

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

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In the Matter of  
EVERGREEN LAND TRUST,  
EVERGREEN INVESTMENT GROUP, LLC, and  
BRIAN E. BATH,

PETITION FOR ORDER

Respondent.

File No. S-06184(EX)

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The staff of the State of Wisconsin, Department of Financial Institutions, Division of Securities (hereinafter "the Division"), has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. Evergreen Land Trust is a Florida corporation with a last known business address of 505 Diamond Drive, Hudson, Wisconsin 54016;
2. Evergreen Investment Group, LLC is a Minnesota limited liability company, with a last known business address at that of 505 Diamond Drive, Hudson, Wisconsin 54016;
3. Brian E. Bath ("Bath") is an individual with a date of birth of April 14, 1963, a CRD # of 4511101, previously licensed as a securities agent in the State of Texas in 2002, and a home and business address of 505 Diamond Drive, Hudson, Wisconsin 54016;
4. At all times material hereto Bath was an owner, officer and/or controlling person of Evergreen Land Trust and Evergreen Investment Group, LLC (hereinafter "Evergreen");
5. During the period of 2004 to 2006, Bath offered and sold to at least six persons in Wisconsin investments through Evergreen in the Tarpon Point Landing, a condominium development located in Florida;
6. During the period of 2005, Bath offered and sold to at least five persons in Wisconsin investments through Evergreen in real estate developments located in Florida;
7. During the period of 2005, Bath offered and sold to at least five persons investments in the "stock market,"
  - a. Investor #I –  
\$85,000 invested 12-7-04 in Tarpon Point Landing and got a stock certificate of Evergreen Land Trust dated 8-3-06; and  
\$5,000 invested 11-7-05 in Floridian Gulf Coast Homes;
  - b. Investor #II –  
\$12,500 invested 3-7-05, with \$5,000 of Investor #IV (Jensen) in Tarpon Point Landing, and got a \$17,500 promissory note of Bath dated 3-7-05;  
\$5,400 invested 3-1-06 in Evergreen Investment Group in Florida real estate;  
\$2,500, invested 3-1-06, in Florida real estate; and  
\$5,000 invested 3-1-06 in Florida real estate;

- c. Investor #III –  
 \$130,000 invested 4-25-05 in Florida land and stock investments and got a promissory note of \$30,000 of Evergreen Land Trust;  
 \$12,500 invested 3-4-05 in Tarpon Landing and got a promissory note of Bath;
  - d. Investor #IV –  
 \$30,000 invested 11-18-04 in Tarpon Point Landing and got a \$30,000 a promissory note of Bath;  
 \$5,000 invested on 3-1-05 with \$12,500 of Investor #II who got a promissory note dated 3-7-06;  
 \$4,000 invested on 4-18-05 with Evergreen for investment in 392 shares of SSRI;
  - e. Investor #V –  
 \$50,000 invested 9-9-05 in an account for investing in stocks and got a promissory note of Bath;
  - f. Investor #VI –  
 \$25,000 invested in Tarpon Landing on 11-22-04;  
 \$35,000 invested in “Franklin Investments” on 11-22-04 and got a promissory note of Bath;  
 \$130,000 invested “tax bonds” on 3-24-05 and got a promissory note of Bath;  
 \$92,000 invested “real estate tax certificates” on 4-18-05 and got a promissory note of Evergreen Land Trust;  
 \$38,024.20 invested with Evergreen Land Trust on 6-16-05 and got a promissory note of Evergreen Land Trust (combined with the \$92,000 of 4-18-05);  
 \$25,000 invested in Florida real estate on 1-16-06;  
 \$2,500 invested in Florida real estate on 3-2-06; and  
 \$5,000 invested in Florida real estate on 3-2-06;
  - g. Investor #VII -  
 \$53,000 invested 12-14-05 in “Florida tax certificates” and got a promissory note of Evergreen Investment Group;
8. Upon information and belief, investors can play a passive role in the business of Evergreen, with no duties and responsibilities;
9. Upon information and belief, each investor will not be involved in the day-to-day management of Evergreen, since there are too many investors for them to each have any meaningful input, and they do not have the expertise or experience necessary to perform its duties;
10. Since the investors will be involved in a common enterprise of Evergreen, with the expectation of profits to be derived from the essential managerial efforts of others, the investments offered and sold by Bath 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.;
11. The investment contracts of Evergreen have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
12. According to Investor #III, Bath told her before making an investment of \$130,000 on or about April 25, 2005, that part of the investment money, \$50,000, would be in “stock investments” in the “stock market”;
13. According to information and documents provided by Investor III, Bath provided to Investor III occasional monthly statements of the status of the \$50,000 invested by Bath for Investor III in the stock market;

