BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE OF THE STATE OF TENNESSEE AT NASHVILLE

TENNESSEE SECURITIES DIVISION,	)	
TENNESSEE INSURANCE DIVISION,	)	
Petitioners.	)	**Docket # 12.06-108775J**
	)	
vs.	)	**TSD Order No.: 10-007**
	)	**TID Order No.: 10-071**
A.D. VALLETT & CO., LLC,	)	
A.D. VALLETT & COMPANY,	)	
A.D. VALLETT COLLATERAL FUND I, LLC,	)	
A.D. VALLETT COLLATERAL FUND II, LLC,	)	
A.D. VALLETT INCOME & OPPORTUNITY	)	
FUND I, LLC, and	)	
AARON DONALD VALLETT,	)	
Respondents.	)	

CONSENT ORDER

The Tennessee Securities Division ("TSD"), and the Tennessee Insurance Division ("TID") (collectively, the "Divisions") of the Tennessee Department of Commerce and Insurance ("Department") and Court Appointed Receiver for the Respondents, Mr. Henry E. Hildebrand, III (aka Hank Hildebrand) ("Receiver"), agree to the entry of this Consent Order. Receiver is the Court Appointed Receiver for Respondents A.D. Vallett & Co., LLC, A.D. Vallett Collateral Fund I, LLC, A.D. Vallett Collateral Fund II, LLC, A.D. Vallett Income & Opportunity Fund, LLC, (collectively "Business Entity Respondents").

The parties as listed herein agree to the entry of this Consent Order in accordance with TENN. CODE ANN. § 48-2-116 of the Tennessee Securities Act of 1980, as amended, TENN. CODE ANN. §§ 48-2-101, *et seq.* (the "Act"), which states that the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner") may from time to time make such orders as are necessary to carry out the provisions of the Act, and in accordance with the

Tennessee Insurance Producer Licensing Act of 2002, TENN. CODE ANN. §§ 56-6-101, *et seq.* (the "Law").

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. It is expressly understood that Mr. Henry E. Hildebrand, III is the Court Appointed Receiver for Business Entity Respondents, acting pursuant to an August 18, 2010 Order of the United States District Court for the Middle District of Tennessee, Nashville Division. The Order Appointing Receiver and Ordering Other Relief (attached as Exhibit 1) provides in relevant part, "[t]his Court hereby takes exclusive jurisdiction and possession of the assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever situated, of Defendants Vallett and Vallett & Co. [ ] ....

3. Further, the Order Appointing Receiver and Ordering Other Relief (attached as Exhibit 1) provides in relevant part, "the Receiver in his discretion, is authorized to prosecute, defend, settle, compromise or adjust any pending or future action or proceeding as may be advisable for the protection and administration of the Receiver Estate."

4. This Consent Order is executed by the Receiver for the Business Entity Respondents for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly

or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

5. Business Entity Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against the Business Entity Respondents for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

6. TSD agrees that upon execution of this Consent Order and its acceptance by the Commissioner of the Tennessee Department of Commerce and Insurance, neither TSD, TID nor the Commissioner will assert a monetary claim against the receivership estates of any of the Business Entity Respondents.

7. Business Entity Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner or any other state government representative against the Business Entity Respondents for violations of law under other statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the execution of this Consent Order by the Business Entity Respondents.

8. Receiver for the Business Entity Respondents expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

FINDINGS OF FACT

1. Title 48 of the Tennessee Code Annotated, the Tennessee Securities Act (the "Act"), as amended, TENN. CODE ANN. §§ 48-2-101, *et seq.* places the responsibility for the administration of the Act on the Commissioner. The TSD is the lawful agent through which the Commissioner discharges this responsibility. TENN. CODE ANN. § 48-2-112 and § 48-2-115.

2. Title 56 of the Tennessee Code Annotated, the Tennessee Insurance Law (the "Law"), TENN. CODE ANN. §§ 56-1-101 *et seq.*, places the responsibility of the administration of the Law on the Commissioner. The TID is the lawful agent through which the Commissioner discharges this responsibility. TENN. CODE ANN. § 56-1-202 and § 56-6-112.

