

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

In the matter of:

ENF-23-020045

AACHEN AUTO K E B, INC.
d/b/a TFN GROUP INC.
d/b/a ITSONLY5.COM
Unregistered

Respondent.

_____ /

This 19th day of April, 2023

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 AACHEN AUTO K E B, Inc., d/b/a TFN Group, Inc. or ItsOnly5.com (“Respondent” or “ItsOnly5.com”) to cease and desist from offering and selling unregistered, non-exempt 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. ItsOnly5.com is a publicly available website that is not registered in any capacity and has not registered any securities offerings under the Securities Act in Michigan. It is owned and operated by Elton Potts, an individual last known to be a resident of the State of Michigan.

B. Findings of Fact

1. Bureau staff began an investigation of Respondent's activities under the Securities Act in Michigan after it received a complaint related to Respondent's offers and sales of securities.
2. Evidence collected by Bureau staff shows that Respondent publicly solicited funds through its website, ItsOnly5.com, and promised of profits to investors based on a "forced matrix" operated by Respondent and its staff. Investors could but were not required to recruit other investors to participate in the scheme and had to exert no efforts to realize the purported investment returns.
3. Respondent's offers and sales of these investment opportunities constituted investment contract securities that were not registered under the Securities Act, and Respondent and Potts have failed to claim an exemption, exception, preemption, or exclusion justifying the failure to register the securities.

II. RELEVANT STATUTORY PROVISIONS

1. Section 102c(c) of the Securities Act 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 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 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 ItsOnly5.com offered and sold unregistered investment contract securities and has failed to identify a relevant exemption, exception, preemption, or exclusion to justify the failure to register them, in violation of 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 and selling unregistered, non-exempt 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 \$10,000.00 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:

\$10,000.00 – ItsOnly5.com, under section 604 of the Securities Act, MCL 451.2604.

B. CIVIL FINE payments may be made by check, money order, or debit or credit card. If Respondent pays the civil fine by check or money order, Respondent must make the check payable to "State of Michigan", write "ENF-23-020045", on the check or money order, enclose the "Payment Processing Stub" included with Payment instruction forms sent out upon this Notice and Order to Cease and Desist becoming final by operation of law, and mail it to:

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

Please consider mail processing delays when determining how and when to pay a Civil Fine. Information about how to open an online account to submit payments by debit or credit card or how to use an existing online account to make a payment to the Bureau may be found at www.mi.gov/miclear.

- 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

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

04/12/2023
Date