

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

In the matter of:

Complaint Nos. 332875 & 333719

JAIMY WEILER
Unregistered,

Respondent.

Issued and entered
this 29th day of November, 2018

**ADMINISTRATIVE CONSENT AGREEMENT
AND ORDER**

A. RELEVANT INFORMATION AND STATUTORY PROVISIONS, under the Michigan Uniform Securities Act (2002) (the “Act”), 2008 PA 551, MCL 451.2101 *et seq.*:

1. On December 12, 2017, the Director of the Corporations, Securities & Commercial Licensing Bureau of the Michigan Department of Licensing and Regulatory Affairs (the “Bureau”), as the Administrator of the Act (the “Administrator”), issued a Notice and Order to Cease and Desist (“C&D Order”) against Jaimy Weiler, a Michigan resident who is not registered under the Act (“Respondent”), Complaint Nos. 332875 and 333719. For purposes of this Administrative Consent Agreement and Order (“Consent Order”), Respondent and Bureau staff are referred to individually as a “Party” and collectively as the “Parties.”

2. The C&D Order ordered Respondent to immediately cease and desist from violating the Act, specifically sections 301 and 501 of the Act, MCL 451.2301

and 451.2501, and further notified Respondent that the Administrator intended to impose a civil fine against her in the amount of \$20,000 under MCL 451.2604(4)(a).

3. The C&D Order was immediately effective pursuant to MCL 451.2604(2); however, Respondent, through counsel, timely requested an administrative hearing on the C&D Order under MCL 451.2604(2) and (3) (the "Hearing Request"). Thereafter, the Parties waived the 15-day statutory requirement to schedule a hearing and agreed to hold Respondent's Hearing Request in abeyance while negotiating possible resolution through this Consent Order.

4. As a result of negotiations, the Parties agree to and recommend that the Administrator order a settlement of this matter under the terms and conditions set forth in this Consent Order. Respondent was represented by, and had the advice of, legal counsel throughout the process of resolving the C&D Order through this Consent Order.

B. AGREEMENT

The Parties agree to resolve the C&D Order under the following terms and conditions:

1. Respondent agrees to comply with the Act in connection with all future conduct and activities, including but not limited to ensuring that she is registered or exempt before effecting any further securities transactions in Michigan and by ensuring that any securities she offers or sells in Michigan are registered or exempt.

2. Respondent agrees to pay the Bureau a reduced civil fine in the settlement amount of Five Thousand and 00/100 Dollars (\$5,000.00) (the "Reduced

Civil Fine”). Respondent agrees to pay the Reduced Civil Fine within sixty (60) calendar days after the mailing date of this Consent Order, once entered. The Reduced Civil Fine must be paid by cashier’s check or money order made payable to the “State of Michigan,” contain identifying information (name and “Complaint Nos. 332875 & 333719”), and be mailed to the Bureau at the following address:

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

If any portion of the Reduced Civil Fine is overdue for at least six (6) months, the Administrator may refer it to the Michigan Department of Treasury for collection action against Respondent. In addition, and consistent with Paragraph B.13. below, the Administrator reserves the right to take other available legal action to enforce payment of and collect the Reduced Civil Fine.

3. The Bureau will report and publish this Consent Order according to its current policy, as follows:

- This Consent Order is a public record required to be published and made available to the public, consistent with section 11 of the Michigan Freedom of Information Act, MCL 15.241. The Department will publish this Consent Order consistent with its current policy, whereby copies of orders issued under the Act are posted to the Department’s website and a summary of order content is included in monthly disciplinary action reports separately published on the Department’s website.

4. Notwithstanding the potential application of MCL 451.2412(9), this Consent Order expressly preserves the Bureau’s and Administrator’s ability to rely

on and assert, in any future proceeding under the Act, all activities, conduct, and Act violations by Respondent contained in or relating to the C&D Order.

5. Respondent admits the allegations and violations of MCL 451.2301 and 451.2501 contained in the C&D Order. The Parties agree that this Consent Order is automatically admissible in a proceeding to enforce its provisions or in any administrative proceeding under the Act, but it is not admissible for any purpose in any criminal proceeding.

6. The Parties agree that this Consent Order resolves only Respondent's activities, conduct, and Act violations contained in the C&D Order, but it does not address or resolve any other activities, conduct, or potential Act violations engaged in by Respondent not expressly contained in the C&D Order or occurring after the date this Consent Order is entered.

7. Respondent agrees that, effective upon entry of this Consent Order, her Hearing Request is automatically revoked without further action by the Parties.

8. Respondent agrees to cooperate with the Bureau and comply with any reasonable investigative demands made by the Bureau in the future for purposes of ensuring compliance with this Consent Order or the Act.

