

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

Order No. 16-009

IN THE MATTER OF: WALDEMAR KAZANA
CEASE AND DESIST ORDER

DIVISION ORDER

WHEREAS, the Ohio Division of Securities ("Division") is charged with the responsibility of 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 ("R.C.");

WHEREAS, the Division has conducted an investigation into the activities of Waldemar Kazana ("Respondent") operating from his residence at 1506 Trinity Place NW, Canton, OH 44709;

WHEREAS, as a result of said investigation, the Division issued a Notice of Opportunity for Hearing and Notice of Intent to Issue a Cease and Desist Order ("Notice Order") on February 24, 2016, under Division Order Number 16-005;

WHEREAS, on February 29, 2016, the Division served the Notice Order to Respondent via certified mail with return receipt requested;

WHEREAS, more than thirty (30) days have passed since the date service was perfected in accordance with R.C. 119.07 and the Respondent has not requested a hearing in this matter; and

WHEREAS, as a result of said investigation, the Division finds as follows:

- (1) Respondent has never held an investment adviser, investment adviser representative, securities dealer or salesperson license in the state of Ohio;
- (2) Respondent is the sole creator, owner and operator of the website, <http://www.marketrecon.webs.com> ("Respondent's Website"), which during all times relevant, was available to the public and published Respondent's investment strategies;

- (3) Respondent's Website states the following:
- "My name is Valdemar [sic] Kazana founder of MarketRecon and here is the Strategy I've developed and follow";
 - "Strategy developed by MarketRecon is based on 22 years of data and back testing providing us with a clear picture of future performance once the signal is generated to execute a trade";
 - "The LIVE chart below provides evidence of tremendous opportunity on the Bullish as well as Bearish side, the key is to open position on the right side of the prevailing TREND";
 - "With the wide swings in both directions MarketReconTeam is set to capture 3.5% of gain each month and the direction of the TREND is not that important at all";
 - "Each new month opens with a new 3.5% profit target, accumulating our gains to nearly 42% per year";
 - "MarketReconTeam focuses on the Long Term Target with a Short Term Approach and by repeating the same process and executing the same strategy each month the \$10,000 of initial investment is set to turn into \$1,000,000 portfolio just under 20 years"; and
 - "You will not find us taking on a basket of positions with hopes that some of them will outperform the losing positions pushing us forward. We trade a few main Index tracking ETF's as well as their leveraged family including inverse ETF for the underlying Index";
- (4) JH and JH, a married couple residing in Canton, Ohio, met Respondent through bible study at their local church;
- (5) Between May 4, 2011 and October 3, 2012, Respondent engaged in the purchase and sale of securities on JH and JH's accounts at Scottrade, Inc.;
- (6) As a result of engaging in the purchase and sale of securities on JH and JH's accounts, Respondent received a total of \$2,626.49 in compensation, and lost a total of \$163,131.20 from their investment portfolio;
- (7) WM and LM, a married couple residing in Canton, Ohio, met Respondent through bible study at their local church;

