

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

Before the Commissioner of Financial and Insurance Regulation

In the matter of:

Enforcement Case No. 10-7597

Michael Isaiah Winans, Jr.

Michael Isaiah Winans, Sr.

Desmond Lamont Weems

Latonya Garth

Baby Mike Music Publishing Co.

**D. L. Weems Enterprises, Inc.
(d/b/a Weems Holding Group, Inc.,
d/b/a World Lit Entertainment)**

Garth & Company

M & R Productions, Inc.

Tryon Holdings Group, Inc.

Winans & Associates, Inc.

Winans Foundation Trust

John Does 1 - 10

ORDER TO CEASE AND DESIST

Issued and entered
this 4th day of March 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 authorized by Section 703, MCL 451.2703 of the Michigan Uniform Securities Act of 2002, 2008 PA 551, *et. seq.*, hereby orders

MICHAEL I. WINANS, SR., MICHAEL I. WINANS, JR., DESMOND L. WEEMS, LATONYA GARTH, BABY MIKE MUSIC PRODUCTION CO., D.L. WEEMS ENTERPRISES, INC., GARTH & COMPANY, M & R PRODUCTIONS, TRYON HOLDINGS, INC., WINANS & ASSOCIATES, INC. AND THE WINANS FOUNDATION TRUST 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 agents and/or broker-dealers, 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.

THE RESPONDENTS

1. Michael Isaiah Winans, Sr. ("Winans Sr.") is a resident of Livonia, Michigan. Winans Sr. has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Winans Sr.'s securities are not registered with OFIR, nor were its offerings.
2. Michael Isaiah Winans, Jr. ("Winans Jr.") is a resident of West Bloomfield, Michigan. Winans Jr. has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Winans Jr.'s securities are not registered with OFIR, nor were its offerings.
3. Desmond Lamont Weems ("Weems") is a resident of Detroit, Michigan. Weems has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Weems' securities are not registered with OFIR, nor were its offerings.
4. Latonya Garth ("Garth") is a resident of Warren, Michigan. Garth has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Garth's securities are not registered with OFIR, nor were its offerings.
5. Baby Mike Music Publishing Co. ("Baby Mike Music") is a Michigan corporation formed in March 2002 to engage in the business and production of music. Its principle place of business is located at 18425 James Couzens Detroit, Michigan. Winans Jr. serves as its president. Baby Mike Music has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR.
6. D. L. Weems Enterprises, Inc. ("Weems Enterprises") is a Michigan corporation formed in December 2007 to govern the assets of its customers. Weems Enterprises also does business as World Lit Entertainment and Weems Holdings Group, Inc. Its principle place of business is located at 17607 Santa Barbara Dr. Detroit, Michigan. Weems serves as its president and chief executive officer. Weems Enterprises has never been registered with

OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Weems Enterprises' securities are not registered with OFIR, nor were its offerings.

7. Garth & Company, Inc. ("Garth & Co.") is a Michigan corporation formed in October 2007 to engage in the business of asset protection. Its principle place of business is located at 25737 Parkview Blvd. Warren, Michigan. Garth serves as its president. Garth & Co has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Garth & Co.'s securities are not registered with OFIR, nor were its offerings.
8. M & R Productions, Inc. ("M & R") is a Michigan corporation formed in March 2002 with its principle place of business located at 5520 Silver Pond West Bloomfield, Michigan. Winans Sr. serves as its president. M & R has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR.
9. Tryon Holdings Group, Inc. ("Tryon") is a Michigan corporation formed in November 2006 to engage in the business of asset protection. Its principle place of business is located at 18425 James Couzens Detroit, Michigan. Winans Jr. serves as its president. Tryon has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR.
10. Winans & Associates, Inc. ("Winans & Assoc.") is a Michigan corporation formed in August 1999 with its principle place of business located at 18425 James Couzens Detroit, Michigan. Winans Jr. serves as its president. Winans & Assoc. has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Winans & Assoc.'s securities are not registered with OFIR, nor were its offerings.
11. Winans Foundation Trust ("Winans Foundation") is an IRS recognized 501(c)(3) tax exempt private foundation. Its principle place of business is located in Oak Park, Michigan. Winans Jr. serves as its trustee. Winans Foundation has never been registered with OFIR as a broker-dealer or as being associated with a broker-dealer firm that is registered with OFIR. Winans Foundation's securities are not registered with OFIR, nor were its offerings.
12. John Does 1-10. Upon information and belief, Respondents John Doe 1-10 are individuals and other legal entities, the names and addresses of which are unknown. When the true names of Does 1-10 are ascertained, Petitioner will amend this Order to Cease and Desist to identify him or her, or the legal entity.

