

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Enforcement Case No. 10-7795

American Benefit Concepts, Inc. (also d/b/a ABC Solution), Douglas C. Baker, Ryan Baker, Scott J. Barnes, Bradley Barnum, Michelle Bender, Travis Bender, Beau G. Bess, Ronald Bess, Robert A. Bolhuis, Janet Bontrager, Ronald Brierly, Erin Bush, William L. Crown, John K. Davenport, James P. Davis, Nancy Einhardt, Christopher Fawley, Matt Harper, Brian Hartson, Laura A. Healey, Adam M. Heikkila, Donald L. Juberg, Jason Juberg, Ray J. Larocque, Jill Marie Lauer, Ray Layne, Sharon Leiss-Walker, Terry L. Madison, Richard A. Mann, Amy M. Mattingly, Kimberly M. Pearson, Robert T. Peters, Sr., Mel J. Proulx, Travis Oliver, Tyler Quinn, Nancy Reed, Christan D. Retberg, Stephen Sestina, Jr., Travis L. Sleight, Mishell C. Szczepaniuk, Michelle M. Wellman, Brad White, Keith White, and John Does
1 – 50,

Respondents.

FIRST AMENDED ORDER TO CEASE AND DESIST¹

Issued and entered
this 15th day of October 2010
by Ken Ross
Commissioner

The Commissioner of the Office of Financial and Insurance Regulation (“OFIR”), pursuant to his statutory authority and responsibility to administer and enforce the Michigan Uniform Securities Act (“MUSA”), 1964 PA 265, MCL 451.501 *et seq.*, as made applicable by 2008 PA 551, MCL 451.2703, hereby orders American Benefit Concepts, Inc. (also d/b/a ABC Solution), Douglas C. Baker, Ryan Baker, Scott J. Barnes, Bradley Barnum, Michelle Bender, Beau G. Bess, Ronald Bess, Robert A. Bolhuis, Janet Bontrager, Ronald Brierly, Erin Bush, William L. Crown, John K. Davenport, James P. Davis, Nancy Einhardt, Travis Bender, Christopher Fawley, Matt Harper, Brian Hartson, Laura A. Healey, Adam M. Heikkila, Donald L. Juberg, Jason Juberg, Ray J. Larocque, Jill Marie Lauer, Ray Layne, Sharon Leiss-Walker, Terry L. Madison, Richard A. Mann, Amy M. Mattingly, Kimberly M. Pearson,

¹ Initial Order to Cease and Desist was issued and entered August 10, 2010, and is available online at http://www.michigan.gov/documents/dleg/American_Benefit_Concepts_Inc_CD_10-7795_330419_7.pdf.

Robert T. Peters, Sr., Mel J. Proulx, Travis Oliver, Tyler Quinn, Nancy Reed, Christan D. Retberg, Stephen Sestina, Jr., Travis L. Sleight, Mishell C. Szczepaniuk, Michelle M. Wellman, Brad White, Keith White (collectively the “Respondents”) to immediately **CEASE AND DESIST** from engaging in the offer and sale of securities without first obtaining a registration of said securities; to cease and desist from engaging in securities transactions as unregistered broker/dealers, agents and/or investment advisers; and to cease and desist from employing an investment scheme intended to defraud the public. Respondents are also notified that pursuant to the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws they are entitled to request a hearing on this matter.

I. BACKGROUND AND FINDINGS OF FACT

1. American Benefit Concepts, Inc., (“ABC”) is a Michigan corporation with its principal place of business located in Kalamazoo. ABC’s other known alias is ABC Solution. ABC holds itself out to be in the business of offering and distributing an array of investment and insurance products and services. ABC has never been registered with OFIR as an investment adviser, nor has it ever been associated with an investment adviser firm that is registered with OFIR. ABC has never been registered with OFIR as a broker-dealer, nor has it ever been associated with a broker-dealer firm that is registered with OFIR. The offerings subject to this First Amended Order to Cease and Desist (the “Order”) were not registered or exempted from registration with OFIR.
2. Jason Juberg (“Juberg”) is a Michigan resident and serves as President of ABC. Juberg was previously registered as a securities agent, CRD:3117846. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Juberg’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
3. Matt Harper (“Harper”) is a Michigan resident and serves as Vice President of ABC. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Harper’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
4. Douglas C. Baker (“Baker”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Baker’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.