3. The Divisions are authorized to bring this action based on a finding by the Commissioner that the action is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act and the Law. TENN. CODE ANN. §§ 4-5-320(c), 48-2-116(e)(2)(A) and 56-2-304.

4. Respondent A.D. Vallett & Co., LLC ("Vallett & Co.") (CRD # 144065) is a Tennessee limited liability company which at all relevant times maintained its principal place of business at 5141 Virginia Way, Suite 460, Brentwood, TN 37027. Vallett & Co. is currently registered as an investment adviser with the TSD and has been so registered since June 19, 2008.

5. Respondent A.D. Vallett & Company ("A.D. Vallett & Company") (CRD # 144271) is a doing-business-as designation used by Vallett for A.D. Vallett & Co., LLC and likewise, at all relevant times, maintained its principal place of business at 5141 Virginia Way, Suite 460, Brentwood, TN 37027.

6. Respondent A.D. Vallett Collateral Fund I, LLC ("Collateral Fund I") is a Delaware limited liability company, as of June 3, 2010, with its registered office located at 1201

Orange Street, Suite 600, Wilmington, DE 19801 and which, at all relevant times, maintained its principal place of business at 5141 Virginia Way, Suite 460, Brentwood, TN 37027. Collateral Fund I is a wholly owned subsidiary of Vallett & Co.

7. Respondent A.D. Vallett Collateral Fund II, LLC ("Collateral Fund II") is a Delaware limited liability company, as of June 3, 2010, with its registered office located at 1201 Orange Street, Suite 600, Wilmington, DE 19801 and which, at all relevant times, maintained its principal place of business at 5141 Virginia Way, Suite 460, Brentwood, TN 37027. Collateral Fund II is a wholly owned subsidiary of Vallett & Co.

8. Respondent A.D. Vallett Income and Opportunity Fund I, LLC ("I&O Fund") is a Delaware limited liability company, as of February 12, 2010, which at all relevant times maintained its principal place of business at 5141 Virginia Way, Suite 460, Brentwood, TN 37027. I&O Fund is a wholly owned subsidiary of Vallett & Co.

9. Respondent Aaron Donald Vallett ("Vallett") (CRD # 4421122) is a citizen and resident of Davidson County Tennessee, residing at 1714 Temple Avenue, Nashville, TN 37215. Vallett is a licensed insurance producer (License # 857611) in the State of Tennessee. Vallett is currently registered with the TSD as an investment adviser representative through his associated investment adviser, Vallett & Co., and at all relevant times, until June 11, 2010, he was registered with the TSD as a broker-dealer agent through his associated broker-dealer, Institutional Capital Management, Inc. ("ICM") (CRD # 41055).

10. At all relevant times, Vallett was President of Vallett & Co. in addition to being its registered investment adviser representative and conducted business through his companies, Respondent Vallett & Co., Respondent A.D. Vallett & Company, Respondent Collateral Fund I, Respondent Collateral Fund II, and Respondent I&O Fund. Vallett is the sole owner of Vallett &

Co. and A.D. Vallett & Company, and also created and owns Collateral Fund I, Collateral Fund II, and I&O Fund.

Respondent Vallett Violated the June 16, 2008 Consent Order Entered Into With the Tennessee Securities Division

11. On June 16, 2008, Vallett entered into a Consent Order with the Commissioner whereby he agreed to fully comply with the Act and to be suspended from acting as a broker-dealer agent or investment adviser representative from or in the State of Tennessee for a four-month period beginning on June 16, 2008 and ending October 15, 2008.

12. During the suspension period covered by the Consent Order, from July 16, 2008 through October 6, 2008, Vallett executed no fewer than eight (8) separate investment advisory agreements as President of Vallett & Co. which required the company and Vallett to provide investment advisory services and assessed a one percent (1%) annual fee based on the market value of the client's account.

Respondent Vallett Sold Unregistered Securities in Tennessee

13. Between January 2008 and April 2010, Vallett raised approximately five million, five hundred thousand dollars ($5,500,000.00) from approximately twenty (20) investors through three (3) unregistered securities offerings: Collateral Fund I, Collateral Fund II, and the I&O Fund (collectively, the "Funds").

14. From January 2008 through February 2010, Vallett offered and sold investments in Collateral Fund I, eventually raising approximately one million, five hundred thousand dollars ($1,500,000.00) from eighteen (18) investors, many of whom were investment advisory clients of Vallett & Co.