II.

BACKGROUND AND FINDINGS OF FACT

13. Mike Winans, Jr. is the son of Michael I. Winans Sr., a gospel recording artist and is a member of the nationally known gospel singing family, The Winans. Using his family's name and reputation he offered and sold securities that were not registered or exempted under the MUSA. He misused investor funds, failed to disclose material risks associated with his investment scheme, failed to disclose the compensation he received, commissions and finder's fees he paid to others; and, perpetrated a fraud upon investors.
14. In October 2007, Winans Jr. devised an investment scheme involving an alleged crude oil bond. In doing so, he first established a 501(c)(3) nonprofit private foundation trust called The Winans Foundation Trust where he served as its trustee. The Foundation has no other known business purpose except to receive and transfer investor funds.
15. Next, he created the recruitment letter that described the crude oil bond program as follows:

"Dear team, You and your clients are connected to my crude oil bond upon an initial donation of 1k- 7k. Their money is not being actively traded because this is a Saudi Arabian market and your client's reserves are sitting in my American bank account. I use proof of their funds in my bank account to trade @ a higher yielding crude oil trading scale. This is a 60 – day donation and the funds must remain in my possession for that amount of time. I can ensure that the principle investment will not be lost, because I'm not actually trading your client's money. Throughout this 60 – day cycle, the bond will yield between 1k- 8k for your clients GUARANTEED.

All of your clients will deal with you directly and you will in turn do business with me directly, never breaking that protocol for any reason. The difference between the full yield and the payout yield will be negotiated amongst the two of us. Lastly, remember to mention that this is an exclusively private opportunity given only to those who have the necessary 5M cash reserves to purchase a crude oil bond. The only reason that they can benefit from this opportunity is because YOU have a direct link."

16. This letter would become the central recruiting piece for Mike Winans to induce individuals to promote, offer and sale the crude oil bond to the general public on his behalf.
17. Additionally, he also provided his newly recruited promoters with a second document entitled "Winans Foundation Trust" that was used to acknowledge receipt of investment money and was given to some investors. The receipt states "Our intention is to take this gift and create financial independence for humanity. Sixty days from the date of this signed agreement, The Winans Foundation Trust guarantees to return at minimum the principle amount of the donation. Our plan is to return a financial gift back to you even greater than the principle amount. We would like to thank you for your trust and support in the endeavors of The Winans Foundation Trust."

18. This agreement would become the model of the contract agreement used to document the investments in the crude oil bond program.
19. OFIR has information and believes Winans Jr.'s first recruit of promoters included Desmond L. Weems, Latonya Garth, and his father Michael Winans, Sr.
20. Just as Winans Jr. had done, in December 2007 Weems formed D. L. Weems Enterprises, Inc. According to its Articles of Incorporation filed with the Michigan Bureau of Commercial Services the sole purpose of the business was formed to govern the assets of its customers. Weems Enterprises was formed to accept funds to invest in the crude oil bond and has no other known business purpose.
21. At Genesis New Beginnings Church in Detroit, Weems promoted the crude oil bond as a legitimate investment to members of its congregation and to those that attended meetings there. During his presentation, "Get Rich and Live Doing So," he told investors they would be connected to his crude oil bond upon an initial donation of \$1,000 - \$7,000. And, as Mike Winans had scripted, Weems told investors that the money would not be actively traded because it is a Saudi Arabian market and the money would sit in Weems' American bank account for 60 days. He told them it was "no loss" investing, "it was not a scam, hustle or nothing of the sort." To add to the investment's credibility, Mike Winans made guest appearances to promote the legitimacy of his crude oil bond.
22. Weems also promoted "Get Rich and Live Doing So" to prospective investors on a Myspace profile under the screenname "dlweemsenterprises".
23. Weems' of investor funds followed Winans Jr.'s script as well. His first contract agreement began with "We intend to take this note and create financial independence for our clients." He promised guaranteed returns of \$2,000 for every \$1,000 invested with a 70 day hold period. He also charged a \$50 registration fee for every \$1,000. The contract agreement ended with "We thank you for your trust and support in the endeavors of Weems Holdings Group, Inc." His second contract promised guaranteed returns of \$4,000 for every \$1,000 invested with a 127 day hold period. In that contract, he also charged a \$25 registration fee for every \$1,000. His third contract called for a 187 day hold period.
24. Other than a receipt or contract agreement, the investors received no financial statements, risk disclosures, or certain other related disclosures that would have been material to a reasonable investor prior to investing that accompany legitimate investments.
25. Investors were not told that their investment proceeds would be used to pay Weems personal and business expenses, or that the money would be in used in Ponzi style to pay principal or interest payments due to prior investors. They were not told their money would be commingled in Weems' personal and business accounts unrelated to the crude oil bond investment.

