



STATE OF TENNESSEE  
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

TENNESSEE SECURITIES DIVISION )  
)  
Petitioner, )  
)  
v. )  
)  
REAL HOLDINGS INTERNATIONAL INC. )  
AND JOSHUA DAVIS )  
)  
Respondents. )

TSD No. 20-011

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**ORDER TO CEASE AND DESIST**

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This Order issues as the result of a Petition filed by the Securities Division of the Tennessee Department of Commerce and Insurance (“Division”) against Real Holdings International Inc. and Joshua Davis (“Respondents”). This Order is based upon the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Commissioner is responsible for the administration of the Act. The Division, pursuant to Tenn. Code Ann. § 48-1-115, is the lawful agent through which the Commissioner discharges this responsibility.

2. Tenn. Code Ann. § 48-1-116 establishes that the Commissioner may execute Orders as are necessary to carry out the Act when the Commissioner finds that the action is in the public interest, necessary for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act.

3. Real Holdings International Inc. (“RHI”) is incorporated and registered with the Tennessee Secretary of State to conduct business in Tennessee. Its principal place of business is located at: 424 Church Street, Suite 2000, Nashville, Tennessee 37219. It can be served with process via its registered agent of record, Joshua Davis (“Davis”), at: 1330 Coreland Drive, Madison, Tennessee 37115. RHI has never applied to register nor has been registered in Tennessee or elsewhere as an investment adviser; regardless, its assigned Central Registration Depository number (“CRD #”) from the Financial Industry Regulatory Authority (“FINRA”) is 298489.

4. Mr. Davis is the Chairman, Chief Executive Officer, and registered agent of RHI. He also resides in Tennessee. Mr. Davis has never applied to register nor has been registered in Tennessee or any other state as an investment adviser representative; regardless, his assigned CRD # is 7074980.

5. The Respondents have never applied to register nor have been registered with the Division, nor any other state, to engage in business as either an investment adviser or an investment adviser representative in Tennessee.

6. However, as of the date of this Petition, the Respondents continue to hold themselves out as investment advisers in Tennessee.

7. On or about February 22, 2019, the Respondents filed a Form ADV “SEC ERA Report” through the Investment Adviser Registration Depository (“IARD”) and checked the box 2.C for “State Securities Authority Notice Filings and State Reporting by Exempt Reporting Advisers”. By submitting this filing, the Respondents claim that they are exempt from registering as an investment adviser in Tennessee based on an Exempt Reporting Adviser (“ERA”) exemption; however, neither the Act nor the Division’s rules and regulations authorize this exemption from

registration in Tennessee. Accordingly, such ERA exemption is not a valid, permissible, or recognized exemption in Tennessee.

8. Mr. Davis attests in the execution page of the Form ADV that he completed the form.

9. The Form ADV's instructions require the company to list its assets in Item 7.B.(11) of the Form ADV and include them in the Respondents' assets under management calculation ("AUM"). Per Item 7.B.(11) of the Respondents' Form ADV, the total gross assets of their private fund equaled fifty million dollars (\$50,000,000).

10. The Respondents' current Form ADV, which the Respondents are required to keep accurate, lists Peter Curtis ("Curtis"), a Vice President at the Bank of New York Mellon ("BNY Mellon"), as their custodian of assets. The Division's Director of Registration, April Odom, attempted to contact the currently listed custodian to confirm its custodial status and learned that it did not offer custodian services. Additionally, per BNY Mellon on February 19, 2020, Mr. Curtis is not listed as a current employee in its directory.

11. On February 19, 2020, the Division called Mr. Davis via telephone to confirm certain information and to request contact information for the Respondent's custodian of their AUM. During this telephone conversation, Mr. Davis confirmed the fifty million-dollar (\$50,000,000) fund amount and added that he managed a total of three hundred million dollars (\$300,000,000) of assets. The three hundred million-dollar (\$300,000,000) AUM consisted of equity and private funds, of which one hundred twenty-five million dollars (\$125,000,000) were foreign assets located outside of the United States.

12. While speaking with the Respondents, the Division also requested contact information for their current custodian of their AUM, to which Mr. Davis replied that the current Form ADV was “out of date” and that Raymond James was now the custodian.

13. Soon thereafter, the Division contacted Raymond James to confirm its custodial status. Raymond James informed the Division that it holds no assets on behalf of the Respondents, as the accounts have never held assets. There were four (4) accounts tied to the Respondents, one (1) of which was closed in April 2018, and the remaining three (3) accounts were closed in November 2019.

