment and Injunction

SO ORDERED,

A handwritten signature in blue ink, appearing to read "Eric Commer".

/s/ Honorable Judge Eric Commer

**IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS**

OFFICE OF THE KANSAS)
SECURITIES COMMISSIONER,)
ex rel. Daniel J. Klucas,)
Securities Commissioner,)
)
Plaintiff,)
)
vs.)
)
NATHANIEL L. SMITH and)
SMITH GENERAL VENTURES LLC,)
)
Defendants.)
)

Case No. SG-2024-MV-000159

Pursuant to K.S.A. 17-12a602(c)

**JOURNAL ENTRY OF UNCONTESTED JUDGMENT AND INJUNCTION
PENDING COMPLIANCE WITH ADMINISTRATIVE SUBPOENAS**

Now on this 23rd day of April, 2024, this matter comes on for hearing before the Honorable Eric Commer, Judge of the District Court, upon Plaintiff’s *Application to Enforce Administrative Subpoenas*, filed February 16, 2024 (“the *Application*”).

The Plaintiff, the Office of the Kansas Securities Commissioners (“the KSC”), appears through counsel Thomas E. Knutzen and Ben Miller-Coleman. Nathaniel L. Smith (“Smith”) appears in person, in his individual capacity and as an officer of Smith General Ventures LLC (“General Ventures”), defendants *pro se*.

Upon inquiry of the Court, Smith stated that he does not contest the *Application* or the relief sought therein.

WHEREUPON the Court, after reviewing the file, hearing statements of counsel and the parties, and being otherwise duly informed in the premises, makes the following findings of facts and conclusions of law:

1. The Court has jurisdiction over the parties and over the subject matter of this case, and venue lies properly with this Court.

2. Smith is an individual with a last-known address of 2724 N. Dellrose Ave., Wichita, KS 67220 (hereinafter “the Dellrose Address”).

3. General Ventures was a Kansas limited liability company; its articles of organization were forfeited on July 15, 2022, for failing to file an annual report with the Kansas Secretary of State. As described in the *Application*, Smith was the sole member and manager of General Ventures, and General Ventures’ last-known address was Smith’s place of residence at the Dellrose Address.

Summary of the Investigation

4. As described in the *Application*, the KSC has a pending investigation, number 2023-6864 (“the Investigation”), regarding possible violations of the Kansas Uniform Securities Act, K.S.A. 17-12a101 *et seq.* (“KUSA”) by Smith and his company General Ventures.

5. The possible violations stem from Smith and General Ventures, commencing no later than December 2018, holding themselves out to members of the public as being in the business of trading stocks on behalf of investors. In conducting

this business, Smith received investment funds from investors and told them he would use their funds to trade stocks on their behalf and would “manage” their “portfolios.”

6. The KSC opened the Investigation on or about October 25, 2022, after receiving a complaint from a Kansas resident alleging the Smith had possibly stolen funds from him through Smith’s business, General Ventures. In 2019, the complainant and Smith had entered into an agreement through a written document entitled “Investment Advisory Contract” (“*Advisory Contract*”) whereby Smith agreed to trade stocks on the complainant’s behalf and manage his “portfolio” in exchange for 10% of the trading profits. After the *Advisory Contract* was signed, the complainant delivered \$20,000 to Smith.

7. As alleged in the *Application*, Smith and General Ventures have entered into “Investment Advisory Contracts” (“*Advisory Contracts*”) with numerous investors, most of whom are residents of Kansas, whereby Smith agreed to trade stocks on the investors’ behalf and manage their “portfolios” in exchange for 10% of the trading profits.

8. As alleged in the *Application*, the KSC obtained records from numerous financial institutions regarding the business and financial operations of Smith and General Ventures. Based on the KSC’s preliminary review of these financial records, Smith and General Ventures received at least \$1,010,000 from 70 investors between December 2018 and January 2023 under *Advisory Contracts*.

9. As alleged in the *Application*, several investors told the KSC that they had previously requested Smith return some or all of the funds in their purported “portfolios.”

While one such investor received some of the funds requested, others have not received any of the requested funds. Further, numerous investors told the KSC that Smith has become generally unresponsive to their inquiries regarding the status of the investment funds and purported “portfolios.”