5. Ryan D. Baker (“R. Baker”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. R. Baker’s securities’ transactions involved the offer and sale of DLG and DLAH investment products.
6. Scott J. Barnes (“Barnes”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Barnes’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
7. Bradley Barnum (“Barnum”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Barnum’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
8. Michelle Bender (“M. Bender”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. M. Bender’s securities’ transactions were limited to the offer and sale of DLG investment products.
9. Travis Bender (“T. Bender”) is a Michigan resident and was associated with ABC as an insurance producer agent. T. Bender was previously registered as a securities agent, CRD:2917425. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Bender’s securities’ transactions were limited to the offer and sale of DLG and DLAH investment products.
10. Beau Bess (“B. Bess”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. B. Bess’s securities’ transactions were limited to the offer and sale of DLG investment products.
11. Ronald Bess (“R. Bess”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he

was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. R. Bess's securities' transactions were limited to the offer and sale of DLG investment products.

12. Robert A. Bolhuis ("Bolhuis") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Bolhuis's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
13. Janet Bontrager ("Bontrager") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Bontrager's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
14. Ronald D. Brierly ("Brierly") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Brierly's securities' transactions were limited the offer and sale of DLG investment products.
15. Erin Bush ("Bush") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Bush's securities' transactions were limited to the offer and sale of DLG investment products.
16. William Crown ("Crown") is a Michigan resident and during the relevant time period was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Crown's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
17. John K. Davenport ("Davenport") is a Michigan resident and was associated with ABC as an insurance producer agent. Davenport was previously registered as securities agent. CRD:61382. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR.

Davenport's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.

18. James P. Davis ("Davis") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Davis' securities' transactions were limited to the offer and sale of DLG products.
19. Nancy K. Einhardt ("Einhardt") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Einhardt's securities' transactions involved the offer and sale of DLG and DLAH investment products.
20. Christopher C. Fawley ("Fawley") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Fawley's securities' transactions were limited to the offer and sale of DGF and DLAH investment products.
21. Brian T. Hartson ("Hartson") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Hartson's securities' transactions were limited to the offer and sale of DGF and DLAH investment products.
22. Laura A. Healey ("Healey") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Healey's securities' transactions were limited to the offer and sale of DGF and DLAH investment products.
23. Adam M. Heikkila ("Heikkila") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Heikkila's securities' transactions are limited to the offer and sale of DLG investment products.

24. Donald L. Juberg (“D. Juberg”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. D. Juberg’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
25. Ray J. Larocque (“Larocque”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Larocque’s securities’ transactions were limited to the offer and sale of DLG investment products.
26. Jill Marie Lauer (“Lauer”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Lauer’s securities’ transactions were limited to the offer and sale of DLG investment products.
27. Ray Layne (“Layne”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Layne’s securities’ transactions were limited to the offer and sale of DGF and DLAH investment products.
28. Sharon J. Leiss-Walker (“Leiss-Walker”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Leiss-Walker’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
29. Terry Lee Madison (“Madison”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Madison’s securities’ transactions involved the offer and sale of DLG, DGF and DLAH investment products.
30. Richard A. Mann (“Mann”) is a Michigan resident and was associated with ABC as an insurance producer agent. Mann was previously registered as securities agent. CRD:508067. During the relevant time period of the subject transactions, he was not

registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Mann's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.

31. Amy Marie Mattingly ("Mattingly") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Mattingly's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
32. Travis M. Oliver ("Oliver") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Oliver's securities' transactions were limited to the offer and sale of DGF and DLAH investment products.
33. Kimberly M. Pearson ("Pearson") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Pearson's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
34. Robert T. Peters, Sr. ("Peters") is a Michigan resident and was associated with ABC as an insurance producer agent. Peters was previously registered as securities agent. CRD:708280. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Peters' securities' transactions are limited to the offer and sale of DLG investment products.
35. Mel J. Proulx ("Proulx") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Proulx's securities' transactions involved the offer and sale of DLG and DLAH investment products.
36. Tyler M. Quinn ("Quinn") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with

OFIR. Quinn's securities' transactions were limited to the offer and sale of DLG investment products.

