

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

In the Matter of:

Complaint No. 341721

MGMC, LP
Unregistered

Respondent.

This 21st day of May, 2020

Issued and entered

NOTICE AND ORDER TO CEASE AND DESIST

Linda Clegg, the Director ("Administrator") of the Corporations, Securities, and Commercial Licensing Bureau ("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 MGMC, LP ("Respondent") to cease and desist from offering and selling unregistered securities and from omitting to state material facts necessary in order to make other statements made, in the light of the circumstances under which they were made, not misleading in connection with the offer and sale of securities, contrary to the Securities Act. Respondent is notified of the opportunity to request a hearing in this matter.

I. BACKGROUND

A. The Respondent

1. MGMC, LP is a Texas limited partnership whose general partner is Q-Consolidated, Inc., for whom Robert Ian Nelms serves or served as the president and chairman of the board of directors. Respondent is not registered in any capacity under the Securities Act and has not registered any securities offerings under the Securities Act.

B. Findings of Fact

1. The Bureau conducted an investigation of Respondent's activities under the Securities Act in Michigan.

2. The investigation developed evidence that Respondent offered and sold investment contract securities in Michigan. The investment contract securities were not registered, and Respondent has not identified that the securities were federal covered or exempt under the Securities Act¹ in Michigan.
3. The investigation developed evidence that Respondent omitted to state material facts necessary to make other statements made not misleading in connection with the offer or sale of securities. Respondent, through a private placement memorandum offering document ("PPM"), disclosed a number of risks that an investor would take on when investing in the limited partnership, but failed to state that a covered person, Robert Ian Nelms, had a criminal history involving several felony convictions. A reasonable investor might consider the fact that a principal with the issuer was a convicted felon to be an important fact when making an 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; 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

¹ Respondent identified through counsel during the investigation that the securities were exempt under 17 CFR 230.506 ("SEC Rule 506"), a federal exemption from registration. SEC Rule 506(d) disqualifies issuers of securities from relying upon the exemption from registration if the issuer or persons associated with the issuer have been the subject of certain criminal or regulatory events in their past within ten years before the offer or sale of securities unless those events occurred prior to September 23, 2013 (the date that Rule 506(d) became effective). For issuers with events triggering disqualification that occurred before that date, disclosure of the information must be made to investors. Respondent's covered person, Robert Ian Nelms, was convicted of felonies in at least two states in or around 2009, and the sales at issue occurred in 2015. Evidence indicates that Respondent failed to disclose these felonies to an investor in connection with the offering, disqualifying reliance upon Rule 506 by MGMC, LP.

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. 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:

- (a) Employ a device, scheme, or artifice to defraud.
- (b) Make an untrue statement of a material 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.
- (c) Engage in an act, practice, or course of business that operates or would operate as a fraud or deceit on another person.

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 MGMC, LP offered and sold MGMC, LP investment contract securities in Michigan, and has not identified a relevant exemption, exception, preemption, or exclusion from Securities Act registration requirements, contrary to section 301 of the Securities Act, MCL 451.2301.
2. Respondent MGMC, LP omitted to state material facts necessary to make other statements made not misleading in connection with the offer or sale of securities when it disclosed to investors multiple risks accompanying an investment in the limited partnership, but failed to disclose that Respondent's covered person, Robert Ian Nelms, had multiple felony convictions in his past. The statements were necessary to make other statements about risk not misleading, material, and omitted, 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 to offer or sell unregistered securities and from misstating and omitting to state material facts necessary to make other statements made not misleading in connection with the offer or 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 her Final Order, the Administrator, under section 604(4) of the Securities Act, MCL 451.2604(4), intends to impose civil fines of \$20,000.00 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

Or Electronically via email to: 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 – MGMC, LP, 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:

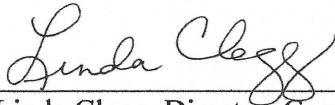
Corporations, Securities & Commercial Licensing Bureau
Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

- 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.

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



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

5/21/2020
Date