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Texas State Securities Board

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IN THE MATTER OF
TMTE, INC., AKA METALS.COM, CHASE METALS,
LLC, AND CHASE METALS, INC.; WALTER VERA;
MICHAEL KENDALL AND ATHENA HUNTER

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Order No. ENF-19-CDO-1777

TMTE Inc., aka Metals.com, aka Chase Metals, LLC, aka Chase Metals, Inc.
433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, and
c/o Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001

Walter Vera
433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, and
c/o Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001

Michael Kendall
433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, and
c/o Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001

Athena Hunter
433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, and
c/o Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas (hereinafter referred to as the "**Securities Commissioner**") of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 23-2 of The Securities Act, TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-45 (West 2010 & Supp. 2018) (hereinafter referred to as the "**Securities Act**").

The Enforcement Division of the Texas State Securities Board (the "**Enforcement Division**") has presented evidence sufficient for the Securities Commissioner to find that:

FINDINGS OF FACT

1. TMTE Inc., transacting business as Metals.com, Chase Metals, Inc. and Chase Metals, LLC (hereinafter referred to as "**Respondent Metals.com**"), can be served with process at 433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, or through its registered agent, Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001.

2. Walter Vera (hereinafter referred to as "**Respondent Vera**") is a Vice President of Sales for Respondent Metals.com. He can be served with process at 433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, or through Respondent Metals.com's registered agent, Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001.
3. Michael Kendall (hereinafter referred to as "**Respondent Kendall**") is a Senior Portfolio Manager of Respondent Metals.com. He can be served with process at 433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, or through Respondent Metals.com's registered agent, Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001.
4. Athena Hunter (hereinafter referred to as "**Respondent Hunter**") is a representative of Respondent Metals.com. She can be served with process at 433 N. Camden Drive, Suite 970, Beverly Hills, California 90210, or through Respondent Metals.com's registered agent, Corporate Agents, LLC, at 1712 Pioneer Avenue, Ste. 100, Cheyenne, Wyoming 82001.

**BACKGROUND INFORMATION
AND SUMMARY OF THIS EMERGENCY PROCEEDING**

5. Section 45 of the Securities Act generally requires registered dealers and investment advisers to submit reports of suspected financial exploitation whenever they have cause to believe parties are financially exploiting an account holder who is a vulnerable adult.
6. A registered firm submitted a report of suspected financial exploitation that alleged Respondent Metals.com contacted an 80-year-old, Dallas, Texas resident and it and Respondent Hunter advised and assisted the elderly person in liquidating her retirement accounts and transferring almost \$850,000.00 for the purpose of investing in Respondent Metals.com's precious metals investments.
7. The registered firm's report of suspected financial exploitation also explained the Texas resident did not understand the investment opportunity that was presented and was not advised Respondent Metals.com intended to transfer the majority of her assets held at the registered firm into Respondent Metals.com's precious metals investments.
8. After receiving the report of suspected financial exploitation, the Enforcement Division began investigating Respondent Metals.com and its employees and representatives who, for compensation, are engaging in the business of advising potential investors with respect to the value of securities or the advisability of investing in, purchasing or selling securities.
9. The Enforcement Division secured evidence that Respondent Metals.com and its representatives are engaging in an illegal and fraudulent scheme targeting elderly persons and other investors.

10. The Securities Commissioner is entering this Emergency Cease and Desist Order to stop Respondent Metals.com and its employees and representatives from threatening immediate and irreparable harm to the public.

