

**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)**

Jason Juberg

Matt Harper

John Does 1 - 100

Respondents.

ORDER TO CEASE AND DESIST

Issued and entered
this 10th day of August 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., JASON JUBERG AND MATT HARPER AND JOHN DOES 1 - 100** ("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 advisors, and to cease and desist from employing an investment scheme intended to defraud the public. Respondents are also notified of an opportunity to request a hearing on this matter.

I. BACKGROUND AND FINDINGS OF FACT

1. Respondent 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 advisor or as being associated with an investment adviser firm that is registered with OFIR. ABC has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. The offerings subject to this Order were not registered 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 period of the subject transactions, he was not registered with OFIR as an investment adviser firm or securities agent, or as being associated with an investment adviser firm or broker-dealer that is registered with OFIR.
3. Matt Harper (“Harper”) is a Michigan resident and serves as Vice President of ABC. Harper has never been registered with OFIR as an investment adviser firm or securities agent, or as being associated with an investment adviser firm or broker-dealer that is registered with OFIR.
4. Upon information and belief, Respondents John Doe 1 – 100 (“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, or as being 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.
5. ABC, Juberg, Harper, and John Does 1 – 100, are collectively herein referred to as the “Respondents”.
6. In November, 2008, OFIR issued a Cease and Desist Order against Diversified Lending Group, Inc. (“DLG”) to cease and desist from selling unregistered, nonexempt securities in the State of Michigan in violation of the MUSA.
7. 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.
8. According to the Respondents 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 ABC, Juberg, Harper and John Does, then solicited 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.

9. However, OFIR received information that ABC broadly marketed DLG securities through website references and free lunch seminars irrespective of whether investors were accredited and appropriate candidates for such investment products.
10. Based on information received from ABC, Respondents received substantial commissions paid from YPD. These commissions were paid to Respondents from the sale of DLG securities.
11. In August, 2010, OFIR issued a Cease and Desist Order against Diversified Global Finance, Ltd. ("DGF") a corporation allegedly formed in Auckland, New Zealand with offices allegedly located in Grand Rapids, Michigan. DGF's securities were not registered with OFIR, nor were its offerings.
12. OFIR received information that DGF developed, made and issued investment contracts that involved an investment 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.
13. DGF contracted with ABC and Juberg, who in turn, contracted with John Does, whom DGF authorized to represent DGF to John Does' old and new clients. John Does then solicited investments in all dollar amounts. John Does were paid commissions for their sales. John Does 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.
14. 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 and was offered opportunities to invest in one type of product, but was later offered DGF's securities. Others received cold calls from John Does and were offered DGF's securities. Based on representations that DGF was a good investment with a 12% return, investors purchased DGF's securities.
15. According to information provided by ABC, Respondents received substantial commissions in connection with the sale of DGF's securities.
16. In August, 2010, OFIR issued a Cease and Desist Order against Diversified Liquid Asset Holdings, LLC, ("DLAH") a Michigan limited liability company with its registered office located in Byron Center, MI. DLAH's securities were not registered with OFIR, nor were its offerings.
17. 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 and authority over investor funds to pursue business purposes including, but not limited to, use and allocation of the funds.

18. DLAH contracted with ABC, who in turn, contracted with John Does, whom DLAH authorized to represent DLAH to John Does' old and new clients. John Does then solicited investments in all dollar amounts. John Does were paid commissions for their sales. John Does 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.
19. OFIR staff has identified several Michigan residents who have invested in DLAH's investment scheme. OFIR has information that at least one investor attended seminars presented by ABC and was offered opportunities to invest in one type of product, but was later offered DLAH's securities. Others received cold calls from John Does and were offered DLAH's securities. Based on representations that DLAH was a good investment with a 12% return, investors purchased DLAH's securities.
20. According to information provided by ABC, Respondents received substantial commissions in connection with the sale of DLAH's securities.
21. Because the Respondents sold unregistered securities, operated as unregistered investment advisors and/or broker-dealers, and failed to provide material information Michigan investors were financially harmed.

