

STATE OF NEBRASKA
Department of Banking & Finance

In the Matter of)	
)	
Berthel, Fisher & Company Financial)	FINDINGS OF FACT
Services, Inc., 701 Tama Street,)	CONCLUSIONS OF LAW
Building A, P.O. Box 609,)	AND
Marion, Iowa)	CONSENT ORDER
)	
RESPONDENTS.)	

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director (“Director”), pursuant to its authority under the Securities Act of Nebraska, Neb. Rev. Stat. §§ 8-1101 to 8-1124 (Reissue 1997, Cum. Supp. 2006) (“Act”). Pursuant to Neb. Rev. Stat. § 8-1115 (Reissue 1997), the DEPARTMENT has investigated the acts of Berthel, Fisher & Company Financial Services, Inc., 701 Tama Street, Building A, P.O. Box 609, Marion, Iowa. As a result of such investigation, and being fully advised and informed in the matter, the Director and Berthel, Fisher & Company Financial Services, Inc., enter into the following Findings of Fact, Conclusions of Law and Consent Order (“Order”).

FINDINGS OF FACT

1. Berthel, Fisher & Company Financial Services, Inc. (“BERTHEL”) is a corporation organized under the laws of the state of Iowa with its principal place of business at 701 Tama Street, Building A, Marion, Iowa. At all times relevant to this Order, BERTHEL has been registered as a broker-dealer approved to effect securities transactions in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Cum. Supp. 2006).

2. At all times relevant to this Order, Connie Sue Jensen (“Jensen”) and Roger D. Frank (“Frank”) were registered in Nebraska as agents of BERTHEL. Jensen and Frank maintained an office at 7160 South 29th Street, Suite A-1, Lincoln, Nebraska, which was registered as a branch office for BERTHEL. Frank also had an office at 325 South Wilson Street, Wilber, Nebraska.

3. Jensen was also registered as an investment adviser representative of Jensen Money Management, Inc. (“JMMI”), an investment adviser approved to do business in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Cum. Supp. 2006). JMMI was not registered as a broker-dealer or affiliated with BERTHEL.

4. Jensen’s commissions from BERTHEL were deposited into an account in the name of JMMI and used to pay the expenses of operating the investment adviser.

5. Frank is owner and President of Frank Financial Concepts, Inc. (“FFCI”), an insurance agency and mortgage broker located at 7160 South 29th Street, Suite A-1, Lincoln, Nebraska. FFCI was not registered as a broker-dealer or affiliated with BERTHEL.

6. Frank’s commissions from BERTHEL were deposited into an account in the name of FFCI. The commissions were commingled with other funds and used to pay the company’s general expenses.

7. BERTHEL knew, or in the exercise of reasonable supervision should have known, that the commissions were paid to entities owned by Jensen and Frank and that such entities were not registered as broker-dealers or as agents of BERTHEL in Nebraska. BERTHEL did not conduct any inquiry or examination to ensure that the commissions were not being handled improperly.

CONCLUSIONS OF LAW

1. The DEPARTMENT has jurisdiction over this matter pursuant to the Act.
2. Neb. Rev. Stat. § 8-1103(9)(a)(ii), (vii), and (xii) (Cum. Supp. 2006) provides, in part, that the Director may by order deny, suspend, or revoke the registration of any registrant, or bar, censure, or impose a fine pursuant to Neb. Rev. Stat. § 8-1108.01(4), on a registrant if the Director finds that (a) the order is in the public interest and (b) the registrant is a broker-dealer and has failed to adequately supervise its agents or employees to assure compliance with the Act.
3. It is a dishonest and unethical business practice pursuant Neb. Rev. Stat. §8-1103(a)(a) for an agent to pay transactional-based compensation directly to any person who is not registered as an agent of the same broker-dealer or as a broker-dealer.
4. The facts contained in Findings of Fact Nos. 3 through 7 constitute a failure by BERTHEL to adequately supervise its agents, Jensen and Frank, to prevent the agents from sharing transactional-based compensation with a person who was not registered as a broker-dealer or an agent under the Act.
5. Under the Act's statutory framework, the Director has legal and equitable authority to fashion significant protective remedies.
6. It is in the best interest of BERTHEL, and it is in the public's best interest, for BERTHEL and the Director to resolve the issues included herein.

CONSENT ORDER

NOW THEREFORE, the parties to this Order agree as follows:

Stipulations: In connection with this Order, BERTHEL and the Director stipulate to the following:

- a. The DEPARTMENT has jurisdiction as to all matters herein.
- b. An Order should be entered in this matter, which shall be in lieu of other proceedings by the DEPARTMENT, except as specifically referenced in this Order.

BERTHEL further represents as follows:

1. BERTHEL is aware of its right to a hearing on this Order at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing and any related appeal on all matters covered by this Order, is irrevocably waived.
2. BERTHEL is acting free from any duress or coercion of any kind or nature.
3. This Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for purposes of this Order and for no other purposes.

FURTHER, BERTHEL agrees to take whatever action is necessary to ensure compliance with all provisions of the Act in the future. If, at any time, the DEPARTMENT determines that BERTHEL has committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

IT IS THEREFORE ORDERED that Berthel, Fisher & Company Financial Services, Inc. shall pay a fine to the DEPARTMENT in the amount of five thousand dollars (\$5,000.00) for failing to adequately supervise its agents in Nebraska. Such

payment shall be made by a check or money order payable to the Nebraska Department of Banking and Finance within thirty (30) days from the effective date of this Order.

In the event that BERTHEL fails to comply with the provisions of this Order, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

The effective date of this Order will be the date of the Director's signature.

DATED this 7th day of December, 2007.

BERTHEL, FISHER & COMPANY FINANCIAL SERVICES, INC.

By: Ronald O. Blendgen
Printed Name: Ronald O. Blendgen
Title: CFO

701 Tama Street, Building A
P.O. Box 609
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(319) 447-5700

DATED this 10th day of December, 2007.

**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**

By: John Munn
John Munn, Director
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