

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

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

Kenneth A. Mirly
Ronnie Joe Graham
R.J. Graham Oil Company

Respondents

SDO - 7 - 99

STATEMENT OF CHARGES AND NOTICE
OF INTENTION TO ENTER ORDER TO
CEASE AND DESIST

Case No. 98-01-28

THE STATE OF WASHINGTON TO: Kenneth A. Mirly
Ronnie Joe Graham
R.J. Graham Oil Company.

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents have each violated the Securities Act of Washington and that their violations justify the entry of an order under RCW 21.20.390 to cease and desist from such violations. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I.

Kenneth A. Mirly ("Mirly") is the sole proprietor of Mirly Capital Services, a company which offers to raise capital and/or find financing for others. Mirly Capital Services is located in Issaquah, Washington.

II.

Ronnie Joe Graham ("Graham") is the owner and operator of the R.J. Graham Oil Company. R.J. Graham Oil is based in Salem, Illinois.

III.

In 1996, Mirly began advertising his business on the Internet. He rented space in a "shopping mall", published several web pages describing his services, and invited interested parties to contact him by e-mail.

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IV.

In response to his advertisement, Mirly received e-mail from a representative of the R.J. Graham Oil Company. The messaged explained that R.J. Graham Oil needed money to finance certain oil and gas drilling operations in the Illinois basin and asked whether Mirly could locate investors to fund the project.

V.

Mirly replied to the message and had several telephone conversations with representatives of the company. He discussed the project with Ronnie Joe Graham and was told that R.J. Graham Oil planned to sell undivided working interests in a package of four development wells to be drilled on land leased by the company. Graham stressed that the program was safe for investors because all funds would be placed in escrow and returned in the event that sufficient capital could not be raised.

VI.

Mirly asked Graham to supply him with additional information about the project. Graham sent an "Executive Summary" which described the operation in detail and encouraged Mirly to visit R.J. Graham Oil's site on the Internet. These materials provided a detailed description of the oil fields in which Graham claimed to hold drilling rights, a schedule of the estimated costs for each well, and profit projections based upon different levels of investment. According to Graham, investors could expect monthly returns in excess of their initial investment as well as favorable tax treatment.

VI.

After reviewing the information, Mirly agreed to locate investors for Graham and the R.J. Graham Oil Company on a "success-only" fee basis. Mirly was to receive 7% of the total dollars raised plus a 2% production override after the project was fully funded.

VII.

Mirly began his search for investors by creating sales material based upon the information he received from Graham. His sales material touted the enormous profit potential of oil wells and emphasized their favorable tax treatment. Mirly claimed that each of the four development wells had a 61% likelihood of producing commercial

1 quantities of oil and gas. He indicated that there was a "real potential" for a 10:1 or 20:1 return on this investment.
2 Finally, Mirly stated that 45% of each investor's money would be refunded in the event that no oil was found.

3 VIII.

4 Mirly sent his materials to approximately 200 people and made numerous follow-up telephone calls to
5 potential investors. As a result of these efforts, four individuals invested approximately \$50,000 in the R.J. Graham
6 Oil Company. At least one of these investors was a Washington state resident.

7 IX.

8 Respondents failed to disclose the risks associated with oil and gas drilling operations. Investors did not
9 receive information about the operating history of the R.J. Graham Oil Company, evidence of its net worth, or copies
10 of its financial statements. In addition, Respondents made no attempt to determine whether their proposed
11 investment program was suitable for the people to whom it was offered.

12 X.

13 Mirly personally assured investors that he had performed a careful background check on Graham and that
14 Graham was a legitimate businessperson. However, Mirly did not take steps to verify whether Graham actually held
15 an interest in the oil fields which were the subject of the investment.

16 XI.

17 The Securities Administrator has learned that Ronnie Joe Graham recently plead guilty to charges of mail
18 fraud by use of the Internet in connection with his drilling program. According to authorities, Graham never owned
19 drilling rights in the oil fields he described to investors. His entire program was a scheme created to defraud
20 investors. Rather than drilling for oil, Graham deposited more than \$750,000 of investor money into his checking
21 account and used it for personal living expenses.

22 XII.

23 R.J. Graham Oil Company is not currently registered to sell its securities in the state of Washington and has
24 not previously been so registered.

1 XIII.

2 Kenneth Mirly is not currently registered as a securities salesperson or broker-dealer in the state of
3 Washington and has not previously been so registered.

4 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

5 CONCLUSIONS OF LAW

6 I.

7 The offer and/or sale of the investment described above constitutes the offer and/or sale of a security as
8 defined in RCW 21.20.005(10) and (12), to wit: a working interest in an oil well or investment contract.

9 II.

10 The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration is on file with
11 the Administrator of Securities, state of Washington.

12 III.

13 Kenneth Mirly has violated RCW 21.20.040 by offering and/or selling said securities while not registered as a
14 securities salesperson or broker-dealer in the state of Washington.

15 IV.

16 The offer and/or sale of said securities was made in violation of RCW 21.20.010 because Respondents each
17 made material misrepresentations concerning their ownership and/or rights to the oil fields, failed to disclose
18 information about the risks of the investment, and failed to provide a factual basis for their statements concerning its
19 profit and loss potential.

20 **NOTICE OF INTENTION TO ORDER THE RESPONDENT TO CEASE AND DESIST**

21 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to
22 order that the Respondents, their agents and employees shall each permanently cease and desist from violations of
23 RCW 21.20.010, 21.20.040, and RCW 21.20.140.

24 STATEMENT OF CHARGES AND NOTICE OF 4
25 INTENTION TO ENTER ORDER TO CEASE AND
26 DESIST

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1 **AUTHORITY AND PROCEDURE**

2 This STATEMENT OF CHARGES AND NOTICE OF INTENTION TO ENTER ORDER TO CEASE AND
3 DESIST is entered pursuant to the provisions of RCW 21.20.390 and is subject to the provisions of RCW ch. 34.05.
4 Each Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
5 DEFEND AND OPPORTUNITY FOR HEARING accompanying this order. If any Respondent does not request a
6 hearing, the Securities Administrator intends to adopt the Tentative Findings of Fact and Conclusions of Law as
7 final and enter a permanent order to cease and desist as to that Respondent.

8
9 DATED this ____ day of _____, 1999.

10
11 _____
12 DEBORAH R. BORTNER
13 Securities Administrator

14 Presented by:

15
16 _____
17 Steven Raney
18 Securities Examiner

19 Approved by:

20
21 _____
22 Michael E. Stevenson
23 Chief of Compliance