

1
2
3
4
5
6
7
8

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

9
10
11
12
13
14
15
16
17
18
19

IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Securities Act and Commodities Act of the
State of Washington by:

T & B Enterprises, Tyree Blakely, Brenda Gardner;
their employees and agents

Respondents.

S-02-241-02-TO01

SUMMARY ORDER TO CEASE AND DESIST

Case No. 02-04-145

20
21
22
23
24
25
26
27

THE STATE OF WASHINGTON TO:

T & B Enterprises
Tyree Blakely
Brenda Gardner

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, T & B Enterprises, Tyree Blakely and Brenda Gardner have each violated the Securities Act of Washington and Commodities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 and RCW 21.30.120 against each of them to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be hazardous to the investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I.

1. T & B Enterprises has a business address of 4104 Mistymorn Lane, Powder Springs, Georgia. T & B Enterprises was formed to provide trading services in the commodities and futures markets.

2. Tyree Blakely ("Blakely") of Albany, Georgia is a principal of T & B Enterprises.

**SUMMARY ORDER TO CEASE AND
DESIST**

1 3. Brenda Gardner (“Gardner”) of Power Springs, Georgia is a principal of T & B Enterprises.

2 II.

3 4. From February 2002 to March 2002 Blakely and Gardner received at least \$34,000 from at least three
4 Washington investors for the purposes of investing in the commodities and futures markets.

5 Investor #1

6 5. In February 2002, a Washington resident contacted Blakely regarding investing in the commodities and
7 futures markets. Investor #1 was told by a third party that Blakely is successful at investing investor funds in the
8 commodities and futures markets. Investor #1 asked Blakely what type of return she could receive with a \$1,000
9 investment. Blakely told the investor that that he could double her money in 30 days. Blakely also told the investor that
10 he personally guaranteed the principal of the investment. As a result of these claims, Investor #1 wire transferred \$4,000
11 to Blakely in February 2002 to invest on her behalf. The investor did not receive any offering documents, including
12 financial statements, from Blakely prior to investing. Blakely did not provide a written contract until after receiving
13 funds from the investor and after the investor asked Blakely for a contract. The contract consisted of a handwritten letter
14 to the investor stating that “Brenda and Tyree have decided to give 25% on a 90 day contract” so long as the investor did
15 not withdraw the funds prior to the completion of the 90 day contract. The document also states that, if the investor
16 withdraws the funds between 30 and 90 days of investment, the investor would receive a 10% rate of return.

17 Investor #2 and Investor #3

18 6. Based upon Blakely’s claims that he could double Investor #1’s funds in 30 days, Investor #1 told two
19 acquaintances about Blakely and his investment services. The two Washington residents, Investor #2 and Investor #3,
20 were interested in investing with Blakely because of the rate of return and safety offered to Investor #1. In February
21 2002, Blakely and Gardner traveled to Seattle, Washington to meet with Investors #1, #2 and #3. Blakely and Gardner
22 told the investors that they had formed T & B Enterprises for the purpose of providing trading services in the
23 commodities and futures markets. Blakely and Gardner told the investors that they had received extensive training in the
24 area and that they guaranteed the investors’ principal. According to the offering documents provided to Investor #2 and
25 #3 by Blakely and Gardner, the investment trading programs were in 90 day cycles and that T & B Enterprises could

1 guarantee a 15% rate of return if the investor remained in the investment for the 90 day period. Blakely and Gardner
2 provided the investors with offering documents that stated, if the investors withdraw their investment between 30 and 90
3 days of the initial investment, the investor would receive a 10% rate of return on the investment. Blakely and Gardner
4 did not provide Investor #2 or Investor #3 with financial statements for T&B Enterprises. Blakely gave Investor #2 and
5 #3 checks for \$25,000 drawn on his personal account before the Investor #2 and #3 decided to invest. Blakely told the
6 investors that they could negotiate the check if they ever wanted their money back. Based upon rate of return that
7 Blakely promised, Blakely and Gardner's representations regarding the safety of the investments and the personal checks
8 drawn on Blakely's account, Investor #2 wire transferred \$25,000 to Blakely's bank account and Investor #3 wired
9 \$5,000 to the same account.

10 7. Soon after the investments were made Blakely ceased contact with the investors. Because of this, the
11 investors began to feel uncomfortable about their investments and Investor #3 tried to negotiate the \$25,000 check that
12 Blakely had given the investor. The check was not negotiable because there were insufficient funds in Blakely's
13 account.

14 III.

15 8. Blakely and Gardner are not currently registered as securities salespersons or broker-dealers in the state
16 of Washington and have not previously been so registered.

17 9. The offer and/or sale of securities by T & B Enterprises are not registered under the Securities Act of
18 Washington nor has the offer and/or sale previously been so registered.

19 10. The Respondents, Blakely and Gardner, are not currently registered to sell commodity contracts with the
20 Commodity Futures Trading Commission. Neither of the Respondents have previously been so registered, or qualified
21 for an exemption from registration.

22 11. Blakely and Gardner are not currently registered as commodity broker-dealers in the state of
23 Washington. Neither of the Respondents has previously been so registered, or are persons exempt from registration
24 based upon RCW 21.30.020.

