

**STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
BUREAU OF HEARINGS**

In the matter of

Docket No. 2002-331

Office of Financial & Insurance  
Services,

Agency No. 01-758

Petitioner

Agency: Office of Financial &  
Insurance Services

v

Scott Williamson &  
Presco Corporation,  
Respondents

Case Type: Sanction  
Revocation

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**Issued and entered  
this 1<sup>st</sup> day of July 2002  
by Robert H. Mourning  
Administrative Law Judge**

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

This matter commenced with the issuance of a Notice of Hearing dated February 19, 2002, scheduling a contested case hearing for April 4, 2002. The Notice of Hearing was issued pursuant to allegations by the Office of Financial & Insurance Services (Petitioner) that Scott Williamson and Presco Corporation (collectively called Respondent) violated the Insurance Code (Code) of 1956, 1956 PA 218, as amended; MCL 500.100 *et seq.* and the Uniform Securities Act (Act), MCL 451.101 *et seq.* The Notice of Hearing was mailed to the last known address for the Respondent. Following an adjournment, the hearing was rescheduled for June 10, 2002.

On June 10, 2002, Ian McLauchlan, a staff attorney, appeared on behalf of

the Petitioner. Neither the Respondent, nor an attorney on behalf of the Respondent appeared at the hearing.

The hearing was commenced and concluded on June 10, 2002. At the hearing, Attorney Ian S. McLauchlan requested that the Petitioner be allowed to proceed in the Respondent's absence pursuant to Section 72 of the Administrative Procedures Act (APA), 1969 PA 306, as amended, MCL 24.272, and that a default be granted on behalf of the Petitioner pursuant to Section 78 of the APA, MCL 24.278.

Section 72 of the APA states, in pertinent part:

- (1) If a party fails to appear in a contested case, after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

Further, Section 78 of the APA states, in pertinent part:

- (2) Except as otherwise provided by law, disposition may be made of a contested case by . . . default . . . .

The Petitioner's motion for default was granted. As a result of the default, the factual allegations contained in the Factual Allegation and Complaint were deemed true.

### **ISSUES AND APPLICABLE LAW**

The issue in this matter is whether the Respondent violated the Code and the Act. The following statutes are applicable in this case:

Section 1204(4) of the Code provides that:

After examination, investigation, and interrogatories, the commissioner shall license an applicant if the commissioner determines that the applicant is an employee of, or is authorized in writing to represent, an insurer which is authorized to transact insurance in this state, and the applicant possesses reasonable understanding of the provisions, terms, and conditions of the insurance the applicant will be licensed to solicit, possesses reasonable understanding of the insurance laws of this state, intends in good faith to act as an agent, is honest and trustworthy, possesses a good business reputation, and possesses good moral character to act

as agent. The commissioner shall make a decision on the application within 60 days after the applicant passes the examination or, if the examination has been waived, within 60 days after receipt of a properly completed application and notice of appointment forms.

Section 1242(2) of the Code provides that:

The commissioner, after notice and opportunity for a hearing, may suspend or revoke the license of an agent, solicitor, insurance counselor or adjuster who fails to maintain the standards required for initial licensing or who violates any provision of this act.

Section 1244 of the Code provides, in part, that

(1) If the commissioner finds that a person has violated this chapter, after an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commissioner shall reduce the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the commissioner may order any of the following: (a) Payment of a civil fine of not more than \$500.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this chapter, the commissioner may order the payment of a civil fine of not more than \$2,500.00 for each violation. An order of the commissioner under this subsection shall not require the payment of civil fines exceeding \$25,000.00. A fine collected under this subdivision shall be turned over to the state treasurer and credited to the general fund of the state.

(b) A refund of any overcharges.

(c) That restitution be made to the insured or other claimant to cover incurred losses, damages, or other harm attributable to the acts of the person found to be in violation of this chapter.

(d) The suspension or revocation of the person's license.

\* \* \*

Section 101(2) of the Act provides that:

It is unlawful for any person, in connection with the offer, sale, or purchase of any security or commodity contract, directly or

indirectly:

- (2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Section 201(a) of the Act provides that:

A person shall not transact business in this state as a broker-dealer, commodity issuer, or agent unless registered under this act.