9. Respondent acknowledges and agrees that: (a) the Administrator has jurisdiction and authority to enter this Consent Order; (b) the Administrator may enter this Consent Order without any further notice to Respondent; and (c) upon entry of this Consent Order, it is final and binding, and Respondent waives any right to a hearing or appeal of this Consent Order and the C&D Order under the Act, the

rules promulgated under the Act or the predecessor Act, the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 *et seq.*, or other applicable law.

10. The Parties understand and agree that this Consent Order will be presented to the Administrator for her final approval as evidenced by its entry, and that the Administrator may, in her sole discretion, decide to accept or reject this Consent Order. If the Administrator accepts this Consent Order by entering it, this Consent Order becomes fully effective and binding in accordance with Paragraph B.9. above. If the Administrator rejects this Consent Order by refusing to enter it, the Parties waive any objection to submitting the Hearing Request for adjudication through a formal administrative proceeding and the Administrator remaining the final decisionmaker at the conclusion of that proceeding.

11. The Parties acknowledge and agree that this Consent Order contains the entire understanding of the Parties and supersedes and forever terminates all prior and contemporaneous representations, promises, agreements, understandings, and negotiations, whether oral or written, with respect to its subject matter. The Parties further agree that this Consent Order may only be amended, modified, or supplemented by a duly executed writing signed by each Party and approved by Order of the Administrator.

12. The Parties acknowledge and represent that: (a) each Party has read this Consent Order in its entirety and fully understands all of its terms, conditions, ramifications, and consequences; (b) each Party unconditionally consents to the terms of this Consent Order; (c) each Party has consulted with or had ample opportunity to

consult with legal counsel of his, her, or its choosing prior to executing this Consent Order; (d) each Party has freely and voluntarily signed this Consent Order; and (e) the consideration received by each Party as described in this Consent Order is adequate.

13. The Parties acknowledge and agree that the Administrator retains the right to pursue any action or proceeding permitted by law to enforce the provisions of this Consent Order.

14. The Parties agree that facsimile or electronically-transmitted signatures may be submitted in connection with this Consent Order and are binding on that Party to the same extent as an original signature.

[This space left intentionally blank; Signature Page and Order follow]

Through their signatures, the Parties agree to the above terms and conditions.

Signed: Jaimy Weiler
Jaimy Weiler, Respondent

Dated: 10/5/18

Acknowledged and Reviewed by:

Signed: [Signature]
James C. Thomas
Scott R. Ruark
Attorneys for Respondent

Dated: 11/5/18

Approved by:

Signed: _____
Timothy L. Teague
Securities & Audit Division Director
Corporations, Securities & Commercial
Licensing Bureau

Dated: _____

Through their signatures, the Parties agree to the above terms and conditions.

Signed: _____
Jaimy Weiler, Respondent

Dated: _____

Acknowledged and Reviewed by:

Signed: _____
James C. Thomas
Scott R. Ruark
Attorneys for Respondent

Dated: _____

Approved by:

Signed: Timothy L. Teague
Timothy L. Teague
Securities & Audit Division Director
Corporations, Securities & Commercial
Licensing Bureau

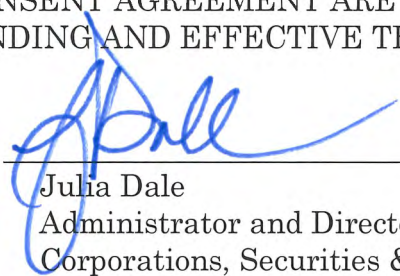
Dated: 11.26.18

C. ORDER

The Administrator NOW, THEREFORE, ORDERS:

THE TERMS AND CONDITIONS IN THE FOREGOING FULLY EXECUTED
CONSENT AGREEMENT ARE INCORPORATED BY REFERENCE AND MADE
BINDING AND EFFECTIVE THROUGH THIS CONSENT ORDER.

By: _____



Julia Dale
Administrator and Director
Corporations, Securities & Commercial Licensing Bureau

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

In the matter of:

Agency Nos. 332875 & 333719

JAIMY WEILER
Unregistered

Respondent.

_____ /

Issued and entered
This 12th day of December, 2017

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 Jaimy Weiler (“Respondent”) to cease and desist from offering and selling unregistered securities, and from misstating material facts or omitting to state material facts necessary in order to make other statements 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. Respondent Jaimy Weiler is a resident of the State of Michigan. Respondent is not registered in any capacity under the Securities Act.

1. Findings of Fact

1. The Bureau received information that Respondent may have offered and sold promissory note securities to Michigan residents, and opened an investigation to review Respondent’s activities under the Securities Act.

