

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the Matter of:

Complaint No. 329977

OE CAPITAL VENTURES, LLC
Unregistered

Respondent.

Issued and entered
This 3rd day of March, 2016

NOTICE AND ORDER TO CEASE AND DESIST

Julia Dale, the Director of the Corporations, Securities & Commercial Licensing Bureau (the "Administrator"), pursuant to her statutory authority and responsibility to administer and enforce the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq.* ("Securities Act"), hereby orders OE Capital Ventures, LLC ("Respondent") to cease and desist from offering and selling unregistered securities, and to cease and desist from continuing to directly or indirectly make any untrue statements of material fact, or omit to state material facts necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading, contrary to the Securities Act. Respondent is notified of the opportunity to request a hearing in this matter.

I. BACKGROUND

A. The Respondent

1. OE Capital Ventures, LLC is a Texas limited liability company, organized in or around December 2015. OE Capital Ventures, LLC is not registered in any capacity pursuant to the Securities Act in Michigan, nor has it registered any securities offerings pursuant to the Securities Act in Michigan.

B. Findings of Fact

1. The Bureau conducted an investigation of Respondent's activities.
2. The investigation developed evidence that Respondent offered or sold a security in the form of an investment contract through the use of a publicly available website.
3. The investment contracts were not registered pursuant to the Securities Act. Respondent has claimed reliance on SEC Rule 506(b), 17 CFR 230.506(b), (Exhibit 1 – SEC Rule 506) as a preemption from registration of the securities under the Securities Act.
4. Respondent maintained a public website that advertised the securities and generally solicited investments by the public in the securities. (Exhibit 2 – Website Screen Capture).
5. Respondent's website (Exhibit 2) and private placement memorandum offering circular ("PPM") made representations regarding extraordinary rates of return of up to 18.4% on investments made with Respondent (Exhibit 3 – PPM). Respondent described certain risks that may be involved with the investment (Exhibit 3, p. 39), then followed those stated risks by indicating that Respondent had "sufficiently mitigated all the risk factors listed below" (Exhibit 3, p. 39), creating the impression that any risks that may exist with the investment were not, in fact, risks at all.
6. Respondent represented in its PPM that it would sell its securities through registered investment advisers (Exhibit 3); however, it failed to disclose that registered investment advisers may not lawfully sell the issuer's investments unless the investment advisers are also registered or exempt from registration as securities agents, and that such sales would violate the Securities Act absent an applicable securities agent registration or exemption.

II. RELEVANT STATUTORY PROVISIONS

1. Section 102c(c) of the Securities Act, MCL 451.2102c(c), defines "Security", in part, as:

a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or

privilege on a security, certificate of deposit, or group or index of securities, including an interest in or based on the value of that put, call, straddle, option, or privilege on that security, certificate of deposit, or group or index of securities, put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, an investment in a viatical or life settlement agreement; or, in general, an interest or instrument commonly known as a “security”; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing...

(v) The term includes an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor. As used in this subparagraph, a “common enterprise” means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors...

2. Section 301 of the Securities Act, MCL 451.2301, states:

A person shall not offer or sell a security in this state unless 1 or more of the following are met:

- (a) The security is a federal covered security.
- (b) The security, transaction, or offer is exempted from registration under sections 201 to 203.
- (c) The security is registered under this act.

3. SEC Rule 506, 17 CFR 230.506, states in relevant part:

(a) *Exemption.* Offers and sales of securities by an issuer that satisfy the conditions in paragraph (b) or (c) of this section shall be deemed to be transactions not considered involving any public offering within the meaning of section 4(a)(2) of the Act.^[1]

(b) *Conditions to be met in offerings subject to limitation on manner of offering* – (1) To qualify for an exemption under this section, offers and sales must satisfy all the terms and conditions of [rules] 501 and 502...

[¹Section 4(a)(2) of the Securities Act of 1933 exempts issuer transactions that do not involve a public offering of securities. Securities issuances that comply with Rule 506 are federally exempt pursuant to section 4(a)(2), and state registration provisions are preempted with complying securities being “federal covered securities”.]

4. SEC Rule 502(c)², 17 CFR 230.502(c), states in relevant part:

(c) *Limitation on manner of offering.* Except as provided in [rule] 230.506(b)(1) or 230.506(c), neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including but not limited to, the following:

(1) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio...

5. Section 503(1) of the Securities Act, MCL 451.2503(1), states:

In a civil action or administrative proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the exemption, exception, preemption, or exclusions.

6. Section 501 of the Securities Act, MCL 451.2501, states:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security or the organization or operation of a Michigan investment market under article 4A, to directly or indirectly do any of the following:...

(b) Make an untrue statement of a material^[3] fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading...

