

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

In the Matter of:

Complaint No. 342957

TGA MANAGEMENT, LLC
Unregistered

Respondent.

Issued and entered
This 20th day of January, 2021

NOTICE AND ORDER TO CEASE AND DESIST

Linda Clegg, the Director ("Administrator") of the Corporations, Securities, and Commercial Licensing Bureau ("the Bureau"), 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 TGA Management, LLC ("Respondent") to cease and desist from offering or selling unregistered securities, and to cease and desist from omitting to state material facts necessary to make other statements made, in 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. TGA Management, LLC is a Michigan-organized limited liability company which holds no registrations pursuant to the Securities Act in Michigan and has not registered any securities products pursuant to the Securities Act in Michigan.

B. Findings of Fact

1. The Bureau received information that Respondent may be offering and selling securities in the State of Michigan and initiated an investigation to review Respondent's activities under the Securities Act.

2. The investigation developed evidence that Respondent, by its manager Amish Parikh, offered and sold a “Convertible Promissory Note” to Michigan investors in or around September of 2017 for twenty-five thousand dollars (\$25,000.00). The Convertible Promissory Note was not registered under the Securities Act and Respondent has not identified a relevant exemption, exception, preemption, or exclusion justifying the failure to register the note.
3. The September 2017 Convertible Promissory Note that Respondent offered and sold to the Michigan investors offered a twenty percent (20%) return with a maturity date of August 22, 2018. No evidence was collected to show Respondent or Amish Parikh disclosed how Respondent would generate money sufficient to pay the promised 20% return, nor was any evidence collected that Respondent or Amish Parikh disclosed that there was any risk that the investors could lose their entire investment. A reasonable investor might have considered these omitted statements important to his or her investment decision.

II. RELEVANT STATUTORY PROVISIONS

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

a note^[1]; 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

¹ A promissory note is presumed to be a security under the “Family Resemblance Test” adopted by the United States Supreme Court in *Reves v Ernst & Young*, 494 US 56, 64-67 (1990). The presumption may be rebutted by analyzing four factors to determine if the notes have non-security characteristics. Those factors as applied here support the finding that the notes are securities: (1) The note was sold to the Michigan investors as an investment with an expectation that the company would use the funds for operations; (2) the plan of distribution of the instrument was to more than one investor; (3) investors would reasonably expect the notes were securities as the notes were described as investments that would produce a 20% rate of return; (4) no other regulatory scheme exists as a safeguard for investors in these notes. Weighing all the factors, the notes fall within the definition of “security” under the Securities Act.

certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing...

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 section 201 to 203.
- (c) The security is registered under this act.

3. 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^[2] 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...

4. 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.

III. CONCLUSIONS OF LAW

- 1. Respondent TGA Management, LLC offered and sold a promissory note security in Michigan which were not federally covered, exempt from registration, or registered, in violation of section 301 of the Securities Act, MCL 451.2301.
- 2. Respondent TGA Management, LLC omitted to state material information necessary to make other statements made not misleading in connection with the offer and sale of the convertible promissory note security to Michigan investors. Respondent promised a twenty percent (20%) rate of return, but omitted to state that any facts regarding how Respondent would generate money to produce that return, or the risk that the Michigan investors might lose their entire investment.

^[2] A "material" fact is one that a reasonable investor might consider important to his or her investment decision. *People v Cook*, 89 Mich App 72 (1979).]

The omitted statements regarding how Respondent would generate income to pay the investors' returns and the risk of loss of the entire investment were material, necessary to make the statements about the 20% rate of return not misleading, and were omitted, in violation of section 451.2501(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 offering or selling unregistered securities and from omitting material information necessary to make other statements made not misleading in connection with the offer and sale of securities, 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 a Final Order, the Administrator intends to impose a civil fine of \$20,000.00 against Respondent under section 604(4) of the Securities Act, MCL 451.2604(4).
- 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.

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
By Email: CSCL-FOIA@michigan.gov

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:

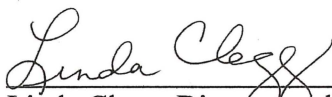
\$20,000.00 – TGA Management, LLC, under section 604
of the Securities Act, MCL 451.2604.

- 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 Respondents.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES, AND COMMERCIAL LICENSING BUREAU



Linda Clegg, Director and Administrator
Corporations, Securities & Commercial Licensing Bureau

1/20/2021

Date