37. Nancy L. Reed ("Reed") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Reed's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
38. Christan Retberg ("Retberg") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Retberg's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
39. Stephen Sestina, Jr. ("Sestina") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Sestina's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
40. Travis L. Sleight, Sr. ("Sleight") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Sleight's securities transactions are limited to DLAH investment products.
41. Mishell C. Szczepaniuk ("Szczepaniuk") is a Michigan resident and was associated with ABC as an insurance producer agent. Szczepaniuk is currently registered as securities agent. CRD:5681851. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has it ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Szczepaniuk's securities' transactions involved the offer and sale of DLG, DGF and DLAH investment products.
42. Michelle M. Wellman ("Wellman") is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, she was not registered with OFIR as an investment adviser or securities agent, nor has she ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. Wellman's securities' transactions were limited to the offer and sale of DGF and DLAH investment products.

43. Brad R. White (“B. White”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. B. White’s securities’ transactions were limited to the offer and sale of DLG securities.
44. Keith White (“K. White”) is a Michigan resident and was associated with ABC as an insurance producer agent. During the relevant time period of the subject transactions, he was not registered with OFIR as an investment adviser or securities agent, nor has he ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. White’s securities transactions are limited to the sale of DLG investment products.
45. Upon information and belief, John Doe 1 – 50 (“John Does”) are individuals and other legal entities, which are believed to be, licensed insurance producers and agencies, the names and addresses of which are unknown. John Does are not registered with OFIR as investment advisers or securities agents, nor have they ever been associated with an investment adviser firm or broker-dealer that is registered with OFIR. When the true names of John Does are ascertained, Petitioner will amend this Order to Cease and Desist to identify him or her, or the legal entities.
46. J. Juberg and Harper are herein referred to as “ABC Principals”.
47. D. Baker, R. Baker, Barnes, Barnum, M. Bender, T. Bender, B. Bess, R. Bess, Bolhuis, Bontrager, Brierly, Bush, Crown, Davenport, Davis, Einhardt, Fawley, Hartson, Healey, Heikkila, D. Juberg, Larocque, Lauer, Layne, Leiss-Walker, Madison, Mann, Mattingly, Pearson, Peters, Proulx, Oliver, Quinn, Reed, Retberg, Sestina, Sleight, Szczepaniuk, Wellman, B. White, K. White, and John Does 1 – 50 are herein referred to as “ABC Agents”.
48. In November, 2008, OFIR issued a Cease and Desist Order against Diversified Lending Group, Inc. (“DLG”) ordering it to cease and desist from selling unregistered, nonexempt securities in the State of Michigan in violation of the MUSA.
49. OFIR investigated various entities and individuals offering and selling DLG securities. In response to an inquiry from OFIR, ABC furnished information showing that in approximately 2007, the Respondents were agents of DLG for the purpose of effectuating the purchase and sale of DLG securities. In response to a subpoena, OFIR also obtained documentation of the Respondents’ sales and commissions paid to them.
50. According to ABC Principals and DLG, DLG was engaged in the acquisition and operation of income producing real estate, real estate lending, insurance premium financing strategies, financial service brokerage business, and private investment pools. DLG acknowledged that it conducted certain business through its wholly-owned subsidiary, Applied Equities, Inc. (“AEI”). AEI contracted with Your Platinum

Distributors Insurance Marketing Co., (“YPD”), a Texas corporation and wholesaler of annuity, life insurance, and investment products. YPD, in turn, contracted with insurance agents, whom DLG authorized to represent DLG to the insurance agents’ existing clients. The insurance agents, such as the Respondents, then offered and sold DLG investments ranging in various dollar amounts. According to DLG, the DLG products were designed to be shown only to the insurance agent’s existing clients, whom the agents knew to be accredited investors and appropriate candidates.

