



**STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
SECURITIES DIVISION**

IN THE MATTER OF:)
)
GUARDIAN GROUP INVESTMENTS, LLC, and) Case No. 15-05-0005
RICHARD W. KESSLER,)
)
Respondent(s).)

ORDER TO CEASE AND DESIST

The Director of the New Mexico Securities Division (“Director”) after investigation has good reason to believe, and therefore alleges the following:

I. FACTS

1. Respondent Guardian Group Investments, LLC (“Guardian”) is a New Mexico limited liability company, with its principal place of business located at 2900 Louisiana Blvd. NE, Suite 210, Albuquerque, NM 87110, and its organization CRD number is 148617.
2. Guardian is a registered investment adviser in New Mexico.
3. Respondent Richard W. Kessler (“Kessler”) is an individual whose last known address is 2900 Louisiana Blvd. NE, Suite 210, Albuquerque, NM 87110, and his individual CRD number is 4860594.
4. Kessler is a registered investment adviser representative in New Mexico.
5. Kessler is, and at all relevant times was, the sole owner of Guardian.
6. Guardian has obtained funds from individual investors. These funds were deposited into a bank account belonging to Guardian and/or Kessler.
7. On July 13, 2016, the Securities Division of the New Mexico Regulation and Licensing Department issued a subpoena duces tecum to Sandia Laboratory Federal Credit Union for accounts of Guardian, Kessler, and/or authorized signer accounts from January 1, 2014 to July 13, 2016.
8. Records were disclosed to the Securities Division evidencing client investor funds being deposited into a Guardian bank account. Said deposits include:

- a. March 2, 2015, \$716.65 payable to Guardian Group Investments FBO Clifford Fitzsimmons from Great West Trust Company;
 - b. May 29, 2015, \$2,500 payable to Guardian from 4 Daughters Land & Cattle Co.;
 - c. July 6, 2016, \$50,000 payable to Guardian Group Investments FBO Robert Booth from Mid-Atlantic Trust Company;
 - d. February 29, 2016, \$25,796.30, payable to Guardian Investments F.B.O. Cory Kennett from American United Life Insurance Company;
 - e. April 5, 2016, \$13,150.27, payable to Guardian Group Investments FBO Farrell E. Brimhall from Oppenheimer Funds;
 - f. April 5, 2016, \$12,221.07, payable to Guardian Group Investments FBO Farrell E. Brimhall from Oppenheimer Funds;
 - g. April 5, 2016, \$16,670.39, payable to Guardian Group Investments FBO Farrell E. Brimhall from Oppenheimer Funds.
9. Neither Guardian, nor Kessler, is a “qualified custodian” within the meaning of 12.11.5.22 NMAC.
 10. Neither Guardian, nor Kessler, maintain at all times a minimum net worth of \$2,000,000, nor have these persons posted any surety bond in an amount set by the director as required by 12.11.5.23 NMCA.

II. CONCLUSIONS OF LAW

11. Guardian and/or Kessler are engaged in unlawful, unethical and/or dishonest conduct or practice which are prohibited by 12.11.7.13 NMAC.
12. Guardian and/or Kessler have taken custody of client funds without complying with the provisions of 12.11.5.22 NMCA.
13. Guardian and/or Kessler have taken custody of client funds without complying with the provisions of 12.11.5.23 NMCA.

III. ORDER

Entry of this Order is in the public interest, appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act.

IT IS, THEREFORE, ORDERED THAT:

1. Pursuant to § 58-13C-604 of the Act, Respondents must cease and desist taking and/or maintaining custody of client funds and/or securities.

NOTICE OF ADMINISITRATIVE HEARING RIGHTS

Each Respondent is hereby notified of its statutory right to request an administrative hearing on the Cease and Desist. Administrative hearings are governed by § 58-13C-604(b)(4)-(11) NMSA 1978. Respondents have fifteen (15) days from receipt of this notice to file a written request for a hearing. The request may be sent in the form of U.S. Postal Service Form 3800, Receipt for Certified Mail, or via email to the Director at alexis.lotero@state.nm.us. The Director will set the matter for hearing no more than sixty (60) days not less than fifteen (15) days from receipt of the hearing request. The Director will promptly notify the Respondent of the time and place for hearing. The Director or an appointee will conduct the hearing. The Director or his appointee will pass upon the admissibility of evidence and may exclude evidence that is incompetent, irrelevant, immaterial or unduly repetitious.

As discussed more fully in 58-13C-604(b), any Respondent requesting a hearing is entitled to: appear on its own behalf or may be represented by an attorney; present all relevant evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; request and obtain discovery, including the names and addresses of witnesses.

ENTERED AT Santa Fe, New Mexico this 24 day of March, 2017.





Alexis Lotero, Director
New Mexico Securities Division