

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
**DIVISION OF SECURITIES**  
COLUMBUS, OHIO 43215-6131

Order No. 11-017

**IN THE MATTER OF: SMC PORTFOLIO MANAGEMENT LLC  
CRD NO. 143850**

**JAMES T. JOHNSON  
CRD NO. 1437481**

**ORDER SUSPENDING OHIO INVESTMENT ADVISER LICENSE NO. 143850 AND  
OHIO INVESTMENT ADVISER REPRESENTATIVE LICENSE NO. 1437481**

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**DIVISION ORDER**

WHEREAS, the Ohio Division of Securities (hereinafter "the Division") is charged with the responsibility for protecting investors and finds that this Order is necessary or appropriate in the public interest or for the protection of investors and is consistent with the purposes of the Ohio Securities Act, Chapter 1707 of the Ohio Revised Code;

WHEREAS, the Division conducted an investigation into the activities of SMC Portfolio Management LLC, CRD No. 143850, and James T. Johnson, CRD No. 1437481, both located at 11311 Cornell Park Drive, Suite 108, Cincinnati, Ohio 45242 (hereinafter "Respondents"); and

WHEREAS, the Respondents have entered a Consent Agreement to these findings which is attached as Exhibit A ("Consent Agreement"), and as a result of said investigation and as a result of the Consent Agreement, the Division finds as follows:

- (1) Respondent SMC Portfolio Management has been a licensed investment adviser in Ohio since August 2, 2007;
- (2) Respondent James T. Johnson is the sole member of SMC Portfolio Management LLC and has been the firm's sole Investment Adviser Representative since September 1, 2007;
- (3) Respondents are required to comply with all relevant provisions of the Ohio Revised Code, (hereinafter the "R.C."), and the Ohio Administrative Code, (hereinafter the "O.A.C.");

- (4) An examination of Respondents' business operations began on September 24, 2009;
- (5) A letter advising Respondents of deficiencies in their examination was sent on November 12, 2009. A response to this letter was due on December 11, 2009. This deficiency letter elicited no response from the Respondents;
- (6) A second deficiency letter was sent on December 23, 2009. A response to this letter was due on January 7, 2010. On this day, Respondent Johnson emailed a response to the second deficiency letter that was incomplete;
- (7) A third deficiency letter was sent on January 12, 2010, that described in detail the items that needed to be addressed by the Respondents. A response to this letter was due on February 1, 2010;
- (8) On February 5, 2010, Respondent Johnson emailed a response to the third deficiency letter that addressed in part some of the issues. However, additional items remained unresolved;
- (9) A fourth deficiency letter was sent on February 23, 2010, that described in detail the remaining items that needed to be addressed by the Respondents. A response to this letter was due on March 9, 2010. This letter was sent by certified mail number 7002 2030 0002 6799 9873. It was received and signed for by Respondent Johnson. There has been no response from the Respondents to the fourth deficiency letter;
- (10) Respondents were to produce to the Division evidence that their ADV Part I, Schedule A had been amended; records of canceled checks and their maintenance; a financial management balance sheet and evidence that Respondent Johnson's insurance agency, Safe Money Concepts, is legally authorized to do business in Ohio;
- (11) O.A.C. Rule 1301:6-3-15.1(B)(6) provides that every investment adviser licensed by the Division shall use the Investment Adviser Registration Depository (IARD) to promptly file with the Division updates and amendments to parts I and II of the form ADV;
- (12) O.A.C. Rule 1301:6-3-15.1(E) provides that investment advisers "are subject at any time, and from time to time, to reasonable periodic, special, or other examinations by the division as the division deems necessary or appropriate in the public interest or for the protection of investors, clients or potential clients." In addition, that every investment adviser "shall make and keep for the prescribed periods such books and records, furnish copies thereof, and make and disseminate such reports as the division

may prescribe as necessary or appropriate in the public interest or for the protection of investors or clients”;