26. In 2008, Weems also established at least 17 separate bank accounts among 5 different banks. Of the 17 accounts, OFIR identified 2 as his own personal accounts and the remaining belonging to his various businesses. Nine of the accounts included investor funds totaling \$756,000. In one account, OFIR accounted for \$600,000 of investor funds. As the funds were received they were immediately disbursed for various personal and business expenses and cash withdrawals. Weems used investor money to buy gasoline, pay his cable, light and other utility bills, and transferred money to other business accounts. He made some alleged principal and interest payments to prior investors with new investor funds and made large cash withdrawals. His cash withdrawals totaled more than \$182,000 where all cash deposits were less than \$22,000. Weems could only make such large cash withdrawals was withdrawing investor money that was given to him to be invested in an alleged crude oil bond. Weems withdrew investor funds before the hold periods expired.
27. Similarly, in another business account established for receipt of investor funds, all deposits totaled approximately \$411,000 in investor funds. Weems withdrew more than \$175,000 in cash before the hold periods expired. Using investor money his purchases included airline tickets and resort fees. He paid his bills and repaired his car with investor money. Finally, he made alleged principal and interest payments to prior investors with new investor funds he received. The only way Weems and Weems Enterprise could hope to keep prior investors at peace with respect to their investments was to siphon the proceeds of new investors to repay them.
28. Using the Winans Jr. recruitment model, Weems was able to build a staff of promoters to solicit the crude oil bond to new investors. He tapped new recruits from those who had previously invested in his "Get Rich and Live Doing So" program to solicit new investors. In total, OFIR has identified four individuals who solicited the bond program to at least 3 dozen new investors on behalf of Weems. Along with Weems these individuals brought in over \$750,000 in new investor proceeds and were compensated for their efforts.
29. None of the promoters told investors that that their money would be used to pay finder's fees, prior investors, or Weems' personal or business expenses. Weems and his promoters misrepresented that the money would safely sit in an American bank account. The truth is, once deposited the investors money was immediately disbursed.
30. The only way Weems, his business and recruited promoters could hope to keep the investors at peace was to siphon the proceeds of new investors to pay prior investors.
31. Another major promoter, Latonya Garth, formed Garth & Company, Inc. in 2007. According to its Articles of Incorporation filed with the Michigan Bureau of Commercial Services, the purpose of the business was to engage in asset protection. Garth & Co.'s sole purpose was to accept funds to invest in the crude oil bond and has no other known business purpose.