15. The interests sold in Collateral Fund I were not registered with the TSD for sale within the State of Tennessee, and despite representations made in the private placement memorandum ("PPM") for the Fund, and by Vallett to investors, that the transactions were exempted from federal and state securities registration requirements under Securities and Exchange Commission ("SEC") Rule 504 of Regulation D, 17 C.F.R. § 230.504, and TENN. CODE ANN. § 48-2-125, the transactions were not so exempted because Tennessee does not recognize the Rule 504 exemption and even if it did Vallett did not file the necessary documents with the SEC and the TSD to qualify for the exemption. In addition, Collateral Fund I, LLC did not legally exist until June 3, 2010 and therefore could not have been registered with the SEC or the TSD at the time that interests in the Collateral Fund I were sold.

16. In February 2010, Vallett sold a single interest in Collateral Fund II to one investor, an advisory client of Sailer Financial, Inc., for two million, five hundred thousand dollars ($2,500,000.00). Sailer Financial, Inc. is an Investment Advisory firm (CRD# 127411) owned by Amy Sailer. The interest sold in Collateral Fund II was not registered with the TSD for sale within the State of Tennessee, and despite representations made in the PPM for the Fund, and by Vallett to the investor, that the transaction was exempted from federal and state registration requirements under SEC Rule 506 of Regulation D, 17 C.F.R. § 230.506, and TENN. CODE ANN. § 48-2-125, the transaction was not so exempted because Vallett did not file the necessary documents with the SEC and the TSD to qualify for the exemption. In addition, Collateral Fund II, LLC did not legally exist until June 3, 2010 and therefore could not have been registered with the SEC or the TSD at the time that the interest in the Collateral Fund II was sold.

17. In April 2010, Vallett sold an additional one million, five hundred thousand dollars ($1,500,000.00) interest in the I&O Fund to the same investor who invested in Collateral

Fund II. The interest in I&O Fund was not registered with the TSD for sale within the State of Tennessee, and despite representations made to the investor that the transaction was exempted from federal and state registration requirements under SEC Rule 506 of Regulation D, 17 C.F.R. § 230.506, and TENN. CODE ANN. § 48-2-125, the transaction was not so exempted because Vallett did not file the necessary documents with the SEC and the TSD to qualify for the exemption.

18. Vallett failed to record any of the sales of these funds on the regular books or records of ICM, Vallet's associated broker-dealer. Vallett failed to obtain written authorization for these sales from ICM. Vallett's failure to properly record these transactions on the books and records of ICM or notify and receive written authorization from ICM constitutes selling away from his broker-dealer.

The SEC Barred Vallett from association with any Broker or Dealer and any Investment Adviser

19. On September 15, 2010, the SEC barred Vallett from association with any broker- or dealer and from association with any investment adviser. The SEC based its September 15, 2010 Order on a complaint alleging that Vallett and his firm misrepresented that investor funds would be secured and would be used to make various investments, including investments in various real estate ventures. According to the complaint, Vallett used substantial investor funds to pay prior investors or to pay personal or business expenses. The complaint alleged these actions operated as a fraud or deceit on investors.

CONCLUSIONS OF LAW

Pertaining to the Commissioner's Authority to Carry Out the Provisions of the Tennessee Securities Act of 1980

1. TENN. CODE ANN. § 48-2-116 provides that the Commissioner may make, promulgate, amend, and rescind such Orders as are necessary to carry out the provisions of the Tennessee Securities Act of 1980, as amended, upon a finding that such Order is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act.

Pertaining to the Commissioner's Authority to Revoke Buinsess Entity Respondent's Registration with the TSD

2. TENN. CODE ANN. § 48-2-112(a)(2)(B) provides, in pertinent part, that (a) [t]he commissioner may by order … revoke … any registration under this part if the commissioner finds that: (2) [t]he … registrant (B) [h]as willfully violated or willfully failed to comply with any provision of this part or a predecessor chapter or any rule or **order** under this part or a predecessor chapter[ ] …. [Emphasis added]

3. TENN. CODE ANN. § 48-2-102(11)(D) provides, in pertinent part, 'Investment Adviser Representative' means any partner, officer, or director of (or person occupying a similar status or performing similar functions) an investment adviser, or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser and … (D) [s]olicits, offers or negotiates for the sale of or sells investment advisory services.