THE ILLEGAL ADVISORY SCHEME

11. Respondent Metals.com is engaging in a scheme to solicit elderly persons through unsolicited telephone calls. The tactic is often referred to as "cold-calling."
12. Respondent Metals.com is also soliciting potential investors through an internet website accessible by the public at <https://www.metals.com>.
13. After initiating contact with a potential investor, Respondents Metals.com, Vera Kendall and Hunter are requesting the potential investor provide information about their securities holdings purchased from dealers and/or managed by investment advisers.
14. Respondents Metals.com, Vera and Kendall are advising the potential investors that their securities holdings are not safe investments and maintaining ownership of their securities subjects them to significant risks.
15. Respondents Metals.com, Vera and Kendall are also advising the potential investors that their dealers and investment advisers are committing illegal acts against their clients or engaging in acts that result in the loss of funds.
16. Respondents Metals.com, Vera, Kendall and Hunter are further advising the potential investors to sell their securities and invest in precious metals through a self-directed individual retirement account.
17. Respondent Metals.com is telling the potential investors that investments in precious metals, as opposed to investments in securities, are reliable investments that will preserve value regardless of market fluctuations, and investments in precious metals will better hedge against inflation and the devaluation of the dollar.
18. Respondents Metals.com and Hunter are assisting potential investors by contacting their dealers and investment advisers and facilitating the liquidation of their retirement accounts and/or the transfer of their funds.
19. Most of these investors are elderly persons, as the majority of Respondent Metals.com's clients are sixty-five to ninety (65-90) years old.

THE LEGAL DOCUMENTS AND THE WAIVERS

20. Respondents Metals.com and Vera are providing the legal documents potential investors must use to sell securities and/or invest in precious metals through a self-directed individual retirement account. Respondents Metals.com and Vera are completing the legal documents and potential investors simply need to sign the legal documents.

21. The legal documents require each potential investor to declare, under the penalty of perjury, that the potential investor either deals in precious metals due to his or her occupation, or as a result of his or her avocations as collector, speculator or investor, he or she has knowledge or skill peculiar to precious metals or the practices involved in the purchase of precious metals.
22. The legal documents require the potential investor to acknowledge and agree that he or she assumes the risk of all investment decisions regarding any and all precious metals the potential investor purchases from Respondent Metals.com, and any purchases from Respondent Metals.com are made subject to the potential investor's own prudence, judgment and ultimate decision.
23. The legal documents require potential investors to waive express and implied warranties, waive consequential damages and limit the liability of Respondent Metals.com.
24. The legal documents require potential investors to agree to hold Respondent Metals.com harmless for any damages arising out of its performance under the contracts.
25. The legal documents represent that potential investors should not invest more than 20% of their available investment funds in precious metals.

COMPENSATION PAID TO RESPONDENT METALS.COM

26. Respondents Metals.com and Vera are telling potential investors it does not charge a fee for the purchase of precious metals and potential investors need only pay the retail price of precious metals.
27. Potential investors are paying compensation to Respondent Metals.com when they accept its advice, transfer their funds from a dealer or investment adviser and use the money to invest in precious metals.
28. The compensation is purportedly equal to the difference between the price paid by potential investors and the wholesale price of precious metals.
29. The difference between the price paid by potential investors and the wholesale price of precious metals is referred to as a "spread."
30. The spread varies from potential investor to potential investor and generally ranges from two percent to thirty-three percent for transactions involving individual retirement accounts. However, the spread is subject to change and potential investors may ultimately be responsible for more than the general rate.

COMPENSATION PAID TO REPRESENTATIVES OF RESPONDENT METALS.COM

31. As described herein, Respondent Metals.com is advising potential investors to sell their securities and invest in precious metals.

32. Representatives of Respondent Metals.com are receiving compensation for advising potential investors to sell their securities and invest in precious metals.
33. Respondent Metals.com is paying commissions to these representatives and their salaries are based, at least in part, on the amount of sales and the profit margin of sales.
34. Respondent Metals.com representatives' compensation is also tied, from time to time, to sales activities, such as "sales contests."

THE PRE-LAWSUIT NOTICE SENT IN RESPONSE
TO A COMPLAINT FROM AN ELDERLY CLIENT OF RESPONDENT METALS.COM

35. Respondent Metals.com is sending demand letters to clients who publically complain about their purchase of precious metals from Respondent Metals.com.
36. For example, on or around April 17, 2019, Respondent Metals.com, acting through Rabeh M. A. Soofi, Managing Attorney at AXIS Legal Counsel, sent a letter referred to as a "Pre-Lawsuit Notice" and "Cease and Desist Demand" to a 75-year old retired schoolteacher who publically complained about rolling over her IRA to invest \$65,991.00 in precious metals from Respondent Metals.com.
37. The Pre-Lawsuit Notice accused the elderly person of breach of contract, harassment, defamation and tortious interference with the prospective business relationships of Respondent Metals.com. It provided notice that, if the elderly person did not satisfy Respondent Metals.com's demands, Respondent Metals would file a lawsuit for injunctive relief, damages for actual loss, punitive damages of three times the award of actual loss, and attorneys fees and costs.