32. Garth solicited the crude oil bond as a legitimate investment to friends, family and others in the community. In her version of the crude oil bond solicitation, "Never Let Fear Get in the Way of Success," she told investors that their money would not be actively traded because it is a Saudi Arabian market and the money would sit in an American bank account for 75 days. She told them it was "no loss" investing and that she could ensure that the principal would not be lost. To add to the investment's credibility, she held private business receptions and repeated "[t]his is not a gimmick to manipulate you in any shape, form or fashion."
33. Garth's "Never Let Fear Get in the Way of Success" followed the Winans Jr. script as well. She began with "[o]ur intention is to take this gift and create financial independence for humanity." She promised guaranteed returns of \$500 for every \$1,000 invested within 75 days. She also charged a \$50 processing fee for every \$1,000. The script ended with, "We would like to thank you for your trust and support in the endeavors of Garth and Company."
34. Other than a receipt or contract agreement, the investors received no financial statements, risk disclosures, or certain other related disclosure that would have been material to a reasonable investor prior to investing. For example, without the solicitation leaflet the contract agreement does not even state the rate of return. However, it does state "Garth and Company guarantees to return at minimum the principle amount of the donation. However, our objective is to return a financial gift back to you even greater than the principal amount."
35. Additionally, the investors were not told that their investment proceeds would be used to pay Garth's personal and business expenses, or that the money would be in used in Ponzi style to pay principal or interest payments due to prior investors. Notwithstanding the hold periods stated in the contract agreements, once money was received and deposited it was immediately disbursed. Garth's solicitation was meant to encourage individuals to invest in "this wonderful opportunity" and that with the promised rate of guaranteed returns – "that's a steal!" she said.
36. Garth established at least 12 separate business bank accounts among 6 different banks. Of the 12 accounts, OFIR identified one as her own personal account and the remaining belonging to her various businesses. Three of the 11 business accounts included investor funds totaling over \$800,000. Altogether, OFIR has identified \$896,512 of investor funds that were deposited into the accounts. As the funds were received they were immediately disbursed. Garth made large cash withdrawals and smaller cash deposits. The only way Garth could make such large cash withdrawals was by withdrawing investor money that was given to her to be invested in her alleged crude oil bond.
37. In some instances, money was transferred to three of Winans Jr.'s business entities unrelated to the Foundation, but was identified as investor proceeds as confirmed by the investors' name on the memo of the checks. Garth commingled investor money in her personal bank account and later remitted those funds to Winans & Associates. She also

remitted investor money to Winans & Associates drawn on her business account for Garth & Company.

38. As Weems had done, using the Winans Jr. recruitment model, Garth was able to build a staff of promoters to solicit the crude oil bond to new investors. She tapped new recruits from those who had previously invested in her "Never Let Fear Get in the Way of Success" program to solicit new investors. In total, OFIR has identified several individuals who promoted the bond program to at least a dozen new investors.
39. None of the promoters told investors that that their money would be immediately disbursed prior to the hold period. They were not told that the money would be commingled with Garth's personal accounts or disbursed to business entities not related to the crude oil bond or their contract agreement. They were not told that the money would be withdrawn in cash and used at Garth's discretion. The investors received no financial statements, risk disclosures, or certain other related disclosure that would have been material to a reasonable investor prior to investing that would accompany legitimate investments.
40. The only way Garth, her business and recruited promoters could hope to keep the investors at peace was to siphon the proceeds of new investors to pay prior investors.
41. Another promoter, Michael I. Winans, Sr., through his corporate entity M & R Productions, Inc., promoted the alleged crude oil bond to his pastoral contacts and solicited investments from them.
42. OFIR received an out-of-state complaint from Pastor 1 who was solicited by Winans, Sr. In December 2007, Winans Sr. promoted his son's crude oil bond program to Pastor 1. The terms of the investment required a 60 day hold period with a minimum investment of \$1,000. As his son scripted, and according to Pastor 1, Winans Sr. promoted the exclusivity of the crude oil bond. He told Pastor 1 that they were only giving friends and family the opportunity to invest money into this bond and that it was legal. Winans Sr. guaranteed a 100% return within 60 days and assured Pastor 1 it was legal and that he would not lose his investment.
43. From January 2008 through July 2008, Pastor 1 invested \$34,875. His checks were made payable to M & R Productions and endorsed by Winans Sr. for deposit. When the first \$1,000 investment matured Winans Sr. encouraged Pastor 1 to reinvest the principal, which he did. After realizing an alleged \$1,200 profit on his investment, Pastor 1 was recruited to encourage others to invest. Winans Sr. told Pastor 1 that he could be a broker and he would receive a commission if he wanted to recruit some friends upon whom they could bestow a blessing and that there would not be any paperwork, just trust.
44. Subsequently, Pastor 1 held a telephone conference with other pastors where Winans Sr. pitched the crude oil bond as a "no lose" investment product. As a result, Winans Sr. received an additional \$126,000 from Pastor 2, and \$14,000 from Pastor 3. All checks

were made payable to M & R Productions and endorsed by Winans Sr. for deposit. He also charged a processing fee of \$50 per \$1,000 invested that he pocketed.