4. TENN. CODE ANN. § 48-2-112(a)(2)(F)(i) provides, in pertinent part, that (a) [t]he commissioner may by order … revoke … any registration under this part if the commissioner finds that: (2) [t]he … registrant (F) [i]s the subject of any order entered within the past ten (10)

years by the ... securities and exchange commission ...(i) ... revoking any registration as a broker-dealer, agent, investment adviser, or investment adviser representative [ ] ....

5. TENN. CODE ANN. § 48-2-112(a)(2)(G) provides, in pertinent part, that (a) [t]he commissioner may by order ... revoke ... any registration under this part if the commissioner finds that: (2) [t]he ... registrant (G) [h]as engaged in dishonest or unethical business practices.

6. TENN. COMP. R. & REGS. 0780-4-3-.02(6)(c) states that it shall be deemed a "dishonest or unethical business practice" by an investment adviser or investment adviser representative under TENN. CODE ANN. § 48-2-112(a)(2)(G) to engage in the activity of: (2) [p]lacing an order for the purchase or sale of a security pursuant to discretionary authority if the purchase or sale is in violation of the Act or any rule thereunder; ...

Pertaining to A.D. Vallett's Sales of Unregistered Securities

7. TENN. CODE ANN. § 48-2-104(a) states, in pertinent part, that it is unlawful for any person to sell any security in this state unless it is registered under the Act, the security or transaction is exempted under the Act, or the security is a covered security.

8. TENN. CODE ANN. § 48-2-109(a) provides in pertinent part that it is unlawful for any person to transact business from or within Tennessee as a broker-dealer or agent unless such person is registered as a broker-dealer or agent with the Department in accordance with the Act.

9. TENN. CODE ANN. § 48-2-109(b) provides in pertinent part that it is unlawful for any broker-dealer to employ an agent to transact business as an agent unless the agent is registered with the Department in accordance with the Act.

10. TENN. COMP. R. & REGS. 0780-4-3-.02(6)(b) states that it shall be deemed a "dishonest or unethical business practice" by an agent under TENN. CODE ANN. § 48-2-112(a)(2)(G) to engage in the activity of: (3) [e]ffecting securities transactions with a customer

not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are disclosed to, and authorized in writing by, the broker-dealer prior to execution of the transactions ... (16) [e]xecuting orders for the purchase or sale of securities which the agent knew or should have known were not registered under the Act unless the securities or transactions are exempt under the Act [ ] ....

A.D. Vallett Violated the June 16, 2008 Consent Order with the Tennessee Securities Division

11. The facts as stated above demonstrate that Vallett executed no fewer than eight (8) separate investment advisory agreements as President of Vallett & Co. while he was serving an agreed suspension from providing investment advisory services and other related services. This conduct was in direct violation of the June 16, 2008 Consent Order with the Tennessee Securities Division. During his suspension, Vallett served as an investment adviser representative (as defined by (TENN. CODE ANN. § 48-2-102(11)(D)). During his suspension, Vallett solicited, offered and negotiated for the sale of and sold investment advisory services and supervised employees who performed such actions.

12. Vallett's willful violations of the June 16, 2008 Consent Order with the Securities Division provides adequate grounds under TENN. CODE ANN. § 48-2-112(a)(2)(B) for the entry of an Order revoking Business Entity Respondent's registration with the TSD.

The SEC Barred Vallett from association with any Broker or Dealer and any Investment Adviser

13. The facts as stated above demonstrate that Vallett was barred from association with any broker or dealer and from association with any investment adviser by the SEC.

14. The entry of an Order by the SEC barring from association with any broker or dealer and from association with any investment adviser provides adequate grounds under TENN. CODE ANN. § 48-2-112(a)(2)(F)(i) for the entry of an Order revoking Business Entity Respondent's registration with the TSD.

A.D. Vallett Sold Unregistered Securities

15. The facts as stated demonstrate that Vallett offered to sell and sold securities which were not registered with the TSD. It is unlawful to sell any security in this state unless it is registered under TENN. CODE ANN. §§ 48-2-101 *et seq.*, or the transaction is exempted under TENN. CODE ANN. § 48-2-103 or it is a covered security. The investment contracts offered were not registered with TSD, and were not exempted by statute and are not covered securities.