REGISTRATION VIOLATIONS

38. Respondent Metals.com is acting as an investment adviser because Respondent Metals.com is a person who, for compensation, is engaging in the business of advising another, either directly or through publications or writings, with respect to the value of securities or to the advisability of investing in, purchasing, or selling securities.
39. Respondent Metals.com has not been registered or notice-filed as an investment adviser with the Securities Commissioner pursuant to Sections 12 and 12-1 of the Securities Act at any time material hereto.
40. Respondents Vera, Kendall and Hunter are acting as investment adviser representatives because they are persons who, for compensation, are employed, appointed, or authorized by Respondent Metals.com to solicit clients for Respondent Metals.com and they, on behalf of Respondent Metals.com, are providing investment advice to Respondent Metals.com's clients.

41. Respondents Vera, Kendall and Hunter have not been registered or notice-filed as investment adviser representatives with the Securities Commissioner pursuant to Section 12 and 12-1 or the Securities Act at any time material hereto.

GENERAL ALLEGATIONS OF FRAUD
IN CONNECTION WITH THE RENDERING OF INVESTMENT ADVICE

42. In connection with the rendering of investment advice, Respondents Metals.com, Vera, Kendall and Hunter are intentionally failing to disclose the following material facts relating to the management of Respondent Metals.com:
- A. The identity of the owners, principals and managers of Respondent Metals.com, and
 - B. The business repute, qualifications and experience of the owners, principals and managers of Respondent Metals.com.
43. In connection with the rendering of investment advice, Respondents Metals.com, Vera, Kendall and Hunter are intentionally failing to disclose the following material facts about their experience with financial services and products:
- A. Their experience in valuing securities and calculating market volatility,
 - B. Their experience in forecasting economic conditions, such as the likelihood of recessions and the possibility of inflation, as well as predicting the exchange rate of the dollar, and
 - C. Their experience in determining whether securities and other investments constitute suitable products.
44. In connection with the rendering of investment advice, Respondents Metals.com and Vera are claiming Respondent Metals.com does not charge fees for the purchase of precious metals and potential investors only pay the retail prices charged for the precious metals. This statement is a misrepresentation of a relevant fact because Respondent Metals.com is charging the fees described herein.
45. In connection with the rendering of investment advice, Respondent Metals.com is intentionally failing to disclose any information about complaints, including complaints relating to fraudulent, deceptive and illegal practices sent, submitted or otherwise levied by prior investors, and this information constitutes a material fact.
46. In connection with the rendering of investment advice, Respondent Metals.com is advising potential investors that investments in precious metals are safe and secure investments for potential investors. These are misrepresentations of relevant facts because Respondent Metals.com is admitting that investments in precious metals contain the following risks:

- A. The market for precious metals may fluctuate, and the value of gold may sharply and suddenly decrease based on movements of the global market, and
- B. Precious metals involve considerable risk and market prices are at times volatile and may be affected by economic conditions, political events and speculative activity.

