

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

In the Matter of:

Complaint No. 344212

RETIRE HAPPY, LLC
Unregistered

Respondent.

_____/

This 19th day of January, 2022

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 Retire Happy, LLC (“Respondent”) to cease and desist from offering and selling unregistered securities, acting as an unregistered broker-dealer, from employing or associating with an unregistered agent, and from making untrue and misleading statements in connection with the offer or 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. Retire Happy, LLC is a Nevada-organized limited liability company that holds no registrations and has registered no securities offerings under the Securities Act in Michigan.

B. Findings of Fact

1. Bureau staff investigated Respondent’s activities under the Securities Act after receiving a consumer complaint related to investments in DNF Gap Funding, LLC

and CryoTherm USA, Inc. that were offered and sold by Respondent and its unregistered agent Josh Stoll (“Stoll”).

2. The investigation developed evidence that Respondent by its agent Stoll sold a \$50,000 DNF Gap Funding, LLC promissory note investment and a \$50,000 CryoTherm USA, Inc. promissory note investment to a Michigan investor.¹ The investments were not registered and none of Respondent, Stoll, or the issuers of the notes have identified a relevant exemption, exception, preemption, or exclusion justifying the failure to register the securities offerings.
3. The investigation developed evidence that the issuers employed or associated with Respondent and Stoll, paying them a commission for each sale of the issuers’ securities to an investor. Respondent was not registered as a broker-dealer and Stoll was not registered as an agent under the Securities Act². None of Respondent, Stoll, or the issuers of the notes have identified a relevant exemption, exception, preemption, or exclusion justifying the failures to register.
4. The investigation developed evidence that Respondent and Stoll cold-called the Michigan investor and represented that investments with the issuers would each pay a 10% annual return, that the notes were guaranteed not to lose money, and that the notes were safer than the stock market. Based on these assurances, the Michigan investor purchased two promissory notes, one from DNF Gap Funding, LLC and one from CryoTherm USA, Inc. To date, the investor’s principal investments have not been repaid despite the notes maturing and the assurances from Respondent and Stoll that the investments were safe and guaranteed.

II. RELEVANT STATUTORY PROVISIONS

1. 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 The Bureau is issuing a Notice and Order to Cease and Desist to each of DNF Gap Funding, LLC and CryoTherm USA, Inc. concurrent with the issuance of this Notice and Order to Cease and Desist.

² The Bureau is issuing a Notice and Order to Cease and Desist to Stoll concurrent with the issuance of this Notice and Order to Cease and Desist.

2. Section 401(1) of the Securities Act, MCL 451.2401(1), states:

A person shall not transact business in this state as a broker-dealer unless the person is registered under this act as a broker-dealer or is exempt from registration as a broker-dealer under subsection (2) or (4).

3. Section 402(4) of the Securities Act, MCL 451.2402(4), states:

A broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, shall not employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (1) or exempt from registration under subsection (2).

4. 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.

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 exclusion.

III. CONCLUSIONS OF LAW

1. Respondent Retire Happy, LLC offered and sold promissory note securities issued by DNF Gap Funding, LLC and CryoTherm USA, Inc. to a Michigan resident. The securities were not federal covered, exempt from registration, or registered, in violation of section 301 of the Securities Act, MCL 451.2301.
2. Respondent Retire Happy, LLC acted as a broker-dealer without registration or a properly claimed exemption from registration, in violation of section 401(1) of the Securities Act, MCL 451.2401(1).

3. Respondent Retire Happy, LLC employed or associated with an unregistered agent and has not identified a relevant exemption, exception, preemption, or exclusion justifying the failure of that individual to register, in violation of section 402(4) of the Securities Act, MCL 451.2402(4).
4. Respondent Retire Happy, LLC made untrue statements of materials fact and omitted to make statements necessary to make other statements made not misleading in connection with the offer or sale of securities when its agent Josh Stoll represented to a Michigan investor that his investments with DNF Gap Funding, LLC and CryoTherm USA, Inc. were guaranteed when that was untrue, and when he stated that the investments were safer than the stock market without stating that the investments may never be repaid. These statements were material, false, and misleading in light of the circumstances under which they were made, in violation of 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 offering and selling unregistered securities, from acting as an unregistered broker-dealer, from employing or associating with an unregistered agent, and from making false and misleading statements 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 a Final Order, the Administrator intends to impose civil fines of \$80,000.00 against Respondent under MCL 451.2604(4). This Notice and Order to Cease and Desist may become final pursuant to Section VI, below.
- 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:

\$80,000.00 – Retire Happy, LLC, under section 604 of the Securities Act, MCL 451.2604.

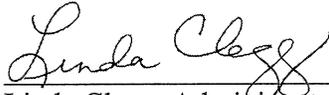
- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

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

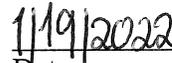
- C. Failure to comply with the terms of this Order within the time frames specified may result in additional administrative penalties, including the summary suspension or continued suspension of all registrations held by Respondent under the Securities Act, the denial of any registration renewal, and/or 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, Administrator and Director
Corporations, Securities & Commercial
Licensing Bureau



Date