1 12. The Securities Administrator finds that the continued offering and/or sale of illegal off-exchange
2 contracts in the state of Washington by the Respondents presents a threat to the investing public.

3 Based upon the foregoing Tentative Findings of Fact the following Conclusions of Law are made.

4 **CONCLUSIONS OF LAW**

5 I. Securities Violations

6 13. The offer and/or sale of the investment opportunities described above constitute the offer and/or sale of
7 a security as defined in RCW 21.20.005 (10) and (12).

8 14. The offer and/or sale of said securities was made in violation of RCW 21.20.010 because the
9 Respondents made misstatements of material fact or omitted to state material facts necessary in order to make the
10 statements made, in the light of the circumstances under which they were made, not misleading. These misstatements
11 include, but are not limited to, the Respondents failure to disclose to investors material risks associated with this type of
12 investment and the Respondents failure to provide financial statements for T&B Enterprises.

13 15. The offer and/or sale of said securities is in violation of RCW 21.20.140, the registration section of the
14 Securities Act, because no registration for such offer and/or sale is on file with the Securities Administrator of the state of
15 Washington.

16 16. T & B Enterprises, Blakely and Gardner have each violated RCW 21.20.040 by offering and/or selling
17 said securities while not being registered as a broker-dealer or securities salesperson in the state of Washington.

18 II. Commodities Violations

19 17. The offer and/or sale of the investment contracts described above constitute the offer and/or sale of a
20 commodity contract or commodity option as defined in RCW 21.30.080 and RCW 21.30.010.

21 18. The offer and/or sale of said commodity contracts constitute a violation of the prohibition under RCW
22 21.30.020 because the offer or sale was made by a person not exempt under RCW 21.30.030 and the transaction or
23 contract was not exempt under RCW 21.30.040.

24 19. The offer and/or sale of said commodity contracts was made in violation of RCW 21.30.060 because the
25 Respondents made misstatements of material fact or omitted to state material facts necessary in order to make the

26 **SUMMARY ORDER TO CEASE AND
27 DESIST**

1 statements made, in the light of the circumstances under which they were made, not misleading. These misstatements
2 include, but are not limited to, the Respondents failure to disclose to investors material risks associated with this type of
3 investment and the Respondents failure to provide financial statements for T&B Enterprises.

4 III. Emergency Exists

5 The Securities Administration finds that an emergency exists and that the continued violations of RCW
6 21.30.020, and RCW 21.30.060 constitute a threat to the investing public. Accordingly, a Summary Order to Cease and
7 Desist from those violations is in the public interest and necessary for the protection of the investing public.

8 **SUMMARY ORDER**

9 Based upon the foregoing, IT IS THEREFORE HEREBY SUMMARILY ORDERED that Respondents, T & B
10 Enterprises, Tyree Blakely, Brenda Gardner, their agents, and employees shall each cease and desist from violating RCW
11 21.20.010, the anti-fraud section of the Securities Act.

12 It is further SUMMARILY ORDERED that Respondent, T & B Enterprises, their agents, and employees shall
13 each cease and desist from violating RCW 21.20.140, the securities registration section of the Securities Act.

14 It is further SUMMARILY ORDERED that Respondents, Tyrell Blakely and Brenda Gardner, their agents, and
15 employees shall each cease and desist from violating RCW 21.20.040, the securities broker-dealer, securities salesperson
16 registration section of the Securities Act.

17 It is further SUMMARILY ORDERED that Respondents, T & B Enterprises, Tyree Blakely, Brenda Gardner,
18 their agents, and employees shall each cease and desist from offering and/or selling commodity contracts or commodity
19 options in any manner in violation of RCW 21.30.020.

20 It is further SUMMARILY ORDERED that Respondents, Tyree Blakely, Brenda Gardner, their agents, and
21 employees shall each cease and desist from offering and/or selling commodity contracts or commodity options in any
22 manner in violation of RCW 21.30.060, the anti-fraud section of the Commodity Act.

23 **AUTHORITY AND PROCEDURE**

24 This Order is entered pursuant to the provisions of RCW 21.20.390, RCW 21.20.395, and RCW 21.30.120, and
25 is subject to the provisions of Chapter 34.05 RCW. The Respondents, T & B Enterprises, Tyree Blakely and Brenda

26 SUMMARY ORDER TO CEASE AND
27 DESIST

1 Gardner, may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
2 AND OPPORTUNITY FOR HEARING accompanying this Order. A request for a hearing should be in writing and sent
3 to Deborah R. Bortner, Securities Administrator, Department of Financial Institutions, P.O. Box 9033, Olympia,
4 Washington 98507-9033 to the attention of Tyler Letey.

5 If a respondent does not request a hearing, the Securities Administrator intends to adopt the above Tentative
6 Findings of Fact and Conclusions of Law as final and make the Summary Order to Cease and Desist permanent as to the
7 Respondent.

8 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

9 DATED this 13th day of January 2003

10
11
12 

13 DEBORAH R. BORTNER
14 Securities Administrator

15 Approved by:

15 Presented by:

16
17 _____
18 Michael E. Stevenson
19 Chief of Enforcement

16
17 _____
18 Tyler Letey
19 Staff Attorney

20
21
22
23
24
25 SUMMARY ORDER TO CEASE AND
26 DESIST