THE USE OF LEGAL DOCUMENTS TO ENGAGE
IN FRAUD IN CONNECTION WITH THE RENDERING OF INVESTMENT ADVICE

- 47. In connection with the rendering of investment advice, Respondents Metals.com and Vera are representing through the aforementioned legal documents that Respondent Metals.com is not an investment advisor, Respondent Metals.com does not provide investment and advisory services and Respondent Metals.com's representatives are not authorized to provide investment and advisory services. These are misrepresentations of relevant facts because Respondent Metals.com is acting as an investment adviser, Respondent Metals.com is providing investment and advisory services and Respondent Metals.com is authorizing representatives to provide investment and advisory services.
- 48. In connection with the rendering of investment advice, Respondents Metals.com and Vera are advising potential investors that investments in precious metals are safe and secure investments and advising them to sell most or all of their securities and invest most or all of the proceeds in precious metals. This advice constitutes a misrepresentation of a relevant fact because they are requiring potential investors to execute legal documents that reflect potential investors should not invest more than twenty percent (20%) of their available investment funds in precious metals.
- 49. In connection with the rendering of investment advice, Respondents Metals.com and Vera are advising investors, including elderly persons, to invest in precious metals instead of securities and claiming investments in precious metals are suitable investments. These representations constitute misrepresentations of relevant facts because investments in precious metals may not be suitable for elderly investors and Respondent Metals.com is requiring these investors to execute legal documents that reflect precious metals should be considered a long-term investment and investors should be prepared to hold the precious metals for at least three to five years, and preferably five to ten years.
- 50. In connection with the rendering of investment advice, Respondents Metals.com and Vera are advising potential investors to invest in precious metals without regard to their age, occupation, experience or background, and this advice constitutes a misrepresentation of a relevant fact because they are also requiring potential investors to execute legal documents that require potential investors to declare, under the penalty of perjury, that the potential investor either deals in precious metals due to his or her occupation, or as a result of his or her avocations as collector, speculator or investor, he or she has knowledge or skill peculiar to precious metals or the practices involved in the purchase of precious metals.

51. In connection with the rendering of investment advice, Respondents Metals.com and Vera are requiring potential investors to execute legal documents that require potential investors to assume the risk of all investment decisions, to waive express and implied warranties, to waive consequential damages, to limit the liability of Respondent Metals.com, and to agree to hold Respondent Metals.com harmless for any damages arising out of its performance under the contracts. These representations constitute misrepresentations of relevant facts because Section 33.L of the Securities Act provides a condition, stipulation, or provision binding a purchaser of services rendered by an investment adviser or investment adviser representative to waive compliance with a provision of the Securities Act or a rule or requirement under the Securities Act, including provisions relating to civil liability of the rendering of unregistered investment advisory services, is void.

CONCLUSIONS OF LAW

1. Respondent Metals.com is acting as an investment adviser as that term is defined in Section 4.N of the Securities Act.
2. Respondent Metals.com is violating Sections 12 and/or 12-1 of the Securities Act by rendering services as an investment adviser in Texas without being registered or notice-filed as an investment adviser.
3. Respondents Vera, Kendall and Hunter are acting as investment adviser representatives as that term is defined in Section 4.P of the Securities Act.
4. Respondents Vera, Kendall and Hunter are violating Section 12 and/or 12-1 of the Securities Act by rendering services as investment adviser representatives in Texas without being registered or notice-filed as investment adviser representatives.
5. Respondents Metals.com, Vera, Kendall and Hunter are engaging in fraud in connection with the rendering of investment advice.
6. Respondents Metals.com, Vera, Kendall and Hunter are engaging in conduct, acts and practices that threaten immediate and irreparable harm.
7. The foregoing violations constitute bases for the issuance of an Emergency Cease and Desist Order pursuant to Section 23-2 of the Securities Act.

ORDER

1. It is therefore ORDERED that Respondent Metals.com immediately CEASE AND DESIST from acting as an investment adviser in Texas until it is registered or notice-filed with the Securities Commissioner pursuant to Sections 12 and/or 12-1 of the Securities Act or it is acting pursuant to an exemption under the Securities Act.
2. It is further ORDERED that Respondents Vera, Kendall and Hunter immediately CEASE AND DESIST from acting as investment adviser representatives in Texas until they are registered or notice-filed with the Securities Commissioner pursuant to

Sections 12 and/or 12-1 of the Securities Act or they are acting pursuant to an exemption under the Securities Act.

3. It is further ORDERED that Respondents Metals.com, Vera, Kendall and Hunter immediately CEASE AND DESIST from engaging in any fraud in connection with the rendering of investment advice in Texas.

NOTICE

Pursuant to Section 23-2 of the Securities Act, you may request a hearing before the 31st day after the date you were served with this Order. The request for a hearing must be in writing, directed to the Securities Commissioner, and state the grounds for the request to set aside or modify the Order. Failure to request a hearing will result in the Order becoming final and non-appealable.

You are advised under Section 29.D of the Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 23-2 of the Securities Act is a criminal offense punishable by a fine of not more than \$10,000, or imprisonment in the penitentiary for two to ten years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 1st day of May, 2019.



TRAVIS J. ILES
Securities Commissioner