

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

In the Matter of  
DENVER A. KALKOFEN  
Respondent.

PETITION FOR CEASE AND DESIST  
ORDER AND REQUEST FOR HEARING  
TO REVOKE SECURITIES AGENT LICENSE

File No. S-08156(LX)

The staffs of the Bureau of Licensing & Compliance and the Enforcement Section, Bureau of Registration & Enforcement, of the Division of Securities, Department of Financial Institutions, State of Wisconsin have conducted an investigation in this matter pursuant to § 551.56, Wis. Stats. (2006), and as a result thereof allege as follows:

1. Denver A. Kalkofen ("Kalkofen") was a licensed securities agent (CRD #1530241) with ING Financial Partners, Inc. ("ING") (CRD #2882), from July 31, 1986 until October 3, 2008, with a last known business address at 2315 Hickory Lane, New Holstein, WI 53061.
2. Kalkofen was discharged from ING on October 3, 2008 for violating firm policy by taking possession of funds belonging to a customer.
3. From January 2005 through at least January 28, 2009, at least 15 securities customers of Kalkofen invested over \$1,000,000 with Kalkofen by writing checks variously to "Denuer," Denver Kalkofen, "cash" or M&I Bank which Kalkofen deposited or attempted to deposit directly into Kalkofen's personal joint checking account. Most of those securities customers were seniors at the time of the investment.
4. From sometime prior to January 2005 through at least January 28, 2009, Kalkofen offered at least 3 customers investments in "Denuer," which Kalkofen described variously as a mutual fund, an annuity or a holding company.
5. Between January 2005 and September 2008, Wisconsin customer DB gave Kalkofen 9 checks totaling \$111,319.23. All checks were made payable to "Denuer."
6. Between October 2005 and July 2006, Wisconsin customer SS gave Kalkofen 4 checks totaling \$35,000.00. Each check was made payable to "Denuer".
7. The investments in Denuer are investment contracts pursuant to § 551.03(13)(a), Wis. Stats. (2006) and § 551.102(28)(d), Wis. Stats. (2008) effective January 1, 2009.
8. Upon information and belief, at the time of the investments, Kalkofen did not provide any written information to her customers regarding Denuer.

9. At various times, SS received statements from Kalkofen purporting to show holdings in "Denuer Tax Exempt Fund." Upon information and belief, there is no such investment company or private fund registered for sale or exempt from registration as a security in Wisconsin or with the U.S. Securities & Exchange Commission.
10. At various times, DW received statements from Kalkofen purporting to show holdings in "Tax Exempt Bond Fund of America." Upon information and belief, there is no account for DW on the records of this investment company.
11. None of the transactions in Denuer or represented by investor checks deposited into Kalkofen's personal joint checking account as described above were effected on the books and records of her broker-dealer, ING.
12. Selling securities off the books and records of Kalkofen's broker-dealer is a dishonest and unethical practice in violation of section DFI-Sec 4.06(2)(c), Wis. Adm. Code and FINRA Rules 2110 and 3040 provides a basis for sanctioning a securities agent license under §551.34(1)(g), Wis. Stats. and in this instance, constitutes a fraud and deceit in violation of §551.41, Wis. Stats. (2006).
13. Failure to provide information or providing misleading information regarding the securities offered constitutes deception and fraud in connection with the offer and sale of a security in violation of § 551.41, Wis. Stats. (2006).
14. Investors gave the money to Kalkofen strictly for investment purposes and did not consent to any personal use of their money.
15. A review of Kalkofen's personal joint checking account into which the investors' checks were deposited failed to reveal any disbursements that could reasonably be determined to be for investment purposes as expected by the investors, but instead revealed numerous checks, in excess of \$900,000, payable to entities related to gambling casinos.
16. From 2005 through 2008 alone, one casino in Wisconsin has reported Kalkofen's net gambling losses at over \$191,000.
17. The conversion of investor funds by Kalkofen for her own use described above constitutes an act or practice operating as a fraud or deceit upon investors in violation of § 551.41, Wis. Stats. (2006).
18. By certified letter, the Division requested Kalkofen to appear voluntarily before the Division to provide information on the investments in question. Kalkofen failed to appear or contact the staff in response to that letter despite having signed that she received the letter.
19. In January 2009, Kalkofen obtained two checks for \$25,000 each from Wisconsin customer BS. Kalkofen represented that she would invest one check in a mutual fund and told BS to make the check payable to the fund. Kalkofen represented that the other check was for an investment whose identity and nature was not clearly made known to BS. Kalkofen instructed BS to make that check payable to M&I Bank, representing to BS that BS needed to open an M&I account in order to make the investment, despite the fact that BS already had an existing M&I account.

20. On January 28, 2009, Kalkofen attempted to deposit the \$25,000 check from BS payable to M&I Bank into Kalkofen's personal joint checking account at M&I Bank.
21. Kalkofen, by offering and selling investments to BS while not licensed, violated §551.402(1), Wis. Stats. (2008) effective January 1, 2009.
22. The conversion of investor funds by Kalkofen for her own use described above constitutes an act or practice operating as a fraud or deceit upon investors in violation of §551.501, Wis. Stats. (2008) effective January 1, 2009.
23. The recent transactions with BS demonstrate that Kalkofen has violated and is continuing to violate Chapter 551, Wis. Stats., and is a continuing danger to Wisconsin investors, such that summary issuance of this Cease and Desist Order without prior notice or hearing is necessary and appropriate in the public interest and for the protection of investors pursuant to §§551.604(1) and 551.605(2), Wis. Stats. (2008) effective January 1, 2009.

Therefore, the staff of the Bureau of Licensing and Compliance and the Bureau of Enforcement petitions the Administrator to issue a Cease and Desist Order against Kalkofen and to notice a hearing to revoke Kalkofen's securities agent license retroactive to the date she was last licensed in Wisconsin or take such other action as deemed appropriate by the Administrator.

DATED this 29 day of January, 2009.



Michael R. Tuten  
Examiner  
Bureau of Enforcement



Leslie VanBuskirk  
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