14. On February 20, 2020, the Division visited the Church Street address to conduct an examination of the Respondents’ books and records pursuant to Tenn. Code Ann. § 48-1-111. It found that the Church Street address was a shared office space and neither the Respondents nor its subsidiaries or affiliates kept a shared office space there. The Respondents told the Division otherwise when speaking on the telephone on February 19, 2020, by asserting that the Church Street address was a permanent office.

15. The Respondents also claimed that it employed one (1) employee, a receptionist, who worked at the above mentioned “permanent” office; however, during the Division’s visit to the Church Street address on February 20, 2020, no such receptionist-employee existed. Receptionists were available at the Church Street address; however, they were employees of “Regus”, a company unassociated with the Respondents.

16. Since neither Mr. Davis nor the Respondents’ employed receptionist were working during the office hours listed on the Form ADV of the Respondents, and since the Respondents did not maintain an office, either shared or permanent, at the Church Street address, the Division was unable to perform its examination of the Respondents’ books and records.

17. The Division later called Mr. Davis and asked where he kept his books and records and he informed it that most were electronic, but all documents were kept at the mailing address listed on his Form ADV, which also serves as his personal residence. He mentioned that he does not have any series licenses but asserts he is working on them. He also stated that the securities he sold were private placements registered with a depository trust company and were issued pursuant to the United States Securities Exchange Commission (“SEC”)’s Rule 144. The securities were not filed with the SEC because of the advice his compliance company provided to him; however, he did make two (2) Regulation D filings for Ruwac Trust CIK 0001678926 and Exempt Inc. CIK 0001510071. The Division checked its records and neither Ruwac Trust nor Exempt Inc. were filed electronically or by paper with the Division.

18. Mr. Davis also maintains a LinkedIn profile for himself and RHI, which exhibits his name, profile, and designations as an investment adviser and ERA. Mr. Davis also claims that five (5) to six (6) months ago, he came to the Division and spoke with someone about him claiming the ERA exemption and the Division informed him that he could. Based on the Division’s information and belief, it has not had any contact with Mr. Davis prior to this current matter.

19. An Order to Cease and Desist is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act because the Respondents are engaging in activity as an unregistered investment adviser and an unregistered investment adviser representative, while holding themselves out as an investment adviser; additionally, Tennessee citizens and other states’ citizens could be harmed in the future if this unregistered activity does not cease and desist.

20. The need for an Order to Cease and Desist is further bolstered by the fact that the Respondents engaged in fraud and misrepresentation to the Division and the public by providing

at best material mischaracterizations, and at worst, complete falsehoods, through conversations with the Division and through their Form ADV, about their AUM, custodian, office address, and alleged employee.

## II. CONCLUSIONS OF LAW

21. The Commissioner determines that the Division is authorized to bring this action based on the finding that the action is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act, pursuant to Tenn. Code Ann. § 48-1-116(a).

22. The Commissioner finds that he may from time to time make, promulgate, amend, and rescind such rules, forms, and orders as are necessary to implement the Tennessee Securities Act.

23. The Commissioner also determines that prior notice of this Cease and Desist Order is not in the public interest and would be detrimental to the protection of investors, which Tenn. Code Ann. § 48-1-116(e)(2) permits.

24. Tenn. Code Ann. § 48-1-109(c)(1) sets forth that “[i]t is unlawful for any person to transact business from or in this state as an investment adviser or investment adviser representative unless: [t]he person is registered as an investment adviser . . . [.]”

25. Tenn. Code Ann. 48-1-109(e) states, “The [C]ommissioner may, after notice and an opportunity for a hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, impose a civil penalty against any person found to be in violation of this section, or any rule or order adopted or issued under this section, in an amount not to exceed ten thousand dollars (\$10,000) per violation, or in an amount not to exceed twenty thousand dollars (\$20,000) per violation if an individual who is a designated adult is a victim.”

26. Tenn. Code Ann. § 48-1-102(12) defines an investment adviser as follows: “any person, who for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, buying, or selling securities, or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities.”

27. Tenn. Code Ann. § 48-1-102(13) prescribes:

- (A) “Investment adviser representative” means any partner, office, or director of (or person occupying a similar status or performing similar functions) an investment adviser, or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser and does any of the following:
  - (i) Makes any recommendation or otherwise renders advice regarding securities;
  - (ii) Manages accounts or portfolios of clients;
  - (iii) Determines which recommendation or advice regarding securities should be given;
  - (iv) Solicits, offers, or negotiates for sale of or sells investment advisory services; or
  - (v) Supervises employees who perform any such actions;
- (B) “Investment adviser representative” does not include such other persons not within the intent of this subdivision (13) as the [C]ommissioner may, by rule, exempt from this definition as not in the public interest and necessary for the protection of investors[.]