Section 204(a)(1)(B) and(G) of the Act provides that:

The administrator may by order, if it finds the order in the public interest, deny, suspend, or revoke any registration, or censure a registrant, if it finds that:

- (1) The applicant or registrant or, in the case of a broker-dealer, commodity issuer, or investment advisor, any partner, officer, principal, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer, commodity issuer, or investment advisor:

\* \* \*

- (B) Has violated or failed to comply with any provision of this act or a predecessor act or any rule or order under this act or a predecessor act;

\* \* \*

- (G) Has engaged in dishonest or unethical business practices;

\* \* \*

Section 204(g) of the Act provides that:

The administrator may by order, if it finds the order to be in the public interest, impose a civil penalty of \$1,000.00 on any registrant if it finds that the registrant, or in the case of a broker-dealer, commodity issuer, or investment adviser, any partner, officer, principal or director, any person occupying a similar status or performing similar functions, or any person directly or

indirectly controlling the broker-dealer, commodity issuer, or investment advisor, has engaged in conduct prohibited by sections 204(a)(1)(B), (G), or (J) to (Z).

Section 301 of the Act provides that:

It is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this act or (2) the security or transaction is exempted under section 402.

### **FINDINGS OF FACT**

Based upon the granting of the default, the following facts are found:

1. At all times pertinent to these allegations, Scott Williamson was a licensed resident insurance agent. Scott Williamson was registered as a securities agent in the state of Michigan in July 1982. Mr. Williamson's registration was revoked in November 1997 for violating the Act, specifically, selling unregistered, nonexempt securities and recommending unsuitable securities to clients.
2. Scott Williamson is the owner of Presco Corporation, a Michigan corporation. Presco Corporation is not licensed to sell securities or insurance in Michigan.

#### **Alliance Trust**

3. Beginning in May 1999, the Respondent sold what was purported to be an investment in an entity known as Alliance Trust.
4. Alliance Trust has never been registered as a security in Michigan. Alliance Trust was a Ponzi scheme in which the principals transferred investors' money into foreign bank accounts for the principals' personal use. The principals in this fraud were arrested and indicted

in federal court in South Carolina in January 2000.

5. The Respondent sold more than \$2,000,000.00 in Alliance Trust “investments” to individuals in Michigan:

XXXXX XXXXX	\$100,260.00
XXXXX XXXXX	115,971.00
XXXXX XXXXX	26,000.00
XXXXX XXXXX	25,000.00
XXXXX XXXXX	100,000.00
XXXXX XXXXX	47,377.90
XXXXX XXXXX	30,000.00
XXXXX XXXXX	54,381.00
XXXXX XXXXX	45,951.20
XXXXX XXXXX	206,993.82
XXXXX XXXXX	203,798.78
XXXXX XXXXX	25,000.00
XXXXX XXXXX	280,681.01
XXXXX XXXXX	612,399.41
XXXXX XXXXX	83,925.43
XXXXX XXXXX	105,000.00
XXXXX XXXXX	<u>91,145.03</u>
TOTAL	\$2,153,844.40

Each of these investors also paid the Respondent a \$99.00 “membership fee” as a prerequisite for investing in Alliance Trust.

6. Several of the individuals named above were insurance clients of the Respondent. In making sales presentation to insurance clients, the Respondent persuaded them to surrender existing annuities, which were previously sold to them. The Respondent told these individuals, falsely, that the Alliance Trust investment was risk-free and was therefore superior to their existing annuities.
7. The Respondent represented to prospective investors that the Alliance Trust investment was secured by a bond issued by “U.S.

Guarantee Corporation” or the St. Paul Insurance Company. U.S. Guarantee Corporation is a Nevada corporation with an address in Arizona. It has no significant assets and is not licensed in any state to issue surety bonds. St. Paul Insurance Company is a legitimate insurer but is only licensed to operate in Louisiana, Oklahoma, and Texas. It has never issued surety bonds in connection with Alliance Trust.

8. As the agent selling Alliance Trust, the Respondent was able to set the commission rate by adjusting the rate of return promised to investors. The Respondent promised clients a rate of return ranging from 10% to 18%. On the sales of \$2,153,844.40, the Respondent retained commissions of approximately \$237,000.00.
9. The Respondent told clients, falsely, that an investment in Alliance Trust was risk-free.
10. The Respondent failed to disclose to clients that the interest rate to be paid to investors was determined by using a base rate less a discretionary commission percentage to be kept by the selling agent and other intermediary agents.
11. The Respondent also failed to provide potential investors with financial statements of Alliance Trust and U.S. Guarantee Corporation.
12. At all times pertinent to this matter, the Respondent was not a

registered agent.