51. However, OFIR received information that the Respondents broadly marketed DLG securities through the worldwide web. ABC Principals and ABC Agents gained access to investors’ financial status through target marketing (i.e., free lunch seminars and cold call leads) and offering financial planning services and insurance products. ABC Principals and ABC Agents then solicited investors irrespective of whether investors were accredited and appropriate candidates for such investment products.
52. Based on information received from ABC, YPD paid Respondents substantial commissions. Allegedly, three percent commissions were paid to ABC Principals and ABC Agents from the sale of DLG securities.
53. According to ABC records, approximately \$33,009,714.00 in DLG securities were offered and sold by ABC Principals and ABC agents through ABC to the general public. Many of the investors purchased the DLG securities by surrendering their other investments, savings and home equity.
54. In August, 2010, OFIR issued a Cease and Desist Order against Diversified Global Finance, Ltd. (“DGF”), a corporation allegedly formed in Auckland, New Zealand, which allegedly maintained offices located in Grand Rapids, Michigan. DGF’s securities were not registered with OFIR, nor were its offerings.
55. OFIR received information that DGF developed, made and issued investment contracts that involved a scheme dealing with multiple investment opportunities. Some investors were told the opportunity involved hedge funds and short term loans. Other investors were told the opportunity involved real estate and alternative energy. DGF represented it would pay annual returns of 12% (twelve percent) and that investors could withdraw their monies at anytime with nominal forfeiture penalties.
56. DGF contracted with ABC and ABC Principals, who in turn, contracted with ABC Agents, whom DGF authorized to represent DGF to ABC Agents’ old and new clients. ABC Agents then solicited investments in all dollar amounts. Allegedly, ABC Agents were paid 3 % (three percent) commissions on their sales. ABC Agents did not provide a prospectus that included financial statements, risk disclosures, or other related disclosures that would have been material to a reasonable investor prior to investing.
57. OFIR staff has identified several Michigan residents who have invested in DGF’s investment scheme. OFIR has information that at least one investor received an in-home

presentation from ABC Agents and was offered opportunities to invest in one type of product, but was later offered DGF's securities. Others received cold calls from ABC Agents and were offered DGF's securities. Based on representations that DGF was a good investment with a 12% return and low risk, investors purchased DGF's securities.

58. According to ABC records, approximately \$9,857,038.00 in DGF securities were offered and sold by ABC Principals and ABC Agents through ABC to the general public. Many of the investors purchased the DGF securities by surrendering their other investments, savings and home equity.
59. In August, 2010, OFIR issued a Cease and Desist Order against Diversified Liquid Asset Holdings, LLC, ("DLAH") a Michigan limited liability company whose registered office is located in Byron Center, MI. DLAH's securities were not registered with OFIR, nor were its offerings.
60. DLAH's investment scheme entitled, "Joint Venture Funding", represented it would use investor funds to facilitate ethanol production related activities including, but not limited to, the acquisition, maintenance, and divestiture of either real or personal property or both. DLAH's Joint Venture Funding Agreement guaranteed annual returns of 12% (twelve percent), and that DLAH would have exclusive authority without limitation, to exercise any and all powers over investor funds to pursue business purposes including, but not limited to, use and allocation of the funds.
61. DLAH contracted with ABC and ABC Principals, who in turn, contracted with ABC Agents, whom DLAH authorized to represent DLAH to ABC Agents' old and new clients. ABC Agents then solicited investments in all dollar amounts. Allegedly, ABC Agents were paid 3 % (three percent) commissions on their sales. ABC Agents did not provide a prospectus that included financial statements, risk disclosures, or certain other related disclosures that would have been material to a reasonable investor prior to investing.
62. OFIR staff has identified several Michigan residents who have invested in DLAH's investment scheme. OFIR has information to the effect that at least one investor attended seminars presented by ABC Agents and was offered opportunities to invest in one type of product, but was later offered DLAH's securities. Others received cold calls from ABC Agents and were offered DLAH's securities. Based on representations that DLAH was a good investment with a 12% return and low risk, investors purchased DLAH's securities.
63. According to ABC records, approximately \$55,551,260.00 in DLAH securities were offered and sold by ABC Principals and ABC Agents through ABC. Many of the investors purchased the DLG securities by surrendering their other investments, savings and home equity.
64. Because the Respondents sold unregistered securities, operated as unregistered investment advisers and/or broker-dealers, and failed to provide material information to

Michigan investors, the investors were financially harmed. No investor has received promised returns and all have lost their principal investment.