16. Vallett's sales of unregistered securities provide adequate grounds under TENN. CODE ANN. § 48-2-112(a)(2)(B) for the entry of an Order revoking Business Entity Respondent's registration with the TSD.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Receiver for the Business Entity Respondents' waiver of the right to a hearing and appeal under the Tennessee Securities Act, the Tennessee Insurance Law, and Tennessee's Uniform Administrative Procedures Act, TENN. CODE ANN. § 4-5-101 *et seq.*, and Receiver for the Business Entity Respondents' admission of jurisdiction of the Commissioner, the Commissioner finds that Receiver for the Business Entity Respondents, for the purpose of settling this matter, neither admits nor denies, but does not contest, the "Findings of Fact" as contained herein, and has voluntarily agreed to the

entry of this Consent Order and that the following Consent Order is appropriate, in the public interest and necessary for the protection of investors.

IT IS ORDERED, pursuant to TENN. CODE ANN. § 48-2-116(a) of the Act and TENN. CODE ANN. §§ 56-6-101, *et seq.*, the Law, that:

1. Respondents A.D. Vallett & Co., LLC, A.D. Vallett Collateral Fund I, A.D. Vallett Collateral Fund II, A.D. Vallett Income and Opportunity Fund I, LLC shall **FULLY COMPLY** with the Act, the Law, and all rules promulgated thereunder;

2. Respondent A.D. Vallett & Co., LLC shall **CEASE and DESIST** in any further conduct as an investment adviser from or in the State of Tennessee, beginning on the date this Consent Order is executed by the Commissioner for the Department of Commerce and Insurance.

3. The registration of Respondent A.D. Vallett & Co., LLC as an investment adviser (CRD # 144065) with the Department of Commerce and Insurance is hereby **REVOKED**.

IT IS ORDERED that this Consent Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Respondents A.D. Vallett & Co., LLC, A.D. Vallett & Company, A.D. Vallett Collateral Fund I, A.D. Vallett Collateral Fund II, A.D. Vallett Income and Opportunity Fund, LLC for violations of the Act and the Law alleged by the Divisions to have occurred with respect to the transactions involving the above referenced investors and the facts contained herein.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Mr. Henry E. Hildebrand, III Court

Appointed Receiver for the Business Entity Respondents, Respondents A.D. Vallett & Co., LLC, A.D. Vallett & Company, A.D. Vallett Collateral Fund I, LLC, A.D. Vallett Collateral Fund II, LLC, and A.D. Vallett Income and Opportunity Fund I, LLC, affirmatively state that they have freely agreed to the entry of this Consent Order, that they waive the right to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to either of them by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Consent Order, are binding upon them.

ENTERED this 14th day of February, 2011.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Mr. Henry E. Hildebrand, III Court Appointed
Receiver for Respondent
A.D. Vallett & Co., LLC, individually
and d.b.a. A.D. Vallett & Company

Mr. Henry E. Hildebrand, III Court Appointed
Receiver for Respondent
A.D. Vallett Collateral Fund I, LLC

Mr. Henry E. Hildebrand, III Court Appointed
Receiver for Respondent
A.D. Vallett Collateral Fund II, LLC

Mr. Henry E. Hildebrand, III Court Appointed
Receiver for Respondent
Income & Opportunity Fund I, LLC

Daphne D. Smith,
Assistant Commissioner for Securities
Department of Commerce and Insurance

Larry C. Knight,
Assistant Commissioner for Insurance
Department of Commerce and Insurance

Barbara A. Doak (BPR # 015802)
Chief Counsel
Department of Commerce and Insurance
Office of Legal Counsel
500 James Robertson Parkway, 2nd Floor
Nashville, Tennessee 37243
(615) 741-2199/Fax (615) 741-4000

Matthew McCarthy (BPR # 025550)
Assistant General Counsel
Department of Commerce and Insurance
Office of Legal Counsel
500 James Robertson Parkway, 2nd Floor
Nashville, Tennessee 37243
(615) 741-2199/Fax (615) 741-4000