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Texas State Securities Board

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IN THE MATTER OF
DAVID EDWARD "DAVE" FLAKE

§
§

Order No. ENF-20-CDO-1805

TO: **David Edward "Dave" Flake**
28641 Raintree Drive, Menifee, California 92584;
33562 Yucaipa Boulevard, Suite 4117, Yucaipa, California 92399; and
1220 Rosecrans Street, Suite 920, San Diego, California 92106.

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas (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. 581-1-581-45 (the "**Securities Act**").

The Enforcement Division of the Texas State Securities Board has presented evidence sufficient for the Securities Commissioner to find:

FINDINGS OF FACT

1. David Edward "Dave" Flake ("**Respondent**") is licensed as a California Resident Insurance Producer with the California Department of Insurance. He can be served by certified mail, return receipt requested, addressed to 28641 Raintree Drive, Menifee, California 92584; 33562 Yucaipa Boulevard, Suite 4117, Yucaipa, California 92399; and 1220 Rosecrans Street, Suite 920, San Diego, California 92106.

THE INVESTMENTS IN A VLOG

2. Respondent is soliciting investors through advertisements published in the financial services section of craigslist.org for residents of Dallas, Texas.
3. Respondent is raising capital for purchasing a motorcycle, developing and filming a vlog and publishing the vlog through YouTube.
4. Respondent is describing the vlog in more detail as follows:

Twice a week there's new motorcycle video, AMERICA ON AN INDIAN uploaded to youtube [sic]. Dave travels the US and

interviews unique characters and describes historical events. Then he hangs with bike enthusiasts that share some back roads and taverns. Come along with us and see America through two wheels on an American made [sic] Indian Motorcycle. The goal is to discover little known places, events, and people that amaze us.

5. Respondent is representing he will earn money from the vlog through advertisements and sponsorships, and he is further representing he has already secured four sponsorships.
6. Respondent is claiming he will use these funds to pay a return of 48 percent on a monthly basis over a term of one year.
7. Respondent is also claiming the investment will be collateralized by the motorcycle.

THE PRIOR FEDERAL ENFORCEMENT ACTION AGAINST
RESPONDENT BASED ON HIS OFFER OF INVESTMENTS IN TELEVISION SHOWS

8. On or about March 17, 2015, the United States Securities and Exchange Commission (the "**SEC**") entered an Order Instituting Administrative Cease-And-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 12C of the Securities Exchange Act of 1934, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease and Desist Order in In the matter of Coral Reef Media, LLC, and David E. Flake, File No. 3-16447 (the "**SEC Enforcement Order**"). The SEC Enforcement Order found as follows:
 - A. Respondent falsely represented his company produced television shows about "green companies and products," licensed the shows to cable television companies and received commitments from television companies to license the shows in the future;
 - B. Respondent fabricated commitment letters in which cable television companies purportedly agreed to license future productions from his company;
 - C. Respondent raised funds from investors and used the funds to pay commissions to at least one sales representative and to pay for personal expenses; and
 - D. Respondent violated federal securities laws by offering or selling unregistered securities, offering or selling securities through an unregistered broker or dealer and engaging in securities fraud.
9. The SEC Enforcement Order also ordered as follows:
 - A. It ordered that Respondent and his company cease and desist from violating federal securities laws;

- B. It ordered that Respondent was barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;
- C. It ordered that Respondent was prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter;
- D. It ordered that Respondent was barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock; and
- E. It ordered that Respondent and his company jointly and severally pay disgorgement of \$26,000 and a civil penalty of \$26,000, together with prejudgment interest.

THE PRIOR STATE ENFORCEMENT ACTION
AGAINST RESPONDENT BASED ON HIS OFFER OF INVESTMENTS IN A FILM

- 10. On or about April 17, 2018, the Assistant Commissioner of Securities for the Georgia Secretary of State issued an Order to Cease and Desist All Violations of Georgia Securities Act and Imposition of Civil Penalty styled In the Matter of The Undetectables Movie, LLC, and David E. Flake, Case Number: ENSC-170663 (the "**Georgia Enforcement Order**").
- 11. The Georgia Enforcement Order alleged Respondent raised more than \$50,000 from investors through the sale of stock that purportedly permitted them to share in the profits of the first film in a series of five films. It also alleged Respondent never intended to produce the film and used their principal to pay for personal expenses.
- 12. The Georgia Enforcement Order found Respondent violated securities laws by offering and selling unregistered securities and engaging in securities fraud, and it ordered him to cease and desist such violations and, jointly and severally with his company, pay a civil penalty of \$50,000.
- 13. Respondent has not paid the civil penalty and the debt remains outstanding.