- (8) Between July 6, 2011 and October 3, 2012, Respondent engaged in the purchase and sale of securities on WM and LM's accounts at Scottrade, Inc.;
- (9) As a result of engaging in the purchase and sale of securities on WM and LM's accounts, Respondent received a total of \$1,626.76 in compensation, and lost a total of \$26,978.13 from their investment portfolio;
- (10) JL, an individual residing in Massillon, Ohio, met Respondent while working at the local fire station;
- (11) Between July 13, 2011 and October 3, 2012, Respondent engaged in the purchase and sale of securities on JL's accounts at Scottrade, Inc.;
- (12) As a result of engaging in the purchase and sale of securities on JL's accounts, Respondent received a total of \$1,452.37 in compensation, and lost a total of \$5,271.70 from their investment portfolio;
- (13) JF, an individual residing in North Canton, Ohio, met Respondent at bible study through the local church;
- (14) Between July 8, 2011 and October 3, 2012, Respondent engaged in the purchase and sale of securities on JF's accounts at Scottrade, Inc.;
- (15) As a result of engaging in the purchase and sale of securities on JF's accounts, Respondent received a total of \$2,757.78 in compensation, and lost a total of \$56,909.01 from their investment portfolio;
- (16) MV, an individual residing in Canton, Ohio, met Respondent through a mutual friend;
- (17) Between June 26, 2011 and October 3, 2012, Respondent engaged in the purchase and sale of securities on MV's accounts at Scottrade, Inc.;
- (18) As a result of engaging in the purchase and sale of securities on MV's accounts, Respondent received a total of \$559.46 in compensation, and lost a total of \$10,689.16 from their investment portfolio;
- (19) CS, an elderly individual residing in North Canton, Ohio, worked with Respondent at a candy factory;
- (20) Between September 15, 2011 and October 3, 2012, Respondent engaged in the purchase and sale of securities on CS's accounts at Scottrade, Inc.;

- (21) As a result of engaging in the purchase and sale of securities on CS's accounts, Respondent received a total of \$688.74 in compensation, and lost a total of \$16,899.40 from their investment portfolio;
- (22) Respondent sent individuals a monthly invoice that would include an amount due which equaled approximately 15% of profits made in trades per month or a flat fee of \$29.99 or \$30.00 for accounts that took a net loss during the month of trading;
- (23) R.C. 1707.44(A)(1) states:
- No person shall engage in any act or practice that violates division (A), (B), or (C) of section 1707.14 of the Revised Code, and no salesperson shall sell securities in this state without being licensed pursuant to section 1707.16 of the Revised Code;
- (24) R.C. 1707.14(A) states, with certain enumerated exceptions:
- No person shall act as a dealer, unless the person is licensed as a dealer by the division of securities;
- (25) R.C. 1707.01(E)(1) states, in part:
- "Dealer" . . . means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities . . . ;
- (26) R.C. 1707.01(C)(1) states:
- "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise;
- (27) Respondent violated R.C. 1707.44(A)(1) by acting as a dealer in Ohio without proper licensure issued by the Division;

(28) R.C. 1707.44(G) states:

No person in purchasing or selling securities shall knowingly engage in any act or practice that is, in this chapter, declared illegal, defined as fraudulent, or prohibited;

(29) R.C. 1707.01(J) states:

"Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser; and

(30) Respondent violated R.C. 1707.44(G) by publishing inflated projections with no reasonable basis in fact, by not including material and adequate disclosures and cautionary language about the projections, and by not informing the investors that he was not properly licensed with the Division to operate as a securities dealer.

WHEREAS, based on Paragraphs (1) through (30), the Division finds that Respondent violated R.C. 1707.44(A)(1) and R.C. 1707.44(G).

THEREFORE, IT IS ORDERED THAT, pursuant to Chapter 119 of the R.C., Respondent is hereby ordered to **CEASE AND DESIST** from the acts and practices described herein which constitute violations of Chapter 1707 of the Ohio Revised Code.

TIME AND METHOD TO PERFECT AN APPEAL

Any party desiring to appeal shall file a Notice of Appeal with the Ohio Division of Securities, 77 South High Street, 22nd Floor, Columbus, Ohio 43215, setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal shall also be filed by the appellant with the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If any party appealing from the order is not a resident of and has no place of business in

this state, the party may appeal to the court of common pleas of Franklin County. Such notices of appeal shall be filed within fifteen (15) days after the mailing of the notice of the Ohio Division of Securities' Order as provided in Section 119.12 of the Ohio Revised Code.

KJE/cn

WITNESS MY HAND AND THE OFFICIAL SEAL OF THIS DIVISION at
Columbus, Ohio this 31st day of March, 2016.

Andrea L. Seidt

Andrea L. Seidt, Commissioner of Securities