

**BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS**

In the matter of:

ALMA, INC., JAMES W. MOORE
THOMAS C. MOORE, and RICHARD E.
McDONALD,

Docket No. 09E016
KSC No. 2006-5139

Respondents.

A proceeding pursuant to K.S.A. 17-1266a
and K.S.A. 17-12a604(a).

NOTICE OF INTENT TO INVOKE ADMINISTRATIVE SANCTIONS

Staff for the Office of the Securities Commissioner of the State of Kansas, by and through Rick A. Fleming, General Counsel, alleges that sufficient evidence exists to provide cause under K.S.A. 17-1266a and K.S.A. 17-12a604(a) to invoke administrative sanctions against Respondents. If the allegations set forth below are found to be true, through either administrative adjudication, failure of the Respondents to make a timely request for hearing, or default of the Respondents, it is the intention of staff to seek an order from the Commissioner to impose administrative sanctions upon the Respondents. Such sanctions may include, *inter alia*, an order to cease and desist, a fine up to \$40,000 per violation, and/or an order requiring Respondents to pay restitution plus interest.

If the Respondents wish to contest the facts alleged below, or offer evidence and argument to mitigate those facts, then they must file a request for hearing. The request for hearing must be in the manner and form prescribed by K.A.R. 81-11-3 and 81-11-5, and it must be filed with the Office of the Securities Commissioner, 618 S. Kansas Avenue, Topeka, Kansas 66603. The request for hearing must be verified under oath by the Respondents, and if the Respondents dispute any of the allegations set forth below, they shall specifically deny those

allegations or the allegations will be deemed admitted by the Respondents. If a request for hearing is not timely filed, the Commissioner may issue a final order without further proceedings.

In support of this action, the Commissioner's staff makes the following allegations:

Allegations of Fact

1. Respondent Alma Inc. ("Alma") is a Kansas corporation with the last known address of 5700 Broadmoor, Ste. 503, Mission, Kansas 66202. The registered agent for Alma is Mark Arthur Jr., [REDACTED].
2. Respondent James W. Moore ("J. Moore") is a Kansas resident whose last known address was [REDACTED].
3. Respondent Thomas C. Moore ("T. Moore") is a Kansas resident whose last known address was [REDACTED].
4. Respondent Richard E. McDonald ("McDonald") is a Wisconsin resident whose last known address was [REDACTED].
5. Alma was formed in 1982 by Respondents J. Moore and T. Moore to buy oil leases for production purposes and to sell fractionalized unit interests to investors to raise capital to drill wells on the leases obtained by the Moore's. The investment units were sold on a turnkey basis for a preset amount determined by the Moore's. Alma obtained leases in established fields where production had been proven from past wells. They would obtain a lease based on a current geological survey that determined that oil reserves in various oil bearing zones had not been previously exploited and there was a good chance to develop a producing well.

6. Between 2000 and 2005, Alma sold fractional undivided interests in at least 18 oil and gas wells to investors in Kansas and other states. Each well was located in Kansas.
7. Alma had a practice of paying what was called a “finder’s fee” or “referral fee.” These fees were typically \$1,000 and were paid to investors who provided the names of other prospective investors who ultimately purchased a unit in the project. The Moores would contact the prospective investors to offer them units in the projects.
8. Respondent McDonald was an investor in at least five well projects offered by Alma. Additionally, McDonald provided names of potential investors to the Moores on at least eight separate projects. Respondent McDonald received at least \$93,000 for referring investors to Alma.
9. At least six other individuals were paid finders fees totaling at least \$16,500 for referring prospective investors to Alma.
10. On or about December 7, 2005, staff for the Office of the Securities Commissioner received a letter from Respondent McDonald asking for a formal opinion regarding accepting a “gratuity” for referring potential investors to an issuer of oil/gas well investments. In the letter, Respondent McDonald detailed the facts leading to the payment of “gratuities” to him by the Moores for providing names of investors in various well projects. The Respondent sought an opinion from staff that he would not be deemed an agent for Alma by accepting gratuities for referring clients. Staff responded by declining to give him any such assurances.

Allegations of Law

11. The Office of the Kansas Securities Commissioner has jurisdiction over this matter pursuant to the Kansas Securities Act and the Kansas Uniform Securities Act. On July 1,

2005, the former Kansas Securities Act, K.S.A. 17-1252 *et seq.*, was repealed and replaced by the Kansas Uniform Securities Act, K.S.A. 17-12a101, *et seq.* However, pursuant to K.S.A. 17-12a703(a), the Kansas Securities Act exclusively governs all actions or proceedings that may be instituted on the basis of conduct occurring before July 1, 2005.

12. The investment units sold by the Respondents are securities as defined in K.S.A. 17-1252 and K.S.A. 17-12a102.
13. The referral fees paid to Respondent McDonald and other investors constitute “commissions” or “other remuneration” as those terms are used in K.S.A. 17-1262a(b)(2) and K.A.R. 81-5-10(b)(1)(B). Therefore, the offerings in which referral fees were paid to Respondent McDonald are not exempt from registration under K.S.A. 17-1262a(b)(2) and K.A.R. 81-5-10(b)(1)(B).
14. On at least eight occasions, the Respondents sold securities in the State of Kansas at a time when the securities were not registered for sale in Kansas, in violation of K.S.A. 17-1255 and K.S.A. 17-12a301.
15. On at least eight occasions, Respondents James W. Moore and Thomas C. Moore transacted business in the State of Kansas as agents, as defined by K.S.A. 17-1252(b) and K.S.A. 17-12a102(2), at a time when they were not registered as agents with the Office of the Securities Commissioner, in violation of K.S.A. 17-1254(a) and K.S.A. 17-12a402.
16. By receiving compensation from a Kansas issuer in connection with the sale of its securities, Respondent Richard E. McDonald transacted business in the State of Kansas as an agent. On at least eight occasions, Respondent McDonald transacted business as an

agent when he was not registered, in violation of K.S.A. 17-1254(a) and K.S.A. 17-12a402.

17. On at least eight occasions, Respondent Alma, Inc. associated with agents transacting business in the State of Kansas who were not registered as agents, in violation of K.S.A. 17-1254(b) and K.S.A. 17-12a404(d).
18. Adequate grounds exist to sanction the Respondents under K.S.A. 17-1266a and K.S.A. 17-12a604, and such an order is in the public interest.

Filed this 3rd day of June, 2009.

/s/ Rick A. Fleming
Rick A. Fleming, #17127
General Counsel

Certificate of Service

I hereby certify that on this 4th day of June, 2009, copies of the foregoing Notice of Intent to Invoke Administrative Sanctions was mailed by certified mail, return receipt requested, properly addressed to the following:

Alma, Inc.
5700 Broadmoor, Ste. 503
Mission, Kansas 66202.

James W. Moore
[Redacted]

Richard E. McDonald
[Redacted]

Mark Arthur Jr.
Registered Agent for Alma, Inc.
[Redacted]

Thomas C. Moore
[Redacted]

/s/ Michelle Lancaster
Michelle Lancaster
Legal Assistant