

STATE OF NEBRASKA
Department of Banking & Finance

In the Matter of)	
)	
Ameritas Investment Corp.,)	FINDINGS OF FACT
5900 "O" Street,)	CONCLUSIONS OF LAW
Lincoln, Nebraska;)	AND
)	CONSENT ORDER
RESPONDENTS.)	

THIS MATTER comes before the Nebraska Department of Banking and Finance ("DEPARTMENT"), by and through its Director, pursuant to its authority under the Securities Act of Nebraska, Neb. Rev. Stat. §§ 8-1101 to 8-1124 (Reissue 1997, Cum. Supp. 2006) ("Act"). Pursuant to Neb. Rev. Stat. § 8-1115 (Reissue 1997), the DEPARTMENT has investigated the acts of Ameritas Investment Corp., 5900 "O" Street, Lincoln, Nebraska; and Timothy E. Cox, Donald L. Hunter, Curtis L. Harrington, Jeffrey J. Breeling, James O. Davidson, Denny J. Danielson, Bruce A. Kruse, James S. Leggott, Douglas R. Novak, Dale E. Percival, and Mark J. Steinberger (collectively "RESPONDENTS"). As a result of such investigation, and being fully advised and informed in the matter, the Director and Ameritas Investment Corp. enter into the following Findings of Fact, Conclusions of Law and Consent Order ("Order").

FINDINGS OF FACT

1. Ameritas Investment Corp. ("AMERITAS") is a corporation organized under the laws of Nebraska, with its principal place of business located at 5900 "O" Street, Lincoln, Nebraska.

2. At all times relevant to this Order, AMERITAS was registered as a broker-dealer approved to transact general securities business in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Cum. Supp. 2006).

3. At all times relevant to this Order, Timothy E. Cox (“Cox”), Donald L. Hunter (“Hunter”), Curtis L. Harrington (“Harrington”), Jeffrey J. Breeling (“Breeling”), James O. Davidson (“Davidson”), Denny J. Danielson (“Danielson”), Bruce A. Kruse (“Kruse”), James S. Leggott (“Leggott”), Douglas R. Novak (“Novak”), Dale E. Percival (“Percival”) and Mark J. Steinberger (“Steinberger”) (collectively “the AMERITAS Agents”) have been agents of AMERITAS, registered to transact general securities business in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Cum. Supp. 2006). Each agent maintained an office in Nebraska.

4. Central Financial Services of the Midlands, Inc. (“CFS”) is a corporation organized under the laws of the State of Nebraska, with its registered office located at 6355 South 56th Street, Lincoln, Nebraska. Cox is the president and chief executive officer of CFS. CFS is registered as an insurance agency with the Nebraska Department of Insurance. CFS maintains a website at www.cfslincoln.com.

5. The CFS office at 6355 South 56th Street, Lincoln, Nebraska, is registered with the Financial Industry Regulatory Authority, Inc. (“FINRA”) as a branch office of AMERITAS. Hunter is identified by AMERITAS as the supervisor of this branch.

According to Form BR filed by AMERITAS:

- a. No other investment-related activities are conducted at this branch;
- b. Associated persons at the branch do not conduct investment-related activities under any other business name; and

c. The branch does not use a website address other than the primary website of AMERITAS.

6. On or about March 10, 2008, the Lincoln Journal Star contained a paid Business Achievement announcement entitled “Central Financial announces awards” (“Announcement”). The Announcement identified the AMERITAS Agents as associates of CFS and recipients of various awards from CFS, including Securities Leader and Life Leader.

7. According to the Announcement, CFS “helps clients find the best solutions to reach their financial goals.” The Announcement included the name of Cox and a telephone number to contact “for further information.” The telephone number included in the Announcement is the telephone of the AMERITAS branch at 6355 South 56th Street, Lincoln, Nebraska. The Announcement did not state that CFS offered and sold securities through AMERITAS.

8. Every individual registered to conduct securities business as an agent is required to submit a Uniform Application for Securities Industry Registration (“Form U4”) to the DEPARTMENT. Item 13 on Form U4 asks whether the person is currently engaged in any outside business, either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise. Non-investment-related activity that is exclusively charitable, civic, religious or fraternal, and is recognized as tax exempt, may be excluded.

9. Forms U4 filed with the DEPARTMENT by, and on behalf of, the AMERITAS Agents, state each is “licensed as an independent insurance agent for the

purpose of selling fixed insurance products.” The Forms U4 for the AMERITAS Agents did not disclose any affiliation with CFS under Section 13 of Form U4.

10. According the Nebraska Department of Insurance:

a. Cox, Hunter, Breeling, Davidson, Danielson, Leggott, Novak, Percival and Steinberger have producer licenses and are authorized to sell life insurance, annuities, variable products, and sickness, accident and health insurance;

b. Kruse has a producer license and is authorized to sell life insurance, annuities, and sickness, accident and health insurance; and

c. Harrington had a license to sell insurance in Nebraska prior to the expiration of the license in February 2008.

11. By Consent Orders dated August 21, 2008, the DEPARTMENT resolved all issues regarding the actions described herein with the AMERITAS Agents. Pursuant to the Consent Orders, Harrington was fined the amount of \$500.00 each; Cox and Hunter were fined the amount of \$1,500.00 each. No action was taken against Breeling, Davidson, Danielson, Kruse, Leggott, Novak, Percival or Steinberger

12. On or about February 16, 2007, AMERITAS and Percival entered into Findings of Fact, Conclusions of Law and Consent Order with the DEPARTMENT concerning a failure to file a correcting amendment to Percival’s Form U-4 filed with the DEPARTMENT when the information became inaccurate or incomplete. Percival and AMERITAS were fined the amount of \$1,000.00 each.