II. CONCLUSIONS OF LAW

A. Violations of Section 201, MCL 451.601, of the Securities Act.

1. Section 201(a) provides a person shall not transact business in this state as a broker dealer unless registered under the MUSA. Section 401(d) of the 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(s) defines a person to include a corporation.
2. 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 via its unregistered securities agents.
3. ABC played an active part in the sales process of DLG's, DLAH's and DGF's securities by facilitating monetary incentives to its agents to target ABC insurance clients and the general public for the purpose of promoting the securities and soliciting prospective investors.

4. ABC also played an active part in the sales process of DLG's, DLAH's, 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. ABC, through its unregistered agents, John Does, participated in the negotiations between the issuers and the investors when it made valuations as to the merits of the investments and/or gave advice regarding the investments.
6. ABC and John Does received compensation from the issuers in the form of commissions.
7. OFIR staff conducted a search to locate records of any broker-dealer registrations in the matter of ABC. No such records were found.
8. Based on the foregoing, ABC violated the Section 201(a) of the MUSA where it was engaged in the business of effecting transactions for others in securities where ABC and its agents played an active role in the promoting, marketing, subscribing and collection of investment proceeds with respect to DLG's, DLAH's and DGF's securities; and, did so without being registered as a broker dealer.

B. Violations of Section 201, MCL 451.601, of the Securities Act.

9. Section 201(c) provides that a person shall not transact business in this state as an investment advisor unless registered under the MUSA. Section 401(l) of the MUSA defines an investment advisor to mean 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) defines a person to include an individual and a corporation.
10. 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 securities and advising members of the public to invest in such securities.
11. The Respondents, directly or indirectly, singly or in concert, substantially engaged in investment advising when they made evaluations as to the merits of DLG, DLAH and DGF securities, and gave advice to members of the public regarding the investments and the returns.

12. The Respondents, directly or indirectly, singly or in concert received compensation from the investor proceeds in the form of wages, commissions, referral fees and other direct or indirect compensation.
13. OFIR staff conducted a search to locate records of any investment advisor registrations in the matter of the Respondents. No such records were found.
14. Based on the foregoing, the Respondents violated Section 201(c) of the MUSA, where 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 advisor.

C. Violations of Section 301, MCL 451.701, of the Securities Act.

15. A security is defined in Section 401(z) of the Act, MCL 451.801(z), to mean any 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.
16. Pursuant to *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), an investment contract exists if there is present "an investment of money in a common enterprise with profits to come solely from the efforts of others." *Id.* at 301. An investment contract is a security under Section 401(z) of the Act, MCL 451.801(z), the offer or sale of which must be registered or exempt pursuant to Section 301 of the Act, MCL 451.301.
17. 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 the schemes promoted, recommended and offered by DLG, DGF, DLAH, and the Respondents with the expectation of profit generation. Notwithstanding, the representations of 8 - 12% returns, the investors bore 100% of the risk of loss each time they invested money. The investors were entirely passive with respect to realizing a profit on their investments. 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 each entity's business purposes, or the use and allocation of the funds.

18. Moreover, 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, greater yielding and promised high returns. They represented that their clients would directly benefit from DLG's, DLAH's and DGF's investment strategy to achieve higher returns, which the investors interpreted to mean financial benefits would inure to them.
19. There is a common enterprise because investors are dependent on the Respondents, DLG, DLAH and DGF to facilitate receipt and transfer of funds, completion of investment contracts, and investment of 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.
20. OFIR staff conducted a search to locate records of any registration or exemption filings pursuant to the MUSA related to DLG, DLAH and DGF. No such records were found for the business entities, or their securities.
21. As a result of the conduct described above, the Respondents violated Section 301 of the MUSA, which states it is unlawful for any person to offer or sell any security in this state unless the security is registered or exempt under the Act.

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 the 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 the MUSA, and 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 the MUSA.

III.

ORDER

IT IS THEREFORE ORDERED, pursuant to Section 408 of the Act, MCL 451.808, and Section 409 of the Act, MCL 451.809, that:

1. Respondents shall immediately **CEASE AND DESIST** from violating Sections 201, and 301 of the MUSA.
2. Based upon Respondents' violations of the MUSA and because the Administrator finds that it would be in the public interest, that any exemptions under Section 401(c) and (d), 402(a)(1), (6), (7), (8), (9), (10), and 402(b) of the 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**.

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, Staff 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