13. Alliance Trust was not registered as a security, nor was it exempt from registration under the Act.
14. In November 1997, in an enforcement proceeding by state of Michigan securities regulators, the Respondent was found to have violated section 301 of the Act (engaged in the offer and sale of unregistered, nonexempt securities); section 201 of the Act (failed to state material facts); section 204(a)(1)(M) of the Act (recommended unsuitable securities); and section 204(a)(1)(B) of the Act (failed to comply with previous order). A cease and desist order was issued to the Respondent in that matter.

XXXXX XXXXX

15. In 1992, the Respondent sold a Jackson National Life annuity to XXXXX XXXXX, a senior citizen. In April 2000, the Respondent persuaded XXXXX XXXXX to surrender the Jackson National annuity and purchase a Bankers Life and Casualty Annuity. The Bankers Life sale was not completed and the company voided the sale.
16. On April 21, 2000, the Respondent returned to XXXXX XXXXX's home and persuaded her to invest \$35,000 in an unregistered security called "Phoenix Telecom-ETS Payphones" (Phoenix). Four months after the Respondent had taken XXXXX XXXXX's money, Phoenix filed for bankruptcy protection. At the time XXXXX XXXXX invested

her money with the Respondent, she was 72 years old.

17. In order to persuade XXXXX XXXXX to invest in Phoenix, the Respondent told her, falsely, that the Phoenix investment was paying 14% and would provide her with a monthly income of \$410.00.
18. At all times pertinent to this matter, the Respondent was not a registered agent.
19. Phoenix was not registered as a security, nor was it exempt from registration under the Act.
20. In November 1997, the Respondent was found to have violated section 301 of the Act (engaged in the offer and sale of unregistered, nonexempt securities); section 201 of the Act (failed to state material facts); section 204(a)(1)(M) of the Act (recommended unsuitable securities); and section 204(a)(1)(B) of the Act (failed to comply with previous order). A cease and desist order was issued in that matter by the Director of the Corporation, Securities and Land Development Bureau.

### **CONCLUSIONS OF LAW**

The principles that govern judicial proceedings apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice (2d ed) Section 60.48, p 230. The burden of proof is upon the Petitioner to prove, by a preponderance of the evidence, that the Respondent violated the Code and the Act. Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. Smith v Lansing School District, 428 Mich 248 (1987).

Based upon the facts described herein, the Petitioner has proven, by a preponderance of the evidence, that the Respondent has violated the following Sections of the Code and the Act:

1. By telling potential investors that the investment was risk free and by failing to disclose to clients material facts about Alliance Trust, the Respondent violated Section 101(2) of the Act.
2. By selling securities involving Alliance Trust without being a registered agent, the Respondent violated Section 201(a) of the Act.
3. By selling Alliance Trust investments, the Respondent violated Section 301 of the Act.
4. By engaging in the conduct set forth above concerning Alliance Trust, the Respondent violated the November 1997 cease and desist order and is therefore subject to the penalties of Section 204(a)(1)(B) of the Act.
5. Scott Williamson's conduct, concerning Alliance Trust, demonstrates that he is not honest and trustworthy as required by Section 1204(4) of the Code.
6. By selling securities to XXXXX XXXXX without being a registered agent, the Respondent violated Section 201(a) of the Act.
7. By selling Phoenix investments to XXXXX XXXXX, the Respondent violated Section 301 of the Act.
8. By engaging in the conduct set forth above, the Respondent violated the November 1997 cease and desist order and is therefore subject to

the penalties of section 204(a)(1)(B) of the Act.

9. Scott Williamson's conduct, concerning XXXXX XXXXX, demonstrates that he is not honest and trustworthy as required by Section 1204(4) of the Code.

**PROPOSED DECISION**

The Administrative Law Judge recommends that the Commissioner of Financial and Insurance Services issue an appropriate Final Decision which includes the following recommended sanctions:

1. The revocation of Scott Williamson's license as a resident insurance agent.
2. The payment of restitution to those individuals set forth in Paragraph 5 of the Findings of Fact in accordance with the amount invested by each individual and the membership fee of \$99.00 for a total amount of \$2,155,527.40.

**EXCEPTIONS**

The parties may file exceptions to this Proposal for Decision within 20 days after the Proposal for Decision is issued and entered. Any such exceptions should be filed with the Department of Consumer and Industry Services, Office of Financial and Insurance Services, 611 West Ottawa Street, 2<sup>nd</sup> Floor, P.O. Box 30220, Lansing, Michigan, 48909, Attention: Dawn Kobus.

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**Robert H. Mourning**  
**Administrative Law Judge**