28. Tenn. Code Ann. § 48-1-121(a)(1) – (3), (c) and (d) establish that the Respondents engaged in unlawful activity in connection with the offering, selling, or purchasing securities in this state and employing a device, scheme, or artifice to defraud, making untrue statements of material fact and omitting to state a material fact, engaging in an act, practice or course of business

which operates as a fraud or deceit upon a person, and filing documents that contain untrue statements of material facts.

29. The Division restates the facts above and incorporates them by reference herein.

30. The facts as stated demonstrate that the Respondents are acting as an unregistered investment adviser and unregistered investment adviser representative in violation of Tenn. Code Ann. § 48-1-109(a) and (c)(1), by holding themselves out to the public as investment advisers while not being registered.

31. The facts as stated show that the Respondents engaged in fraud and misrepresentation to the Division and the public by: using an address for an office space that they have no connection with; asserting it has an employee when it does not; asserting it has three hundred million dollars (\$300,000,000) AUM, fifty million dollars (\$50,000,000) of which are private funds, when Raymond James, their alleged custodian, holds no assets; claiming the ERA exemption from registration when such exemption is not recognized in Tennessee; and making filings that include untrue statements of material facts. All of these actions violate Tenn. Code Ann. § 48-1-121(a)(1) – (3) and (d).

### **III. ORDER**

**NOW, THEREFORE**, in consideration of the foregoing, it is **ORDERED** that the Respondents shall immediately:

1. **COMPLY** with the provisions of the Act;
2. **CEASE AND DESIST** from any further conduct as an investment adviser and investment adviser representative in or from Tennessee until such time as they are effectively registered with the Division to engage in such activity;



3. **CEASE AND DESIST** from further conduct as an investment adviser and investment adviser representative in Tennessee while not being registered including, but not limited to, holding themselves out as an ERA and an investment adviser, until such time as the Respondents are registered with the Division to engage in such activity; and

4. **CEASE AND DESIST** from engaging in fraud and misrepresentation in their filings in CRD and IARD by including untrue misstatements of material facts in their filings.

5. This Order to Cease and Desist is not intended to prohibit any lawful conduct in which the Respondents might be engaged.

6. Entry of this Order to Cease and Desist shall not in any way restrict the Division or the Commissioner from taking any further action with respect to these or other possible violations of the Act or rules promulgated thereunder, including pursuing costs of the investigation and/or additional civil penalties if a Notice of Hearing and Charges must be pursued.

7. You are advised that you have the right to a hearing as to all matters raised in this Order to Cease and Desist. If you wish to exercise your right to a hearing, please notify:

**ELIZABETH BOWLING**  
**ASSISTANT COMMISSIONER FOR SECURITIES**  
**STATE OF TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**  
**DAVY CROCKETT TOWER, 10<sup>th</sup> FLOOR**  
**500 JAMES ROBERSTON PARKWAY**  
**NASHVILLE, TENNESSEE 37243**

8. Such written request must be received within thirty (30) days from the date of entry of this Order to Cease and Desist. This Order to Cease and Desist shall become a Final Order thirty (30) days from the date of its entry, unless written notification requesting a hearing is made within that thirty (30) day period.

9. You are also advised that if you request a hearing on any matter in the Order to Cease and Desist, the Division will request civil penalties of at least one hundred sixty thousand dollars (\$160,000), which includes twenty thousand dollars (\$20,000) for two (2) violations of Tenn. Code Ann. § 48-1-109, and one hundred forty thousand dollars (\$140,000) for fourteen (14) violations of Tenn. Code Ann. § 48-1-121.

ENTERED this 17th day of March, 2020.


  
Hodgen Mainda (Mar 17, 2020)

Hodgen Mainda, Commissioner

**APPROVED FOR ENTRY:**

  
Elizabeth H. Bowling (Mar 17, 2020)

Elizabeth Bowling  
Assistant Commissioner for Securities  
Department of Commerce and Insurance



Virginia Smith (BPR # 031248)  
Associate General Counsel  
Department of Commerce and Insurance  
500 James Robertson Parkway  
Nashville, Tennessee 37243

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this Petition for an Order to Cease and Desist and Order to Cease and Desist will be served upon the Respondents via certified mail, return receipt requested, and e-mail to the below enclosed addresses on the 25th day of March, 2020.

**Certified Mail No.** 7019 1120 0000 5658 6715

Joshua Davis and  
Real Holdings International Inc.  
1330 Coreland Drive  
Madison, Tennessee 37115-5285

*Virginia Smith*  
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Virginia Smith