II. CONCLUSIONS OF LAW

A. **Violations of Section 201, MCL 451.601, of MUSA.**

1. Under Section 201(a) of MUSA, a person shall not transact business in this state as a broker-dealer or securities agent unless registered. Section 401(d) of MUSA defines a broker-dealer to mean any person engaged in the business of effecting transaction in securities for the account of others or for his own account; Section 401(b) defines an agent as any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. Section 401(s) defines a person to include a corporation.
2. The Respondent ABC engaged in the business of effecting transactions in securities by facilitating the receipt, transfer and exchange of investment proceeds and agreements in the above-mentioned securities with the general public through its unregistered securities agents. More specifically, ABC contracted with issuers of DLG, DGF and DLAH's securities, who then in turn, contracted with ABC Agents to receive investment proceeds from investors in exchange for investment contracts.
3. The Respondents played an active role in the sales process of DLG, DLAH and DGF's securities by facilitating and/or receiving monetary incentives to target insurance clients and the general public for the purpose of promoting the securities and soliciting prospective investors.
4. The Respondents also played an active role in the sales process of DLG, DLAH, and DGF's securities by soliciting investors via "free lunch seminars", cold calls and literature sent through the mails to the general public for the purpose of promoting the securities to prospective investors.
5. The Respondents participated in the negotiations between the issuers and the investors by: (a) making representations as to the merits of the investments; (b) giving advice regarding the investments; and, (c) counseling investors as to how to fund the purchase of securities.
6. The Respondents received compensation from the issuers in the form of commissions.
7. OFIR staff conducted a search of its records and FINRA's Central Registration Depository to determine whether ABC was registered as a broker-dealer. No such registration records were found.

8. OFIR staff conducted a search of its records and FINRA's Central Registration Depository to determine whether ABC Principals and ABC Agents were registered as securities agents. No such registration records were found.
9. Based on the foregoing, ABC violated Section 201(a) of MUSA when it engaged in the business of effecting transactions for others in securities. Specifically, ABC and its agents played an actively promoted, marketed, subscribed and collected investment proceeds with respect to DLG, DLAH and DGF's securities. Neither ABC nor its agents were registered as required by law when it engaged in these activities.
10. Based on the foregoing, ABC Principals and ABC Agents violated Section 201(a) of MUSA when they effected transactions in securities for others by promoting, marketing, subscribing and facilitating the collection of investment proceeds with respect to DLG, DLAH and DGF's securities; and, did so without being registered as a securities agent.

B. Violations of Section 201, MCL 451.601, of MUSA.

11. Section 201(c) of MUSA provides that a person shall not transact business in this state as an investment adviser unless registered under MUSA. Section 401(l) of MUSA defines an investment adviser as:

any person who, for consideration engages in the business of advising others, either directly or indirectly or through publications or writings, as to the value of securities, or as to the advisability of investing in, purchasing, or selling securities, who, for consideration and as a part of regular business, issues or promulgates analyses or reports concerning securities, or who acts as a finder in conjunction with the offer, sale or purchase of a security.

Section 401(s) definition of "person" includes both an individual and a corporation.

12. Beginning in 2007, the Respondents, directly or indirectly, singly or in concert, engaged in the business of advising others in transactions involving securities by promoting DLG, DLAH and DGF's securities and advising members of the public to invest in such securities.
13. The Respondents, directly or indirectly, singly or in concert, acted as investment advisers when they made representations regarding the merits of the investments, gave advice regarding the investments, and counseled investors on how to fund the purchase of securities.
14. The Respondents, directly or indirectly, singly or in concert, received compensation from investor proceeds in the form of wages, commissions, referral fees and monetary incentives.