III. CONCLUSIONS OF LAW

1. Respondent, OE Capital Ventures, LLC, offered or sold unregistered securities in the form of an investment contracts. Respondent claimed reliance on SEC Rule 506, 17 CFR 230.506, and section 301(a) of the Securities Act, MCL 451.2301(a). However, Respondent engaged in general advertising and general solicitation, negating the applicability of Rule 506, 17 CFR 230.506, and section 301(a) of the Securities Act, MCL 451.2301(a), causing the offer of unregistered, non-exempt securities, contrary to section 301 of the Securities Act, MCL 451.2301.

² SEC Rule 502 is attached as Exhibit 4.

³ ["A material fact is one that a reasonable investor might have considered important to his investment decision." *People v Cook*, 90 Mich App 72, 83 (1979) (*citing* *Mills v Electric Auto-Lite Co*, 396 US 375, 384 (1970)). The Case is attached as Exhibit 5.]

2. Respondent, OE Capital Ventures, LLC, in connection with the offer or sale of securities, misstated material facts or omitted to state material facts necessary to make other statements made not misleading in light of the circumstances under which they were made in the following ways:
 - a. Respondent represented in solicitation materials that it would pay a significant return of up to 18.4% annually, and identified certain risks; Respondent then claimed that it had sufficiently mitigated all risks such that they were not risks at all. All investments carry risk, especially high-yield investments such as those offered by Respondent, making the claim that its investment risks were mitigated false. The statements regarding risk might be important to a reasonable investor's investment decision, meaning it was material, and was false, in violation of section 501(b) of the Securities Act, MCL 451.2501(b).
 - b. Respondent represented in solicitation materials that it would sell its securities through registered investment advisers; Respondent failed to state that an investment adviser may not legally sell securities unless the investment adviser is registered as a securities agent or exempt from such registration. A reasonable investor might consider it important to his investment decision that the method of distribution of the securities may be illegal, making omission of that fact material, contrary to section 501(b) of the Securities Act, MCL 451.2501(b).

IV. ORDER

IT IS THEREFORE ORDERED, pursuant to section 604 of the Securities Act, MCL 451.2604, that:

- A. Respondent shall immediately CEASE AND DESIST from continuing sell unregistered securities and from directly or indirectly making any untrue statements of material fact or omitting to state material facts necessary in order to make other statement made, in the light of the circumstances under which they were made, not misleading, contrary to the Securities Act.
- B. Pursuant to section 604(2) of the Securities Act, this Notice and Order to Cease and Desist is IMMEDIATELY EFFECTIVE.
- C. In her Final Order, the Administrator, under section 604(4) of the Securities Act, MCL 451.2604(4), intends to impose civil fines of \$30,000.00 against Respondent.

- D. Pursuant to section 508 of the Securities Act, MCL 451.2508, a person that willfully violates the Securities Act, or an order issued under the Securities Act, is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$500,000.00 for each violation, or both. An individual convicted of violating a rule or order under this act may be fined, but shall not be imprisoned, if the individual did not have knowledge of the rule or order.
- E. The Administrator retains the right to pursue further administrative action against Respondent under the Securities Act if the Administrator determines that such action is necessary and appropriate in the public interest, for the protection of investors and is authorized by the Securities Act.

V. NOTICE OF OPPORTUNITY FOR HEARING

Section 604 of the Securities Act, MCL 451.2604, provides that Respondent has 30 days beginning with the first day after the date of service of this Notice and Order to Cease and Desist to submit a written request to the Administrator asking that this matter be scheduled for a hearing. If the Administrator receives a written request in a timely manner, the Administrator shall schedule a hearing within 15 days after receipt of the request. The written request for a hearing must be addressed to:

Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

VI. ORDER FINAL ABSENT HEARING REQUEST

- A. Under section 604 of the Securities Act, MCL 451.2604, the Respondent's failure to submit a written request for a hearing to the Administrator within 30 days after the service date of this **NOTICE AND ORDER TO CEASE AND DESIST** shall result in this order becoming a **FINAL ORDER** by operation of law. The **FINAL ORDER** includes the imposition of the fines cited described in section IV.C., and the fine amounts set forth below will become due and payable to the Administrator within sixty (60) days after the date this order becomes final:

\$30,000.00 – OE Capital Ventures, LLC, under section 604
of the Securities Act, MCL 451.2604.

- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

Corporations, Securities & Commercial Licensing Bureau
Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

- C. Failure to comply with the terms of this Order within the time frames specified may result in additional administrative penalties, including the summary suspension or continued suspension of all registrations held by Respondent under the Securities Act, the denial of any registration renewal, and/or the denial of any future applications for registration, until full compliance is made. Respondent may voluntarily surrender or withdraw a registration under the Securities Act; however, the surrender or withdrawal will not negate the summary suspension or continued suspension of the relevant registrations or any additional administrative proceedings if a violation of this Order or the Securities Act occurred.
- D. Failure to pay the civil fines within six (6) months after this Order becomes final may result in the referral of the civil fines to the Michigan Department of Treasury for collection action against Respondent.

CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU



Julia Dale
Director, Corporations, Securities &
Commercial Licensing Bureau

3/3/17

Date