45. Other than canceled checks, the Pastors received no financial statements, risk disclosures, or certain other related disclosure that would have been material to a reasonable investor prior to investing which would accompany legitimate investments.
46. A substantial amount of the investment proceeds received by Weems, Garth and Winans Sr., their business entities and promoters flowed to Winans Jr. or to one of his business entities, mainly the Foundation.
47. Sometime in August 2008, Winans Jr. and the Foundation ceased making principal or alleged interest payments to investors.
48. In September 2008, the Pastors who had invested with Winans Sr. became concerned that their investment money had been lost. Winans Sr. made personal phone calls to the Pastors to inform them that there was a problem. He told them the crude oil bond investment was being frozen, that the bond manager had stopped the investment and that an internal audit was being done. Coincidentally, these phone calls occurred around the same time Fox 2 Detroit broke its story about an alleged Ponzi scheme involving his son, Winans Jr. Winans Sr. told them a man named Desmond Weems stole the money. While true, he failed to mention his son was the mastermind behind the scheme.
49. OFIR examined bank records and accounted for approximately \$11.5 million of investor money that flowed through nearly 21 business accounts owned, operated or controlled by Winans Jr. Eighteen of the accounts were established in 2008 for the sole purpose of receiving investor funds.
50. A significant amount of the investor funds were deposited into accounts held by the Foundation. This 501(c)(3) nonprofit organization appears to have received approximately \$5 million of investor funds that were placed in separate accounts held at different banks. Once deposited, a portion of the funds were used to repay investors. However, a good portion of the balance, nearly \$2.2 million, was immediately transferred to Winans Jr.'s other businesses: Tryon Holdings, Baby Mike Music, and Winans and Assocs. From those three accounts, funds were further disbursed to repay previous investors who had invested with the Foundation.
51. Additionally, OFIR found that other businesses close to Winans Jr. appeared to have benefited from their investments to the detriment of other investors. For example, throughout 2008 the Foundation received approximately \$304,855 from a Detroit recording studio. During the same time period, the recording studio and two of its affiliates received nearly \$920,000 from five different businesses owned by Winans Jr., including the Foundation which purportedly held only investor funds.
52. Some investors were not as fortunate and did not receive such exorbitant returns. For example, one individual transferred \$1.3 million to Mike Winans for investment. Once

deposited, his funds were withdrawn within days and used to repay previous investors. A portion of the investor's funds were transferred to Baby Mike Music and other affiliated businesses. The investor has since received less than 50% of his principal investment. Despite the outstanding payments owed to investors, Winans Jr. used Foundation funds to lease a Maserati.

53. OFIR has been able to account for investor funds flowing in and out of the various bank accounts of Winans Jr., Weems, Garth, and their business entities. Investor funds characterized as donations mainly flowed into the Winans Foundation Trust, and then out to Winans Jr.'s related businesses with a portion being returned to investors as alleged interest payments. Promoters controlled a portion of the funds initially received to the extent that they skimmed off a portion of the investment funds to cover their personal expenses and reimbursement of alleged processing and registration fees. Promoters then would forward the balance to Winans Jr., Weems or Garth.
54. Because of the lies that Winans Jr., Winans Sr., Weems, and Garth told investors and the misappropriation of their money Michigan citizens (and some citizens of other states) have been financially harmed.

II.

CONCLUSIONS OF LAW

A. **Violations of Section 301, MCL 451.701, of the Securities Act.**

1. A security is defined in Section 401(z) of the MUSA, 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.
2. By definition a bond is a security under Section 401(z) of the MUSA, MCL 451.801(z), the offer or sale of which must be registered or exempt pursuant to Section 301 of the MUSA, MCL 451.301.

