

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

In the Matter of:

Complaint No. 331186

UNIVERSITY CAPITAL SOLUTIONS, LLC  
Unregistered

Respondent.

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Issued and entered  
This 16<sup>th</sup> day of August, 2017

NOTICE AND ORDER TO CEASE AND DESIST

Julia Dale, the Director (“Administrator”) of the Corporations, Securities & 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 University Capital Solutions, LLC (“Respondent”) to cease and desist from offering or selling unregistered securities, contrary to the Securities Act. Respondent is also notified of the opportunity to request a hearing in this matter.

**I. BACKGROUND**

**A. The Respondent**

1. University Capital Solutions, LLC is a Florida-organized limited liability company that was formed in or around 2009. Respondent 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 offered and sold a Senior Corporate Debenture Due March 7, 2013 (“Debenture”) to a Michigan investor.

(Exhibit 1 – Debenture). The Debenture was not registered, and Respondent has not identified any applicable exemption from registration.

## II. RELEVANT STATUTORY PROVISIONS

1. Section 102c(c) of the Securities Act, MCL 451.2102c(c) defines “Security”<sup>1</sup>, 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...

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.

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<sup>1</sup> A debenture is a variety of debt security, similar to a bond or promissory note. (See, e.g., *Wisconsin v Johnson*, 652 NW2d 642, 646-47 – Exhibit 2). A promissory note, or other debt instrument, 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 3 – *Reves v Ernst & Young*). 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 conclusion that the debenture is a security: (1) The debenture was not sold to multiple purchasers, but rather, only to one investor in this case, weighing against finding the instrument is a security; (2) the plan of distribution of the instrument was narrow, which also weighs against the note being a security; (3) the debenture identified itself as a security, so a reasonable investor would reasonably expect the debenture to be a security, weighing in favor of it being a security; (4) no other regulatory scheme exists to provide a safeguard for investors in the debenture, weighing in favor of it being a security. *Id.* Weighing all the factors together, the debenture falls within the definition of “security” under the Securities Act.

(c) The security is registered under this act.

3. 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 University Capital Solutions, LLC offered and sold a debenture security in Michigan which was not federally covered, exempt from registration, or registered, in violation of section 301 of the Securities Act, MCL 451.2301.

### **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, 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 a civil fine of \$10,000.00 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:

Notice & Order to Cease & Desist  
University Capital Solutions, LLC (CN 331186)

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:

\$10,000.00 – University Capital Solutions, 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.

CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

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

8/16/17  
Date