CONCLUSIONS OF LAW

1. The DEPARTMENT has jurisdiction over this matter pursuant to the Act.

2. 48 NAC 12.003.06 provides that it is a dishonest and unethical business practice for an agent to fail to comply with any applicable provision of the Conduct Rules of the National Association of Securities Dealers, Inc., now known as FINRA (“NASD”), or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

3. NASD Rule of Conduct 2210(d)(2)(C) states that all advertisements and sales literature must: (i) prominently disclose the name of the member and may also include a fictional name by which the member is commonly recognized or which is required by any state or jurisdiction; (ii) reflect any relationship between the member and any non-member or individual who is also named; and if it includes other names, reflect which products or services are being offered by the member.

4. The facts set forth in Findings of Fact Nos. 6 and 7, above, constitute a violation of NASD Rule of Conduct 2210(d)(2)(C) by RESPONDENTS.

5. Neb. Rev. Stat. § 8-1103(7)(d) (Cum. Supp. 2006) provides, in part, that if any information contained in any document filed with the Director is, or becomes, inaccurate or incomplete in any material respect, an agent must file a correcting amendment promptly.

6. The facts set forth in Findings of Fact Nos. 4 and 5, above, constitute a failure by AMERITAS to file a correcting amendment to Form BR filed with the DEPARTMENT promptly upon information becoming inaccurate or incomplete, in violation of Neb. Rev. Stat. § 8-1103(7)(d), specifically regarding the business conducted at the CFS branch office and the name under which the business was being conducted.

7. The facts set forth in Findings of Fact Nos. 8 through 10, above, constitute a failure by RESPONDENTS to file a correcting amendment to each Form U-4 filed with the DEPARTMENT promptly upon information becoming inaccurate or incomplete, in violation of Neb. Rev. Stat. § 8-1103(7)(d), specifically regarding the outside business activities of the AMERITAS Agents.

8. Neb. Rev. Stat. § 8-1103(9)(a) (Cum. Supp. 2006) provides, in part, that the Director may by order deny, suspend, or revoke the registration of any registrant, or bar, censure, or impose a fine pursuant to Neb. Rev. Stat. § 8-1108.01(4) on a registrant if the Director finds that the order is in the public interest and that the registrant has willfully violated or willfully failed to comply with any provision of the Act.

9. Neb. Rev. Stat. § 8-1103(9)(a)(xi) (Cum. Supp. 2006) provides, in part, that the Director may by order deny, suspend, or revoke registration of any broker-dealer, or impose a fine pursuant to section 8-1108.01(4) on a broker-dealer which has failed to reasonably supervise its agents or employees to assure their compliance with the Act.

10. The facts set forth in Findings of Fact Nos. 3 through 10, above, constitute a failure by AMERITAS to supervise its representatives, in violation of Neb. Rev. Stat. § 8-1103(9)(a)(xi).

11. Under the Act's statutory framework, the Director has legal and equitable authority to fashion significant protective remedies.

12. It is in the best interest of AMERITAS, and it is in the public's best interest, for AMERITAS and the Director to resolve the issues included herein.

CONSENT ORDER

NOW THEREFORE, the parties to this Order agree as follows:

Stipulations: In connection with this Order, AMERITAS and the Director stipulate to the following:

- a. The DEPARTMENT has jurisdiction as to all matters herein.
- b. An Order should be entered in this matter, which shall be in lieu of all other proceedings by the DEPARTMENT, except as specifically referenced in this Order.

AMERITAS further represents as follows:

1. AMERITAS is aware of its right to a hearing on this Order at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing and any related appeal on all matters covered by this Order, is irrevocably waived.

2. AMERITAS is acting free from any duress or coercion of any kind or nature.

3. This Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for purposes of this Order and for no other purposes.

FURTHER, AMERITAS agrees to take whatever action is necessary to ensure compliance with all provisions of the Act in the future. If, at any time, the DEPARTMENT determines that AMERITAS has committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

IT IS THEREFORE ORDERED as follows:

1. Ameritas Investment Corp. shall pay a fine in the amount of ten thousand dollars (\$10,000.00).

2. Ameritas Investment Corp. shall reimburse the DEPARTMENT for the cost of investigation in the amount of one thousand dollars (\$1,000.00).

3. Ameritas Investment Corp. shall pay the total of the fine and costs assessed pursuant to this Order by a separate check, in the amount of eleven thousand dollars (\$11,000.00), payable to the Nebraska Department of Banking and Finance within thirty (30) days of the effective date of this Order

In the event that AMERITAS fails to comply with the provisions of this Order, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

The effective date of this Order will be the date of the Director's signature.

DATED this 29th day of July, 2008.

AMERITAS INVESTMENT CORP.

By: *Gregory C. Sornett*
Printed Name: Gregory C. Sornett
Title: Vice President & Chief Compliance Officer

DATED this 21st day of August, 2008.

**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**



By: *John Munn*
John Munn, Director
Commerce Court
1230 O Street, Suite 400
Lincoln, Nebraska 68508
(402) 471-2171