3. Additionally, 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 MUSA, MCL 451.801(z), the offer or sale of which must be registered or exempt pursuant to Section 301 of the MUSA, MCL 451.301.
4. The investments offered by Michael Winans, Jr., Michael Winans, Sr., Desmond Weems, Latonya Garth, DL Weems Enterprises, Garth & Company and the Winans Foundation Trust also meet the definition of an investment contract as set forth in Section 401(z) and in *Howey*. Michigan residents, and citizens of other states, invested money in the crude oil bond scheme promoted, recommended and offered by Winans Jr., Winans Sr., Weems, Garth and several other promoters with the expectation of profit generation. Notwithstanding, the representations of guaranteed returns, the investors bore 100% of the risk of loss each time they invested money in the crude oil bond scheme. The investors were entirely passive with respect to realizing a profit on their investments. The investors had no connection to Winans Jr., the issuer of the securities. A direct instruction from Winans Jr., dictated that none of the promoter’s clients (i.e., investors) would ever have direct communication with him.
5. Also, Winans Jr., Winans Sr., Weems, and Garth were instrumental in inducing people to invest their monies in the securities they offered and sold. Each of them either individually or through their businesses, exploited prior personal and business relationships or preyed on religious affiliations to promote the securities. Furthermore, they all assured investors that the principal would not be lost because the money would be sitting in an American bank account, a fact later proven to be false.
6. Winans Jr., Winans Sr., Weems, and Garth, individually and through their businesses, represented that they intended “to create financial independence for humanity” which exploited the vulnerable, yet charitable and religious nature of the investors. The investors were led to believe that through their investments a financial benefit would come to them.
7. There is a common enterprise because investors are dependent on Winans Jr., Winans Sr., Weems and Garth to facilitate receipt and transfer of funds, completion of subscription agreements, investment of the proceeds into to their alleged crude oil bond and disbursement of principal and interest payments. All the investors would be negatively affected if Winans Jr., Winans Sr., Weems and Garth were ineffective in following their alleged investment scheme. A common enterprise also exists because at the head of the scheme lies Winans Jr., who developed the alleged crude oil bond scheme and recruited promoters to solicit the investments to the community. Earlier promoters, including Winans Sr., Weems and Garth earned percentages of the investment dollars received in the form of finder’s fees, commissions, processing and registration fees, or by simply misappropriating the funds. Later promoters were recruited to solicit new investors with the promise of a financial benefit. Finally, the investors were totally dependent upon the efforts of Winans Jr., Weems and Garth to realize any return on their investment. As mentioned earlier, the investors had no means of transacting directly with Winans Jr. and

had to rely solely on Winans Sr., Weems and Garth to transact each investment and repayment.

8. OFIR staff conducted a search to locate records of any registration or exemption filing pursuant to the MUSA related to Winans, Jr., Winans, Sr., Weems, Garth, the Winans Foundation Trust, Weems Enterprises, and Garth & Company. No such records were found for the individuals, business entities, or their securities.
9. As a result of the conduct described above, Winans, Jr., Winans, Sr., Weems, Garth, the Winans Foundation Trust, Weems Enterprises, and Garth & Company 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 MUSA.

B. Violations of Section 101, MCL 451.501 of the Securities Act.

10. Section 101 of the MUSA provides “it is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly to: (1) employ any device, scheme, or artifice to defraud, (2) make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”
11. Winans Jr., Winans Sr., Weems and Garth committed acts and caused events to happen to bring about the sale of securities in a way that they intended to defraud Michigan residents by taking investment money in exchange for unlawful securities.
12. More specifically, Winans Jr., Winans Sr., Weems and Garth took investment money and did not invest the money according to the terms of the investment contract. They did not secure the principal investment, as they stated they would, in a bank account for the contracted period of time. They commingled money between personal and business accounts. They did not repay money as they promised they would. Winans Jr., Winans Sr., Weems and Garth used the money for personal gain and benefit and to benefit other individuals. They used investor proceeds repay earlier investors in a Ponzi style, and did not pay investors from the profits of a legitimate investment product.
13. Respondents also made untrue statements of material fact or failed to state material facts necessary in order to keep the statements made, in the light of the circumstances under which they were made, from being misleading. Respondents failed to provide the material information needed to a reasonable investor prior to investing.
14. More specifically, Winans Jr., Winans Sr., Weems and Garth, in exchange for money, made investment contracts on fraudulent crude oil bonds. They also failed to disclose the financial condition of the entities, risks associated with the investments, and fees and commissions assessed and paid to finder’s and other promoters. They did not tell investors that they would use investor proceeds to repay earlier investors in a Ponzi style,

and would not pay investors from the profits of the investment product. These disclosures would have been material to a reasonable investor prior to investing.

