

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 51530 / April 12, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-11895

In the Matter of

vFinance Investments, Inc.

Respondent.

ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS PURSUANT TO
SECTION 15(b) OF THE SECURITIES
EXCHANGE ACT OF 1934

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), against vFinance Investments, Inc. (“Vfinance” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Administrative Proceedings, Making Findings, and Imposing Remedial Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934, as set forth below.

III.

On the basis of this Order and the Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondents’ Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Respondent

1. vFinance Investments, Inc. ("Vfinance") is a registered broker-dealer with its main office located in Boca Raton, Florida and offices of supervisory jurisdiction ("OSJ") in New York, New Jersey and Florida. It is a wholly-owned subsidiary of Vfinance, Inc., a publicly held Delaware corporation that files periodic reports with the Commission. Vfinance is a member of the National Association of Securities Dealers ("NASD"). During November and December 2001, Vfinance conducted an investment advisory and general securities business through approximately 65 registered representatives and traders. The NASD and the Commission have sanctioned Vfinance and/or one of its predecessor firms for failing to maintain adequate supervisory policies and procedures.

Market Manipulation

2. During November and December 2001, a trader then associated with Vfinance assisted a stock promoter in manipulating the market for Gateway International Holdings, Inc. ("Gateway") stock, without the knowledge of Vfinance. During the relevant period, Gateway was a shell company known as Gourmet Gifts, Inc., with no reported significant operations, assets, or revenues. Gateway's stock was quoted on the OTC Bulletin Board (a quotation service operated by the NASD).

3. Between November 8, 2001 and December 6, 2001, the closing price of Gateway stock increased from \$.19 to \$4.55 per share. The price increase was not due to corporate developments, since there was only one press release during this period, which was issued on November 11. On December 7, the closing price of the stock dropped to \$.95, due in part to a forward stock split.

4. During the relevant period, the trader made a market in Gateway stock on behalf of Vfinance. During that time, the promoter repeatedly contacted the trader at Vfinance's offices. The trader admitted that, in response to instructions received from the promoter, he repeatedly raised Vfinance's quoted inside bid price for Gateway stock to as high as \$3.65 by December 6, 2001.

5. Gateway stock traded on 14 days during the relevant period, during which the trader caused Vfinance to place 71% of all inter-dealer orders, which represented approximately one-half of the shares traded through such orders. On five days during the relevant period, trading by Vfinance represented between 65% and 100% of total reported volume.

Vfinance's Supervisory Failures

6. During the relevant period, Vfinance had written procedures requiring the performance of certain supervisory duties relating to trading activities. These procedures included reviewing daily trading reports, monitoring telephone conversations of traders,

monitoring quotations and volume of Vfinance's trading, and maintaining a log of all supervisory reviews. However, Vfinance did not have a system in place to adequately communicate or implement its supervisory procedures or ensure enforcement of such procedures.

7. Vfinance's system for implementing its written supervisory procedures was deficient because, among other things, it failed to adequately (1) identify the person(s) responsible for supervising traders; (2) identify steps to be taken by supervisors to prevent market manipulation; and (3) communicate the procedures to Vfinance's supervisory staff. If Vfinance had implemented an adequate system of supervision, it is likely that it would have detected and prevented the trader's securities law violations.

Conclusions

8. The trader's conduct, described in Section III, paragraphs 2 through 5 above, violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

9. Based on the foregoing, Vfinance failed reasonably to supervise the trader, a registered representative subject to its supervision, with a view to preventing and detecting violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, within the meaning of Section 15(b)(4)(E) of the Exchange Act.

Undertakings

Respondent Vfinance has undertaken to:

10. Retain, within 60 days of the date of the Order, at Vfinance's expense, an Independent Consultant, not unacceptable to the Commission's staff, to conduct a review of Vfinance's existing procedures regarding the supervision of traders to ensure that they are adequate. The Independent Consultant will review whether the procedures have been effectively implemented, maintained, and followed. The Independent Consultant also will recommend such other procedures (or amendments to existing procedures), if any, as are necessary and appropriate to prevent and detect manipulative activity by traders. The Independent Consultant will submit, within 120 days of the date of the Order, to Vfinance and to the Commission's staff, a written report (the "Initial Report") describing the review performed, his or her findings, and any recommendations.

11. Adopt and implement, within 150 days of the date of the Order, at Vfinance's expense, such procedures recommended by the Independent Consultant in the Initial Report, except as set forth in Section III, paragraph 14 below.

12. Advise in writing, within 150 days of the date of the Order, the Independent Consultant and the Commission's staff, of the recommendations from the Initial Report it considers unnecessary or inappropriate, if any. Vfinance shall propose an alternative procedure, designed to accomplish the same objective, for any procedure to which it objects. The Independent Consultant will evaluate reasonably such alternative procedure and, if appropriate, either approve the alternative procedure or amend his or her recommendation. The Independent Consultant will submit, within 180 days of the date of the Order, to Vfinance and to the Commission's staff, a written report identifying the alternative procedures or amended recommendations, if any, of which he or she approves, the reasons for the Independent Consultant's decision, and the time period within which Vfinance will reasonably adopt and implement them (the "Supplemental Report"). Vfinance will abide by the decision of the Independent Consultant.

13. Cooperate fully with the Independent Consultant, including obtaining the cooperation of Vfinance employees or other persons under Vfinance's control.

14. For the period of engagement and for a period of two years from the completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Vfinance, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under the Order shall not, without prior written consent of the Denver Central Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Vfinance, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions specified in Respondents' Offer.

Accordingly, it is hereby ORDERED:

- A. Pursuant to Section 15(b)(4) of the Exchange Act, that Respondent Vfinance be, and hereby is, censured;
- B. That Respondent Vfinance shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$50,000 to the United States Treasury. Such payment shall be made as follows: (1) \$16,667 shall be due and payable within (30) days of the entry of the Order; (2) \$16,667, plus post-judgment interest through the date of payment calculated at the rate of interest set forth in Rule 600(b) of the Commission's Rules of Practice [17 C.F.R. § 201.600(b)], shall be

due and payable in full on or before 6 months from the entry of the Order; and (3) \$16,666, plus post-judgment interest through the date of payment calculated at the rate of interest set forth in Rule 600(b) of the Commission's Rules of Practice [17 C.F.R. § 201.600(b)], shall be due and payable in full on or before one year from the entry of the Order. Interest shall continue to accrue on all funds owed until they are paid. Such payments shall be: (1) made by United States postal money order, certified check, bank cashier's check, or bank money order; (2) made payable to the Securities and Exchange Commission; (3) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (4) submitted under cover letter that identifies Vfinance Investments, Inc. as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Donald M. Hoerl, Division of Enforcement, Securities and Exchange Commission, Central Regional Office, 1801 California Street, Suite 1500, Denver, CO 80202.

- C. Respondent shall comply with its undertakings enumerated in Section III, paragraphs 10 through 14 above.
- D. With respect to the undertakings referred to in Section III, paragraphs 10 through 14 above, for good cause shown and upon timely application from the Independent Consultant or Respondent, the Commission's staff may extend any of the deadlines set forth in the undertakings. Furthermore, nothing herein will prevent Respondent from adopting additional policies and procedures or improving upon the policies and procedures adopted pursuant to the undertakings.

By the Commission.

Jonathan G. Katz
Secretary