REGISTRATION VIOLATIONS

- 14. Respondent has not been registered with the Securities Commissioner as a dealer or agent at any time material hereto.

15. The investments in the vlog have not been registered by notification, coordination or qualification and no permit has been issued for their sale in Texas.

FRAUD AND DECEIT AND THE
EXPERIENCE AND QUALIFICATIONS OF RESPONDENT

16. In connection with the offer of investments in the vlog, Respondent is intentionally failing to disclose material facts relating to his experience and qualifications, including but not limited to his experience and qualifications relevant to the following:
 - A. Filming, directing, choreographing, editing and producing video;
 - B. Creating and publishing content in social media;
 - C. Marketing content, attracting an audience and retaining followers;
 - D. Securing sponsors and advertisers; and
 - E. Dealing in securities and paying profits to investors.

FRAUD AND DECEIT AND THE COST OF THE VLOG

17. In connection with the offer of investments in the vlog, Respondent is intentionally failing to disclose material facts relating to expenses associated with developing the vlog, including but not limited to expenses associated with the filming, directing, choreographing, editing and producing video.
18. Respondent is claiming the investment will be collateralized by a motorcycle. This statement is materially misleading or otherwise likely to deceive the public in light of Respondent's outstanding obligation to pay a civil penalty of \$50,000 to Georgia.

FRAUD IN THE CONCEALMENT OF
THE PRIOR FEDERAL ENFORCEMENT ACTION

19. In connection with the offer of the investments in the vlog, Respondent is intentionally failing to disclose the information set forth herein relating to the SEC Enforcement Order, and this information constitutes a material fact.

DECEPTION AND REPRESENTATIONS
RELATING TO THE USE OF INVESTOR FUNDS

20. As described herein, Respondent is representing he will use principal to purchase a motorcycle, develop and film a vlog, and publish the vlog through YouTube. These statements are materially misleading or otherwise likely to deceive the public because:

- A. As described in the SEC Enforcement Order, Respondent sold investments tied to television shows and used investors' funds to pay for personal expenses; and
- B. As alleged in the Georgia Enforcement Order, Respondent sold investments tied to a film and used investors' funds to pay for personal expenses.

DECEPTION AND REPRESENTATIONS
RELATING TO SPONSORSHIP AGREEMENTS

- 21. As described herein, Respondent is claiming he has already secured four sponsorships. This statement is materially misleading or otherwise likely to deceive the public because:
 - A. Respondent is not identifying the sponsors or the terms of their sponsorship agreements;
 - B. As described in the SEC Enforcement Order, Respondent fabricated commitment letters with cable television companies; and
 - C. As alleged in the Georgia Enforcement Order, Respondent falsely claimed he had a partnership agreement with a movie production company.

CONCLUSIONS OF LAW

- 1. The investments in the vlog are securities as the term is defined by Section 4.A of the Securities Act.
- 2. Respondent is violating Section 7 of the Securities Act by offering securities for sale in Texas at a time when the securities are not registered with the Securities Commissioner.
- 3. Respondent is violating Section 12 of the Securities Act by offering securities for sale in Texas without being registered pursuant to the provisions of Section 12 of the Securities Act.
- 4. Respondent is engaging in fraud in connection with the offer for sale of securities.
- 5. Respondent has made an offer containing a statement that is materially misleading or otherwise likely to deceive the public.
- 6. Respondent's conduct, acts, and practices threaten immediate and irreparable public 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 Respondent immediately CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Securities Act.
2. It is further ORDERED Respondent immediately CEASE AND DESIST from acting as a securities dealer or agent in Texas until Respondent is registered with the Securities Commissioner or acting pursuant to an exemption from registration under the Securities Act.
3. It is further ORDERED Respondent immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.
4. It is further ORDERED Respondent immediately CEASE AND DESIST from offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public.

NOTICE

Pursuant to Section 23-2 of the Texas 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 Texas Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 23-2 of the Texas 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 27th day of May 2020.



TRAVIS J. ILES
Securities Commissioner