15. Based on the foregoing, Winans Jr., Winans Sr., Weems and Garth violated Section 101 of the MUSA where they took money in an investment scheme and used later investor proceeds to repay earlier investors in a Ponzi style, and not from the profits of a legitimate investment product.
16. Further Winans Jr., Winans Sr., Weems and Garth violated Section 101 of the MUSA when they did not invest the money according to the terms of the investment contract, they did not secure the principal investment as they stated they would in a bank account for the contracted period of time, they commingled money between personal and business accounts, and did not repay money as they promised they would. Winans Jr., Winans Sr., Weems and Garth used investors' money for personal gain and benefit, and to benefit other individuals. Their wrongful conduct is demonstrative of engaging in acts, practices, or a course of business which operated as a fraud upon Michigan investors.

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

17. Section 201(a) provides a person shall not transact business in this state as a broker dealer or agent 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 an individual and a corporation. Section 401(c) defines an agent to mean 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.
18. The Winans Foundation Trust, Weems Enterprise, Garth and Company, Winans & Associates, Baby Mike Music Production, Tryon Holdings, and M & R Production engaged in the business of effecting transaction in securities by facilitating the receipt, transfer and disbursement of investment proceeds in securities with the general public via their unregistered agents, promoters and finders, mainly Winans Jr., Winans Sr., Weems, and Garth.
19. Winans Jr., Winans Sr., Weems, and Garth played an active part in the sales process of the Winans crude oil bond securities by contracting with Winans Jr. to target the community for the purpose of soliciting the crude oil bond to prospective investors.
20. The Winans Foundation Trust, Weems Enterprise, Garth and Company, Winans & Associates, Baby Mike Music Production, Tryon Holdings, and M & R Production, through its unregistered agents, promoters and finders participated in the negotiations between the issuers and the investors when it made valuations as to the merits of the investment and/or gave advice regarding the crude oil bond investment.
21. Winans Jr., Winans Sr., Weems, and Garth as unregistered agents participated directly in the negotiations between the issuer and the investors when it made valuations as to the

merits of the investment, gave advice, conducted telephone conferences and seminars regarding the crude oil bond investment.

22. Winans Jr., Winans Sr., Weems and Garth all received compensation of some sort in the form of processing fees, registration fees, finder's fees or by simply misusing investor funds for their personal benefit.
23. OFIR staff conducted a search to locate records of any broker-dealer registrations relating to The Winans Foundation Trust, Weems Enterprise, Garth and Company, Winans & Associates, Baby Mike Music Production, Tryon Holdings, and M & R Production. No such records were found.
24. Based on the foregoing, The Winans Foundation Trust, Weems Enterprise, Garth and Company, Winans & Associates, Baby Mike Music Production, Tryon Holdings, and M & R Production violated the Section 201(a) of the MUSA where each was engaged in the business of effecting transactions for others in securities where each played an active role in the promoting, marketing, subscribing and collection of investment proceeds with respect to the alleged crude oil bond and did so without being registered as a broker dealer.
25. OFIR staff conducted a search to locate records of any agent registrations for Winans Jr., Winans Sr., Weems and Garth. No such records were found.
26. Based on the foregoing, Winans Jr., Winans Sr., Weems and Garth violated Section 201(a) of the MUSA where each was engaged in the business of effecting transactions for others in securities where each played an active role in the promoting, marketing, subscribing and collection of investment proceeds with respect to the alleged crude oil bond and did so without being registered as an agent associated with a broker-dealer.

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 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 the 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 101, 201 and 301 of the MUSA.

III.

ORDER

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

1. Respondents shall immediately **CEASE AND DESIST** from violating Sections 101, 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 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 MUSA, MCL 451.802(b) in the future absent compliance with the registration provisions of the MUSA.
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:

Dawn Kobus, Hearings Coordinator
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 MUSA.

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