14. Bath later told staff of the Division at a creditors committee meeting for Bath's bankruptcy filing that he had not invested the money of any investor in the investment market rather had only given advice to investors as to where to invest the money;
15. Bath has violated sec. 551.41(3), Wis. Stats., by engaging in an act, practice or course of business which operated as a fraud or deceit upon Investor #III;
16. According to Investor #IV, Bath told her before making an investment of \$4,000 on or about April 18, 2005, that he would make for Investor #IV the investment in shares of SSRI;"
17. Bath later told staff of the Division at a creditors committee meeting for Bath's bankruptcy filing that he had not invested the money of any investor in the investment market rather had only given advice to investors as to where to invest the money;
18. Bath has violated sec. 551.41(3), Wis. Stats., by engaging in an act, practice or course of business which operated as a fraud or deceit upon Investor #IV;
19. According to a Complaint filed by legal counsel for Investor #V, in the US Bankruptcy Court, Western District of Wisconsin, Case No. 1-06-12641, relating to the bankruptcy filing of Bath, Bath told him before making an investment of \$50,000 on or about September 7, 2005, Bath would purchase only stock with the funds of Investor #V, using Scott Traders as a stock clearing house for all trades, that the account would be in the name of Investor #V, and that Investor #V would have full control over the funds;
20. According to statements of Investor #V to staff of the Division, Bath later told Investor #V that he had not invested the \$50,000 in an investment account, but rather had invested the money in real estate, and that Bath would refund that money to Investor #V, but subsequently failed to do so;
21. Bath has violated sec. 551.41(3), Wis. Stats., by engaging in an act, practice or course of business which operated as a fraud or deceit upon Investor #V;
22. According to Investor #VI, Bath told her before making an investment of \$35,000 on or about November 22, 2004 that the investment would be in mutual funds of "Franklin;"
23. According to Investor #VI, Bath later told Investor #VI that he had not invested the \$35,000 with "Franklin" in the name of Investor #VI but rather in the name of Bath, and that Bath later provided to Investor #VI a promissory note of Bath as evidence of the debt owed to Investor #VI;
24. According to records obtained by the Division, personnel of the Colorado Department of Labor and Employment sent a letter to Bath, dated February 12, 2004, stating, among other things, that "... I am investigating your case for possible filing with the appropriate prosecuting attorney's office and would like to give you the opportunity to discuss this matter, as the investigation is otherwise complete. ...";
25. According to records obtained by the Division, Bath responded to the letter of the Colorado Department of Labor, referred to in Paragraph 24 above, with a letter dated March 5, 2004;
26. According to records obtained by the Division, on August 2, 2005, a criminal complaint was filed against Bath in Douglas County, Colorado for three felony counts relating to the theft of unemployment compensation benefits by Bath in 2001;

27. According to records obtained by the Division, Bath plead guilty on March 1, 2006, to one felony count of theft, concerning the criminal charges referred to in Paragraph 24 above, for which he was sentenced to probation and ordered to make restitution of \$10,000;

28. According to what Bath told staff of the Division, during a face to face interview on December 22, 2006, Bath remembers the letter of the Colorado Department of Labor and Employment, referred to in Paragraph 24 above, and remembers writing his response to it, dated March 5, 2004, but that Bath did not inform the investors, referred to in Paragraphs 5, 6 and 7 above, of the investigation and possible criminal charges Bath was facing;

29. In connection with the offer of the securities described in Paragraphs 5, 6 and 7 above, Bath omitted to disclose that the Colorado Department of Labor and Employment had notified Bath that it was investigating Bath for possible filing with the appropriate prosecuting attorney's office, as referred to in Paragraph 24 above;

30. Bath has violated sec. 551.41(2), Wis. Stats., by omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, in connection with the offer and sale of securities to persons in Wisconsin;

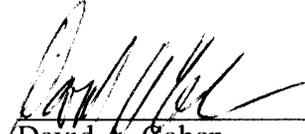
31. The staff of the Division has requested in writing of Bath information and documents concerning his securities-related activities with persons in Wisconsin and got no response;

32. The Administrator of the Division issued a subpoena to Bath, which was served on him, for his testimony and documents, and at his appearance before staff of the Division Bath did not provide information as requested, and did not provide documents, but instead provided a document stating, among other things, that "... There is no evidence that I am a UNITED STATES citizen, a 14<sup>th</sup> Amendment citizen; a STATE OF WISCONSIN citizen, a STATE OF NEW JERSEY citizen, a STATE OF COLORADO citizen, a UNITED NATIONS citizen, a WASHINGTON, D.C. citizen, nor any citizen at all, and I believe that not any exists. ..."; and

33. According to records obtained by staff of the Division, Bath, Evergreen Land Trust fdba Evergreen Investment Group LLC and Bath's wife, Katherine A. Bath, on October 19, 2006, filed a petition a petition under Chapter 7 of the Bankruptcy Code, Case No. 06-12641-TSU, with the US Bankruptcy Court in the Western District of Wisconsin.

Therefore, the staff of the Bureau of Registration & Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.

 2-15-07  
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Mark E. Dorman Date  
Examiner

 2/15/07  
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David A. Cohen Date  
Supervising Attorney