Summary of Administrative Subpoenas and Orders to File Statements

10. On February 7, 2023, the KSC issued *Subpoena 23S119* and *Order to File Statement 23S120* (cumulatively “the First Subpoena and Order to File Statement”) to General Ventures. The First Subpoena and Order to File Statement commanded General Ventures to produce documents and submit written statements related to its advisory business. Smith General’s responses to the First Subpoena and Order to File Statement were due by March 1, 2023.

11. On February 14, 2023, Special Agent Richard Ford (“SA Ford”) of the KSC attempted to serve copies of the First Subpoena and Order to File Statement upon Smith at the Dellrose Address but was unable to make contact with Smith. SA Ford left copies of the First Subpoena and Order to File Statement in the mailbox at the Dellrose Address.

12. On February 28, 2023, Smith emailed Special Agent Matthew Storey (“SA Storey”) of the KSC, stating that he had received the First Subpoena and Order to File Statement. Smith stated he was out of state at the time but would return to Kansas “to address this subpoena ASAP.” Smith requested a two-week extension to respond. SA

Storey agreed to the extension and gave General Ventures a new due date of March 15, 2023.

13. General Ventures failed to respond to the First Subpoena and Order to File Statement by March 15, 2023.

14. On April 11, 2023, SA Storey made in-person contact with Smith at the Dellrose Address and gave General Ventures a new due date of April 28, 2023, to respond to the First Subpoena and Order to File Statement.

15. General Ventures never responded to the First Subpoena and Order to File Statement.

16. After receiving additional evidence and information pursuant to the Investigation, the KSC issued the following administrative subpoenas and orders to file statement (cumulatively “the Second Subpoenas and Orders to File Statement”) to Smith and General Ventures on August 7, 2023:

- a. *Subpoena 24S044* to Smith;
- b. *Order to File Statement 24046* to Smith;
- c. *Subpoena 24S045* to General Ventures; and
- d. *Order to File Statement 24S047* to General Ventures.

17. The Second Subpoenas and Orders to File Statement commanded Smith and General Ventures to produce documents and submit statements regarding their advisory business by August 28, 2023. The Second Subpoenas and Orders to File Statement were accompanied by a cover letter stating that the First Subpoena and Order to File Statement were rescinded.

18. On August 7, 2023, SA Storey attempted to serve Smith with the Second Subpoenas and Orders to File Statement at the Dellrose Address. SA Storey was unable to make contact with anyone at the Dellrose Address, and therefore left the Second Subpoenas and Orders to File Statement in the mailbox at that address.

19. On August 8, 2023, SA Storey emailed copies of the Second Subpoenas and Orders to File Statement to Smith at four email addresses known to be used by Smith, including nathanielsmithdtx11@gmail.com (hereinafter “the DTX11 Email Address”), and asked Smith to confirm he received the documents.

20. On September 13, 2023, SA Storey served amended copies of the Second Subpoenas and Orders to File Statement upon Smith’s mother, Sonya A. Pinder-Smith, at Smith’s residence at the Dellrose Address. As amended, the Second Subpoenas and Orders to File Statement had a response deadline of October 6, 2023, and were accompanied by a cover letter explaining the new deadline.

21. On September 14, 2023, Smith emailed SA Storey from the DTX11 Email Address stating that he received the documents given to his mother. Smith stated he was aware of the response deadline of October 6, 2023, and he had “set things in motion to resolve the matter.”

22. On October 5, 2023, Smith again emailed SA Storey from the DTX11 Email Address and requested an additional extension of 10 days to respond to the Second Subpoenas and Orders to File Statement. On October 9, 2023, SA Storey emailed Smith and agreed to a 10-day extension. SA Storey informed Smith the new deadline to respond to the Second Subpoenas and Orders to File Statement was October 19, 2023.