- (13) O.A.C. Rule 1301:6-3-15.1(E)(1)(a) requires that investment advisers maintain a journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger;
- (14) O.A.C. Rule 1301:6-3-15.1(E)(1)(d) requires that investment advisers maintain check books, bank statements, canceled checks and cash reconciliations for at least five years;
- (15) O.A.C. Rule 1301:6-3-15.1(E)(1)(b) requires that investment advisers keep a general and auxiliary ledgers, or other comparable records, reflecting asset, liability, reserve, capital, income and expense accounts;
- (16) O.A.C. Rule 1301:6-3-15.1(E)(1)(f) requires that investment advisers keep all trial balances, financial statements, and internal audit working papers relating to the business of the investment adviser;
- (17) R.C. 1723.23(B) provides, in pertinent part:

Whenever it appears to the division of securities, from its files, upon complaint, or otherwise ... or when the division believes it to be in the best interest of the public and necessary for the protection of investors, the division may do any of the following:

- (B) Examine any investment adviser, investment adviser representative ... wherever located, under oath; and examine and produce records, books, documents, accounts and papers as the division deems material or relevant to the inquiry;
- (18) R.C. 1707.19(A)(6) provides, in pertinent part:
    - (A) An original license, or renewal thereof, applied for by ... an investment adviser, investment adviser representative ... may be refused, and any such license granted may be suspended, and, after notice and hearing in accordance with Chapter 119 of the Revised Code, may be revoked, by the division of securities, if the division determines that the ... investment adviser, investment adviser representative ...:
      - (6) Has refused to comply with any lawful order or requirement of the division under section 1707.23 of the Revised Code;

(19) R.C. 1707.19(A)(10)(a) provides, in pertinent part:

(A) An original license, or renewal thereof, applied for by ... an investment adviser, investment adviser representative ... may be refused, and any such license may be suspended, and, after notice and hearing in accordance with Chapter 119 of the Revised Code, may be revoked, by the division of securities, if the division determines that the ... investment adviser, investment adviser representative ...:

(10)(a) Has failed to furnish to the division any information with respect to the purchases or sales of securities within this state that may be reasonably requested by the division as pertinent to the protection of investors in this state;

(20) R.C. 1707.19(A)(10)(b) provides, in pertinent part:

(A) An original license, or renewal thereof, applied for by ... an investment adviser, investment adviser representative ... may be refused, and any such license may be suspended, and, after notice and hearing in accordance with Chapter 119 of the Revised Code, may be revoked, by the division of securities, if the division determines that the ... investment adviser, investment adviser representative ...:

(10)(b) Has failed to furnish to the division any information with respect to acting as an investment adviser ... within this state that may be reasonably requested by the division;

(21) As described in Paragraphs (5), (6), (7), (8), (9), and (10), Respondents failed to cooperate with the Division and failed to keep and produce the required records;

WHEREAS, based on Paragraphs (1) through (21) above, the Division finds that Respondents failed to comply with the requirements of Ohio Administrative Code Rules 1301:6-3-15.1(B)(6), 1301:6-3-15.1(E), 1301:6-3-15.1(E)(1)(a), 1301:6-3-15.1(E)(1)(d), 1301:6-3-15.1(E)(1)(b), and 1301:6-3-15.1(E)(1)(f), and further violated Revised Code sections 1707.23(B), 1707.19(A)(6), 1707.19(A)(10)(a) and 1707.19(A)(10)(b).

THEREFORE, IT IS ORDERED THAT, pursuant to Revised Code Chapter 1707.19, the Ohio Investment Adviser Representative License No. 1437481 of JAMES T. JOHNSON and the Ohio Investment Adviser License No. 143850 of SMC PORTFOLIO MANAGEMENT, LLC is hereby **SUSPENDED** for a period of thirty (30) days from May 1, 2011 through May 30, 2011, inclusive

JLH/cn

WITNESS MY HAND AND THE OFFICIAL SEAL OF THIS DIVISION at  
Columbus, Ohio this 5th day of April, 2010.