15. OFIR staff conducted a search of its records and FINRA's Central Registration Depository to determine whether any of the Respondents were registered as investment advisers. No such registration records were found.
16. Based on the foregoing, the Respondents violated Section 201(c) of MUSA, when for consideration they engaged in the business of advising others, either directly or indirectly or through publications or writings, as to the value of securities, or as to the advisability of investing in, purchasing, or selling securities for consideration and as a part of regular business, or they acted as a finder in conjunction with the offer, sale or purchase of a security; and, did so without being registered as an investment adviser.

C. Violations of Section 301, MCL 451.701, of MUSA.

17. Section 401(z) of MUSA, MCL 451.801(z), defines a security as:

note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; or certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease ...or, any contractual or quasi contractual arrangement pursuant to which (1) a person furnishes capital, other than services, to an issuer; (2) a portion of that capital is subjected to the risks of the issuer's enterprise; (3) the furnishing of that capital is induced by the representations of an issuer, promoter, or their affiliates which give rise to a reasonable understanding that a valuable tangible benefit will accrue to the person furnishing the capital as a result of the operation of the enterprise; (4) the person furnishing the capital does not intend to be actively involved in the management of the enterprise in a meaningful way; and (5) a promoter or its affiliates anticipate, at the time the capital is furnished, that financial gain may be realized as a result thereof.

18. Pursuant to *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), an investment contract exists if there is "an investment of money in a common enterprise with profits to come solely from the efforts of others." *Id.* at 301. Under Section 401(z) of the Act, MCL 451.801(z), "security" includes an investment contract; thus, the offer or sale of an investment contract must be registered pursuant to Section 301 of the Act, MCL 451.301.
19. The investments offered by the Respondents meet the definition of an investment contract as set forth in Section 401(z) and in *Howey*. Members of the public invested money in DLG, DGF, DLAH securities that were promoted, recommended and offered and sold by the Respondents with the expectation of profit generation. The Respondents represented

that these investments would generate returns of 8 - 12% returns. The investors bore 100% of the risk of loss each time they invested money. Whether their investments were profitable was dependent solely upon the Respondents' efforts. The investors had no connection to the issuers of the securities, and did not have any authorization to exercise any power or authority over investor funds.

20. The Respondents were instrumental in inducing members of the public to invest their monies in the securities they offered and sold. They, individually and through their businesses or employment, exploited investors' lack of knowledge in investing to promote the securities by misrepresenting that the securities were low risk, high yielding and they falsely and knowingly promised high returns. They represented that their clients would directly benefit from DLG, DLAH and DGF's investment strategy to achieve higher returns, which the investors interpreted to mean that financial benefits would inure to them.
21. There is a common enterprise because investors are dependent on the Respondents, DLG, DLAH and DGF to facilitate the receipt and transfer of funds, complete investment contracts, and invest the proceeds into alleged projects. All the investors would be negatively affected if the project's key personnel were ineffective in following their alleged investment plan. A common enterprise also exists because Respondents all earned percentages of the investment dollars received in the form of referral fees, commissions, wages and other compensation. Finally, the investors were totally dependent upon the efforts of the project's key personnel for the realization of any return on their investment. As mentioned earlier, the investors had no connection to the issuers of the securities, or any authorization to exercise any powers and authority over investor funds to pursue business purposes, or the use and allocation of the funds.
22. OFIR staff conducted a search of its records and SEC's EDGAR Database to determine whether DLG, DGF and DLAH securities were registered. No such registration records were found.
23. As a result of the conduct described above, the Respondents violated Section 301 of MUSA, by offering and selling unregistered securities in Michigan.