23. To date, neither Smith nor General ventures have responded to the Second Subpoenas and Orders to File Statement.

Summary of District Court Proceedings

24. The KSC initiated this action by filing the *Application* on February 16, 2024. Based on Smith's and General Ventures' failure to obey the Second Subpoenas and Orders to File Statement, and pursuant to K.S.A. 17-12a602(c), the *Application* requested the Court to:

- a. order Smith and General Ventures to comply with the Second Subpoenas and Orders to File Statement within 14 days;
- b. until and unless Smith and General Ventures comply with the Second Subpoenas and Orders to File Statement, enjoin Smith and General Ventures from transacting business in this state as an issuer, broker-dealer, agent, investment adviser, or investment adviser representative, as those terms are defined under the KUSA, and from otherwise participating, directly or indirectly, in the issuance, offer, or sale of any security in this state with the exception of the purchase or sale, for his own account, of securities listed on a national securities exchange; and
- c. impose a civil penalty against Smith and in favor of the KSC in the amount of \$1,000.

25. On February 22, 2024, the Court issued a *Notices of Hearing and Orders to Answer or Appear* ("Notices of Hearing") addressed to Smith and General Ventures, which notified Smith and General Ventures that a hearing upon the *Application* would be held in this Court at 1:30 p.m. on April 23, 2024, and instructed Smith and General Ventures:

You must either appear at such time or file an answer to the *Plaintiff's Application to Enforce Administrative Subpoenas* before that date. If you do not appear before this Court or file an answer, judgment by default will be taken against you for the relief demanded in the *Plaintiff's Application*.

26. Smith and General Ventures were personally served with the *Application* and *Notice of Hearing* on April 11, 2024, and such service is approved.

27. Smith and General Ventures have not filed an answer to the *Application*, and do not appear before this Court as directed in the *Notice of Hearing*.

Conclusions of Law and Orders of the Court

28. K.S.A. 17-12a602(a)(1) authorizes the KSC to conduct investigations to determine whether a person has violated, is violating, or is about to violate the KUSA.

29. K.S.A. 17-12a602(a)(2) authorizes the KSC to require a person to testify, file a statement, or produce a record, under oath or otherwise as the KSC determines, as to all the facts and circumstances concerning a matter under investigation.

30. K.S.A. 17-12a602(b) authorizes the KSC to subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records the KSC considers relevant or material to an investigation.

31. Pursuant to K.S.A. 17-12a602(c), if a person refuses to testify or produce records, or otherwise does not obey a subpoena issued under the KUSA, the KSC may apply to any court of competent jurisdiction to enforce compliance. Upon such application, the court may, *inter alia*, hold the person in contempt, order the production of records, impose a civil penalty of not greater than \$25,000 for each violation, and grant

injunctive relief including restricting or prohibiting the offer or sale of securities or the providing of investment advice.

32. The Court finds that Smith and General Ventures have failed to produce records and file statements as commanded by the Second Subpoenas and Orders to File Statement. The Court therefore grants the *Application* and enters judgment in favor of the KSC and against Smith and General Ventures.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

I.

The Defendants Nathaniel L. Smith and Smith General Ventures LLC are ordered to comply with the Second Subpoenas and Orders to File Statement on or before May 23, 2024.

II.

Until and unless the Court has adjudged that the Defendants Nathaniel L. Smith and Smith General Ventures LLC have complied with the Second Subpoenas and Order to File Statement, the Defendants Nathaniel L. Smith and Smith General Ventures LLC shall be and are hereby enjoined from transacting business in this state as an issuer, broker-dealer, agent, investment adviser, or investment adviser representative, as those terms are defined under the KUSA, and from otherwise participating, directly or indirectly, in the issuance, offer, or sale of any security in this state with the exception of

the purchase or sale, for their own account, of securities listed on a national securities exchange.

IT IS SO ORDERED.

JUDGE OF THE DISTRICT COURT

PREPARED BY:

/s/ Thomas E. Knutzen

Thomas E. Knutzen, Kansas Bar No. 24471

OFFICE OF THE KANSAS SECURITIES

COMMISSIONER

1300 SW Arrowhead Road

Topeka, KS 66604

Ph. (785) 296-7890

Fx. (785) 296-6872

Email: Tom.Knutzen@ks.gov

Attorney for Plaintiff

Nathaniel L. Smith

Nathaniel L. Smith, in his individual capacity

and as an officer of Smith General Ventures LLC

2724 N. Dellrose Ave.

Wichita, KS 67220

Ph. (316) 617-3286

Defendants pro se