2. The Bureau's investigation developed evidence that Respondent offered and sold promissory notes to multiple Michigan residents. The promissory notes were not registered and Respondent has not identified a relevant exemption from registration.
3. Evidence developed during the investigation established that Respondent offered and sold notes to the following Michigan investors:
 - A. ST, who provided Respondent with \$1,000.00 on or around June 17, 2013 with a promised simple interest rate of 2%, a term of two years, and no periodic payments (Exhibit 1 – June 17, 2013 Note). ST agreed to invest an additional \$50.00 per month for one year with no other changes to the loan on or around September 21, 2013 (Exhibit 2 – September 21, 2013 Note Amendment).
 - B. RL, who provided Respondent with \$6,000.00 on or around December 16, 2012 with a promised interest rate of 2% compounded monthly and no payments due for one year (Exhibit 3 – December 16, 2012 Note). A loan amendment was executed on or around October 20, 2014 (Exhibit 4) to extend the term of the note to June of 2015, and including a \$100 per month repayment to RL. Another amendment dated August 4, 2015 extended the loan to February 2016, and increased payments to RL to \$125 per month (Exhibit 5).
 - C. A second note was sold to RL by Respondent for \$20,000.00 in or around April or May 2015 with a 5.5% interest rate to be compounded monthly, including a term of one year, and which would pay RL \$300 per month until maturity. (Exhibit 6 – May 1, 2015 Note).
 - D. DC, who provided Respondent with \$10,000.00 in or around February of 2015 with a promised interest rate of 2.5% compounded monthly for one year (Exhibit 7 – February 26, 2015 Note). DC then provided another loan for \$50,000.00 at a rate of 2.5% compounded monthly for one year in or around May or June 2015 (Exhibit 8 – May 14, 2015 Note).
4. Respondent offered various rates of return to each of ST, RL, and DC, but failed to disclose to the investors to whom the proceeds of the investments would be directed or how profits would be produced to pay back the principal and interest promised by the promissory notes. A reasonable investor might consider it important to his or her investment decision to know how the borrower will use the proceeds of a promissory note, and how the person will generate profits necessary to repay the principal and interest due under the note.

II. RELEVANT STATUTORY PROVISIONS

1. Section 102c(c) of the Securities Act 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 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.

[¹ A promissory note is presumed to be a security under the “Family Resemblance Test” adopted by the Supreme Court in *Reves v Ernst & Young*, 494 US 56, 64-67 (1990) (Exhibit 9). The presumption may be rebutted by analyzing four factors. Those factors as applied here support the fact that the note is a security: (1) The notes were sold to purchasers with the purchasers viewing the transactions as loans, and not investments (weighing against the notes being securities); (2) the plan of distribution of the instrument was spread across multiple persons, including ST, RL, and DC (weighing in favor of the notes being securities); (3) the investors did not see the notes as investments, but rather as loans (weighing against finding the notes as securities); (4) no other regulatory scheme exists to provide a safeguard for investors in these notes (weighing in favor of finding the notes as securities). Two of the four factors weigh in favor of defining these notes as securities, and two against. Beginning with the presumption that the notes are securities under *Reves*, Respondents have not adequately overcome their burden under MCL 451.2503 of producing evidence to show that the notes are excluded from the definition of “security”.]

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 Jaimy Weiler offered and sold promissory note securities to ST, RL, and DC which were not federally covered, exempt from registration, or registered, contrary to section 301 of the Securities Act, MCL 451.2301.
2. Respondent Jaimy Weiler promised various rates of return to ST, RL, and DC across multiple promissory note securities, but failed to disclose how proceeds of the promissory notes would be invested to create the returns. A reasonable investor might consider it important that to his or her investment decision to know how the money necessary to pay the promised rate of return will be generated. The statements regarding how the promised return would be generated were material, necessary to make the statement regarding the promised rate of return not misleading, and were omitted, contrary to section 501 of the Securities Act, MCL 451.2501.

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 and selling unregistered securities, and from omitting material facts necessary to make other statements made not misleading in the offer and sale of securities, contrary to the Securities Act.

^[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).]

- 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 a civil fine 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.

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:

\$20,000.00 – Jaimy Weiler, under section 604 of the Securities Act, MCL 451.2604.

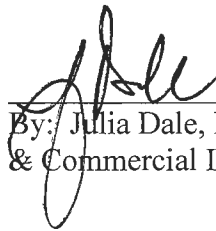
- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

Notice & Order to Cease & Desist
Jaimy Weiler (CNs 332875 & 333719)

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.

CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU



By: Julia Dale, Director, Corporations, Securities
& Commercial Licensing Bureau

12/12/17
Date