WHEREAS, Section 408 of the MUSA, MCL 451.808, states that whenever it appears to the Administrator (Commissioner of the Office of Financial and Insurance Regulation) that any person has engaged or is about to engage in any Act or practice constituting a violation of any provision of this Act or any rule or order hereunder, it may in its discretion issue a cease and desist order or bring an action in a circuit court to enjoin the Act or practices and to enforce compliance with this Act or any rule or order hereunder; and

WHEREAS, the Administrator finds this Order necessary and appropriate in the public interest, for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of MUSA; and

WHEREAS, the Administrator retains the right to pursue further administrative action against Respondents should the Administrator determine that such action is necessary and appropriate in the public interest, for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of MUSA, which may include, but not be limited to, bringing an action in circuit court to enjoin the acts and practices of the Respondents and upon proper showing seek an order to require an accounting or disgorgement of ill-gotten gains; and

WHEREAS, based on the foregoing, OFIR Staff recommends that the Administrator find that Respondents have engaged in acts and practices that violate Sections 201 and 301 of MUSA.

III.

ORDER

IT IS THEREFORE ORDERED, pursuant to Sections 408 and 409 of MUSA, MCL 451.808 and MCL 451.809, that:

1. The Respondents shall immediately **CEASE AND DESIST** from violating Sections 201 and 301 of MUSA.
2. Based upon the Respondents' violations of MUSA and given that the Administrator finds that it is in the public interest, that any exemptions under Sections 401(c) and (d), 402(a)(1), (6), (7), (8), (9), (10), 402(b) of MUSA, MCL 451.802(a)(1), (6), (7), (8), (9), (10), and 451.802(b) for which Respondents might qualify, are hereby **SUMMARILY DENIED AND REVOKED** for all purposes provided under Section 408(c) of the MUSA, MCL 451.808(c), including but not limited to Respondents' right to engage in transactions otherwise exempt under Section 402(b) of the Act, MCL 451.802(b) in the future absent compliance with the registration provisions of the Act.
3. Similarly, the Administrator finds that it would be in the public interest, that any exemptions for which Respondents might qualify for pursuant to the Michigan Uniform Securities Act 2002, 2008 PA 551, MCL 451.2101, *et seq.*, effective October 1, 2009, are hereby **SUMMARILY DENIED AND REVOKED**.
4. Each and every Respondent is ordered to **PAY** a **CIVIL PENALTY** in the amount of \$10,000.00 (ten thousand dollars) made payable to the State of Michigan. Upon execution of this Order, OFIR will send an Invoice for the civil penalty that is payable within 30 days of issuance of the Invoice.

Failure to comply with this **ORDER** may subject the Respondents to a criminal penalty of not more than \$25,000 for each violation, or imprisonment of not more than 10 years, or both.

IV.

NOTICE OF OPPORTUNITY FOR HEARING

Section 408(b) of the MUSA, MCL 451.808, provides:

A person who has been ordered to cease and desist may file with the administrator within **15 days** after service on him or her of the order a written request for a hearing. The administrator within 15 days after the filing shall issue a notice of hearing and set a date for the hearing. If a hearing is not requested by the person or is not ordered by the administrator within 15 days, the order will stand as entered. The administrator shall hold the hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, and shall have all the powers granted thereunder. The administrator shall issue a decision sustaining, modifying, or dismissing the original order.

Should Respondents wish to request a hearing relating to the Commissioner's Order to Cease and Desist, a hearing must be requested in writing within 15 days of the issuance of this Order. The request for a hearing must be addressed to:

Elizabeth Bolden, Enforcement Attorney
Office of Financial and Insurance Regulation
Ottawa State Office Building, Third Floor
611 West Ottawa Street Lansing, Michigan 48933

Please be advised that any statements made are voluntary and may be used in any proceeding that may be held. If a hearing is requested, Respondents have the right at its expense to legal representation at the hearing. A licensed attorney must represent Respondents that are corporations or limited liability companies.

The Commissioner retains the right to pursue further administrative action against the Respondents should the Commissioner determine that such action is necessary and appropriate in the public interest, for the protection of consumers, and consistent with the purposes fairly intended by the policy and provisions of the Act.

Any other communication regarding this Order should be addressed to the Office of Financial and Insurance Regulation, Attention: Elizabeth V. Bolden, P.O. Box 30220, Lansing, Michigan 48909, Telephone: 877-999-6442.

**OFFICE OF FINANCIAL AND
INSURANCE REGULATION**



Ken Ross, Commissioner