

BEFORE THE
DIVISION OF SECURITIES
DEPARTMENT OF FINANCIAL INSTITUTIONS
STATE OF WISCONSIN

In the Matter of
DALE R. MACHALLECK,

PETITION FOR ORDER

Respondent.

File No. S-00280(EX)

The staff of the Enforcement Unit, Registration & Enforcement Section, of the Division of Securities, Department of Financial Institutions, State of Wisconsin has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. Dale R. Machallek ("Machalleck") is an individual who was licensed by the Division of Securities as an investment advisor from 1995 to 2000, whose date of birth is May 23, 1945, with a last known business address of 6015 Durand Avenue, Suite 500, PO Box 080887, Racine, WI 53408-0887, and a last known home address of 680 N. Lake Shore Drive, Apartment 1305, Chicago, Illinois 60611;
2. Upon information and belief, at all times material hereto, Machalleck has been an owner, officer and the controlling person of Acquisitions & Turnarounds, Ltd. and Machalleck & Associates, Ltd.;
3. Upon information and belief, on or about October 3, 1996, Machalleck, offered and sold to a person in Wisconsin a promissory note of Machalleck & Associates, Ltd as evidence of a loan of \$270,000, with interest at the prevailing market rate, with a due date of January 2, 1997;
4. Upon information and belief, Machalleck and Machalleck & Associates, Ltd. defaulted on repayment of the loan, which has resulted in a civil lawsuit, Case No. 00CV1231, Racine County, Wisconsin, against Machalleck and Machalleck & Associates, Ltd., and a default judgement on September 14, 2000 in the amount of \$355,769.92;
5. Upon information and belief, on or about March 9, 1999, Machalleck offered and sold to a person in Wisconsin an interest in shares of a business named Sobriety Interlock de France, in exchange for an investment of \$25,000;
6. Upon information and belief, Machalleck told the investor that Machalleck, as owner of the patent for the device named Sobriety Interlock, would be licensing the device to Sobriety Interlock de France and that Machalleck had a deal for Sobriety Interlock de France to sell many of the devices to the French government;
7. Upon information and belief, Machalleck did not own the patent for the Sobriety Interlock device;
8. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, made a misstatement of a material fact in violation of sec. 551.41(2), Wis. Stats.;

9. Upon information and belief, on or about June 24, 1999, Machalleck offered and sold to a person in Wisconsin an interest in an unnamed company, in exchange for an investment of \$25,000;
10. Upon information and belief, Machalleck told the investor that the unnamed company would manufacture and sell the Sobriety Interlock device, to which Machalleck owned the patent, that the investor would obtain profits from the sales of the device, and that Machalleck had a deal for Sobriety Interlock de France to sell many of the devices to the French government;
11. Upon information and belief, Machalleck did not own the patent for the Sobriety Interlock device;
12. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, made a misstatement of a material fact in violation of sec. 551.41(2), Wis. Stats.;
13. Upon information and belief, in or about June 1999, Machalleck offered and sold to a person in Wisconsin an interest in an unnamed venture associated with the Sobriety Interlock device, as part of a group of 25 investors, in exchange for an investment of \$25,000;
14. Upon information and belief, Machalleck told the investor that Machalleck, as owner of the patent, was attempting to have the French government use the Sobriety Interlock device for commercial transportation;
15. Upon information and belief, Machalleck did not own the patent for the Sobriety Interlock device;
16. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, made a misstatement of a material fact in violation of sec. 551.41(2), Wis. Stats.;
17. Upon information and belief, on or about February 25, 2000, Machalleck offered and sold to a person in Wisconsin 129,000 shares of stock of Everfresh, Ltd., a/k/a Everfresh, Inc., allegedly a Delaware corporation, in exchange for \$350,000, of which the person did invest \$100,000;
18. Upon information and belief, Machalleck told the investor that Everfresh, Ltd. owned the patent for, and manufactured a product known as Tank-Mate, an in-line toilet bowl cleaner with air fresher replacement;
19. Upon information and belief, Everfresh, Ltd. did not own the patent for the Tank-Mate device;
20. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, made a misstatement of a material fact in violation of sec. 551.41(2), Wis. Stats.;
21. Upon information and belief, in or about February or March 2000, Machalleck offered and sold to a person in Wisconsin an interest in an unnamed business, in exchange for an investment of \$25,000,
22. Upon information and belief, Machalleck told the investor that, as owner of the patent for the device named Sobriety Interlock, Machalleck would be licensing the device to the yet unnamed business and in turn that Machalleck had a deal for the company to sell many of the devices to the French government;

23. Upon information and belief, Machalleck did not own the patent for the Sobriety Interlock device;
24. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, made a misstatement of a material fact in violation of sec. 551.41(2), Wis. Stats.;
25. Upon information and belief, on or about April 28, 2000, Machalleck offered and sold to a person in Wisconsin a five percent interest in an unnamed business, in exchange for an investment of \$70,000,
26. Upon information and belief, Machalleck told the investor that Machalleck, was the owner of the patent for a device named Tank-Mate and that S.C. Johnson & Son, Inc., of Racine, Wisconsin, was paying the company \$5 million for the rights to market the Tank-Mate and they were going to buy seven million units of the device over a three-year period at \$15 per unit;
27. Upon information and belief, Machalleck neither owned the patent for the Tank-Mate device nor had a deal with S.C. Johnson & Son, Inc. to sell the Tank-Mate device;
28. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, made a misstatement of a material fact in violation of sec. 551.41(2), Wis. Stats.;
29. Upon information and belief, investors in Sobriety Interlock de France, Everfresh, Ltd., a/k/a Everfresh, Inc , and the unnamed businesses referred to above played a passive role in those entities, with no duties and responsibilities;
30. Upon information and belief, each investor would not be involved in the day-to-day management of the entities referred to above, since Machalleck was going to make all the investment decisions;
31. Since the investors would be involved in a common enterprise with the expectation of profits to be derived from the essential managerial efforts of others, the investment interests offered and sold by Machalleck, as described in Paragraphs 5, 9, 13, 17, 21, and 25 above, are investment contracts as defined by section DFI-Sec. 1.02(6)(a), Wis. Adm. Code, and are therefore securities as defined by sec. 551.02(13), Wis. Stats.;
32. The investment contract securities referred to above have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
33. Machalleck therefore violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities in Wisconsin;
34. Upon information and belief, all of the persons in Wisconsin who invested in the investment contract securities through Machalleck did so after the default of the loan on January 2, 1997, referred to in Paragraphs 3 and 4 above;
35. By engaging in the conduct as described above, Machalleck, in connection with the offer and sale of securities to a person in Wisconsin, as set forth above, 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 sec. 551.41(2), Wis. Stats.; and
36. Despite a written request by the staff of the Division on October 18, 2001, Machalleck has not provided information and documents about those persons in Wisconsin who have invested with him.