Andrea Seidt, Commissioner of Securities

**EXHIBIT A**

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
**DIVISION OF SECURITIES**  
COLUMBUS, OHIO 43215-6131

**IN THE MATTER OF: SMC PORTFOLIO MANAGEMENT LLC**  
**CRD NO. 143850**

**JAMES T. JOHNSON**  
**CRD NO. 1437481**

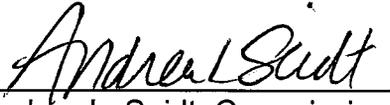
**CONSENT AGREEMENT**

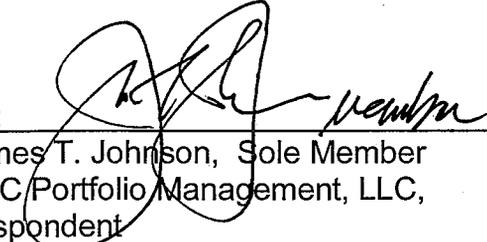
Based upon discussions between representatives of the Ohio Division of Securities ("the Division") and James T. Johnson and SMC Portfolio Management, LLC (collectively "Respondents"), by and through counsel, the Division and Respondents stipulate and agree to the following:

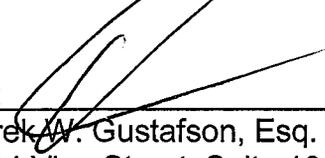
- (1) Respondents waive the issuance, lawful service and receipt of a Notice of Opportunity for Hearing in this matter, and stipulates to the jurisdiction of the Division.
- (2) Respondents, with full knowledge of his rights, voluntarily waive the right to any further adjudicative hearings in accordance with R.C. Chapter 119, as well as any other appeal rights found therein.
- (3) The Division and Respondents consent, stipulate, and agree to the findings, conclusions, and order set forth in the attached Division Order, No. \_\_\_\_ ("Order"), and to the issuance of the same.
- (4) After being fully and adequately apprised of the right to appeal the attached Order, as set forth in R.C. 119.12, Respondents knowingly and voluntarily waive such right.
- (5) The undersigned have read this Consent Agreement, understand all of its terms, have authority to sign this Consent Agreement, and have executed this Consent Agreement voluntarily.
- (6) Respondents agree to maintain books and records in accordance with requirements set forth in Chapter 1707 of the Ohio Revised Code and the related provisions of the Ohio Administrative Code and in accordance with the written plan, prepared and signed by Respondent Johnson, and provided to the Division on or about April 1, 2011.

- (7) Respondents agree to file the form for exemption with the Ohio Department of Taxation on behalf of Safe Money Concepts, Inc. for the calendar years 2005, 2006, 2007, 2008 and 2009 within thirty (30) days of the effective date of this Order and to pay any franchise tax due within thirty (30) days of a final legally binding determination of any tax due.
- (8) Respondents agree to abide by all provisions set forth in Chapter 1707 of the Ohio Revised Code and the administrative rules promulgated thereunder.

SO AGREED:

BY:  4/1/11  4/15/11  
 James T. Johnson, Respondent Date Andrea L. Seidt, Commissioner Date  
 11311 Cornell Park Drive, Suite 108 dated by  Division of Securities  
 Cincinnati, Ohio 45242 with authorization Ohio Department of Commerce  
 77 S. High St., 22nd Floor  
 Columbus, OH 43215-6131

BY:  4/1/11  
 James T. Johnson, Sole Member Date  
 SMC Portfolio Management, LLC, dated by  with authorization  
 Respondent  
 11311 Cornell Park Drive, Suite 108  
 Cincinnati, Ohio 45242

BY:  4/1/11  
 Derek W. Gustafson, Esq. Date  
 1014 Vine Street, Suite 1919 initial dated by  with authorization  
 Cincinnati, Ohio 45202  
 Counsel for Respondents,  
 James T. Johnson and  
 SMC Portfolio Management, LLC