

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the Matter of:

Complaint No. 331764

BENDER WALLACE “WALLY” MACKEY  
Unregistered

Respondent.

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Issued and entered  
This 8th day of August, 2017

NOTICE AND ORDER TO CEASE AND DESIST

Julia Dale, the Director of the Corporations, Securities & Commercial Licensing Bureau (the “Administrator”), pursuant to her statutory authority and responsibility to administer and enforce the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq.* (“Securities Act”), hereby orders Bender Wallace “Wally” Mackey (“Respondent”) to cease and desist from acting as an unregistered agent for Woodbridge Wealth and its affiliated companies<sup>1</sup>, contrary to the Securities Act. Respondent is also notified of the opportunity to request a hearing in this matter.

**I. BACKGROUND**

**A. The Respondent**

1. Bender Wallace “Wally” Mackey is an individual who resides in the State of Florida. Mr. Mackey is not and has never been registered in any capacity pursuant to the Securities Act.

**B. Findings of Fact**

1. The Bureau conducted an investigation of Respondent’s Activities.
2. The investigation developed evidence that Respondent effects or attempts to effect sales of securities of an issuer by offering and selling Woodbridge

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<sup>1</sup> Notices and Orders to Cease and Desist are being issued entered against multiple Woodbridge Wealth entities concurrent with the issuance and entry of this Notice and Order. (See Exhibits 1 through 6).

Wealth promissory notes (“notes”)<sup>2</sup> for sale to the public in exchange for commission payments.

3. Respondent is not registered or exempt from registration as an agent pursuant to the Securities Act in Michigan.

## **II. RELEVANT STATUTORY PROVISIONS**

1. Section 102 of the Securities Act, MCL 451.2102, defines “agent” in part as:

“Agent” means an individual other than a broker-dealer who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities *or represents an issuer in effecting or attempting to effect purchases or sales of the issuer’s securities...* (*Emphasis added*).

2. Section 402(1) of the Securities Act, MCL 451.2402(1), states:

An individual shall not transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (2).

3. Section 503(1) of the Securities Act, MCL 451.2503(1), states:

In a civil action or administrative proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the exemption, exception, preemption, or exclusion.

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<sup>2</sup> Respondent claimed that the notes were not “securities” regulated by the Securities Act in the course of the investigation, but failed to provide legal analysis to support that assertion. (Exhibit 7 – Respondent Correspondence). A promissory note is presumed to be a security under the “Family Resemblance Test” adopted by the Supreme Court in *Reves v Ernst & Young*, 494 US 56, 64-67 (1990) (Exhibit 8 – *Reves v Ernst & Young*). The presumption may be rebutted by analyzing four factors to determine if the notes have non-security characteristics. Those factors as applied here support the fact that the notes are securities: (1) The notes were sold to multiple purchasers across the country with the intent that they act as a safe and high-yield investment for the note purchasers; (2) the plan of distribution of the instrument was broadly spread across not just Michigan, but across the country; (3) the investors would reasonably expect the notes to be securities, as the notes were described as investments that would produce high yields with little risk; (4) no other regulatory scheme exists to provide a safeguard for investors in these notes, though they are purportedly secured. *Id.* Weighing all the factors, the notes fall within the definition of “security” under the Securities Act.

### **III. CONCLUSIONS OF LAW**

1. Respondent Bender Wallace "Wally" Mackey acted as an agent by effecting or attempting to effect transactions in securities on behalf of Woodbridge Wealth and its affiliates without the benefit of registration or a properly-claimed exemption, in violation of section 402(1) of the Securities Act, MCL 451.2402(1).

### **IV. ORDER**

IT IS THEREFORE ORDERED, pursuant to section 604 of the Securities Act, MCL 451.2604, that:

- A. Respondent shall immediately CEASE AND DESIST from acting as an unregistered agent, contrary to the Securities Act.
- B. Pursuant to section 604(2) of the Securities Act, this Notice and Order to Cease and Desist is IMMEDIATELY EFFECTIVE.
- C. In her Final Order, the Administrator, under section 604(4) of the Securities Act, MCL 451.2604(4), intends to impose a civil fine of \$10,000.00 against Respondent.
- D. Pursuant to section 508 of the Securities Act, MCL 451.2508, a person that willfully violates the Securities Act, or an order issued under the Securities Act, is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$500,000.00 for each violation, or both. An individual convicted of violating a rule or order under this act may be fined, but shall not be imprisoned, if the individual did not have knowledge of the rule or order.

### **V. NOTICE OF OPPORTUNITY FOR HEARING**

Section 604 of the Securities Act, MCL 451.2604, provides that Respondent has 30 days beginning with the first day after the date of service of this Notice and Order to Cease and Desist to submit a written request to the Administrator asking that this matter be scheduled for a hearing. If the Administrator receives a written request in a timely manner, the Administrator shall schedule a hearing within 15 days after receipt of the request. The written request for a hearing must be addressed to:

Corporations, Securities & Commercial Licensing Bureau  
Regulatory Compliance Division  
P.O. Box 30018  
Lansing, MI 48909

Notice & Order to Cease & Desist  
Bender Wallace "Wally" Mackey (CN 331764)

**VI. ORDER FINAL ABSENT HEARING REQUEST**

- A. Under section 604 of the Securities Act, MCL 451.2604, the Respondent's failure to submit a written request for a hearing to the Administrator within 30 days after the service date of this **NOTICE AND ORDER TO CEASE AND DESIST** shall result in this order becoming a **FINAL ORDER** by operation of law. The **FINAL ORDER** includes the imposition of the fines cited described in section IV.C., and the fine amounts set forth below will become due and payable to the Administrator within sixty (60) days after the date this order becomes final:

\$10,000.00 – Bender Wallace “Wally” Mackey, under  
section 604 of the Securities Act, MCL 451.2604.

- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

Corporations, Securities & Commercial Licensing Bureau  
Final Order Monitoring  
P.O. Box 30018  
Lansing, MI 48909

- C. Failure to comply with the terms of this Order within the time frames specified may result in additional administrative penalties, including the summary suspension or continued suspension of all registrations held by Respondent under the Securities Act, the denial of any registration renewal, and/or the denial of any future applications for registration, until full compliance is made. Respondent may voluntarily surrender or withdraw a registration under the Securities Act; however, the surrender or withdrawal will not negate the summary suspension or continued suspension of the relevant registrations or any additional administrative proceedings if a violation of this Order or the Securities Act occurred.
- D. Failure to pay the civil fines within six (6) months after this Order becomes final may result in the referral of the civil fines to the Michigan Department of Treasury for collection action against Respondents.

CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

  
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Julia Dale, Director, Corporations, Securities  
& Commercial Licensing Bureau

8/8/17  
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Date

Notice & Order to Cease & Desist  
Bender Wallace “Wally” Mackey (CN 331764)