

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:)
JERRY'S OF THE CARIBBEAN, LLC))
ADAM SCHWARTZ)
JOHN J. SMITH, JR.)
DAVID TERZIAN)
ROBERT BEGELMAN)
RESPONDENTS)

ORDER TO VACATE

The Alabama Securities Commission ("Commission"), having the power to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act, upon due consideration of the subject matter hereof, has determined as follows:

RESPONDENTS

1. JERRY'S OF THE CARIBBEAN, LLC ("RESPONDENT") is represented to be a Maryland limited liability company with a business address of 15942 Shady Grove Road, Gaithersburg, Maryland 20877.
2. ADAM SCHWARTZ ("RESPONDENT SCHWARTZ") is represented to be a promoter, beneficial owner and executive officer of RESPONDENT with a business address of 15942 Shady Grove Road, Gaithersburg, MD 20877.
3. JOHN J. SMITH, JR. ("RESPONDENT SMITH") is represented to be a promoter, beneficial owner and executive officer of RESPONDENT with a business address of 15942 Shady Grove Road, Gaithersburg, MD 20877.
4. DAVID TERZIAN ("RESPONDENT TERZIAN") is represented to be a promoter, beneficial owner and executive officer of RESPONDENT with a business address of 15942 Shady Grove Road, Gaithersburg, MD 20877.

5. ROBERT BEGELMAN ("RESPONDENT BEGELMAN") is represented to be a promoter, beneficial owner and executive officer of RESPONDENT with a business address of 15942 Shady Grove Road, Gaithersburg, MD 20877.

STATEMENT OF FACTS

6. On July 17, 2000, RESPONDENT'S counsel, Stephen W. McVearry, with Mintz Levin Cohn Ferris Glovsky and Popeo, PC, submitted a filing for exemption from registration of securities pursuant to Federal Rule 506 of Regulation D and Commission Rule 830-X-6-.11 of the Alabama Securities Act on behalf of RESPONDENT. The submitted Appendix of Form D, reflected that one sale had been made to an Alabama non-accredited investor for \$20,000.

7. On July 19, 2000, a deficiency letter was issued to RESPONDENT'S counsel, via facsimile and regular mail, advising that the filing was deficient due to the following:

(a) Please identify the selling agent for sales made to Alabama investors and whether any commissions or remuneration has or will be afforded;

(b) There is an indication in the filing that offers and sales may have been made prior to obtaining an exemption from registration with this office. Please provide an undertaking by the Issuer regarding the number of offers or sales that have occurred in, or that have been made to a resident of, the state of Alabama. If any such offers or sales have occurred, please provide a complete description of the facts, circumstances and parties involved; and

(c) Our Rule 830-X-6-.11(1)(a)3(l) requires that each filing include two (2) copies of all information to be furnished by the issuer to the offerees. None were received with your application.

8. On August 21, 2000, RESPONDENT'S counsel submitted an amended filing, notifying the Commission staff that RESPONDENT was relying on Rule 506 of Regulation D.

9. On August 25, September 5, and September 18, 2000, the Commission staff verified with the U.S. Securities and Exchange Commission ("SEC"), Public Reference Division via telephone that RESPONDENT submitted a filing on the federal level pursuant to Rule 505 of Regulation D.

10. On December 15, 2000, and January 16, 2001, the Commission staff received copies of RESPONDENT'S federal filing from the SEC. Form D reflects that RESPONDENT filed federally pursuant to Rule 505 of Regulation D.

11. On February 12, 2001, a Cease and Desist Order was issued to RESPONDENTS alleging violations of Section 8-6-4, Code of Alabama 1975 and Commission Rule 830-X-6-.11(1)(a)3(l) for the sale of unregistered non-exempt securities in the state of Alabama.

12. By letter, dated March 9, 2001, RESPONDENT'S counsel furnished an amended Form D filing that had allegedly been received by the SEC on January 3, 2001, evidencing RESPONDENT'S reliance on Rule 506 of Regulation D. He stated that he had no explanation why this was not discovered during the January 10, 2001 search of the SEC records as described in paragraph 10, above. He continued that the original filing by RESPONDENT, with the SEC and the Commission, inadvertently referenced reliance on Rule 506 due to a clerical error, and it was always the intention of RESPONDENT to rely upon Rule 506. Counsel also requested an informal meeting with the Commission staff

13. By memorandum dated August 22, 2001, the Commission counsel advised that, by submission of the amended Form D related in paragraph 12, above, RESPONDENT has resolved the deficiency and the previously issued Cease and Desist Order should be vacated.

14. Based upon good cause shown, the **Cease and Desist Order**, Administrative Order No. CD-2001-0011, issued to RESPONDENTS on February 12, 2001, **is hereby vacated**.

Entered at Montgomery, Alabama, this 22 day of August, 2001.

ALABAMA SECURITIES COMMISSION
770 Washington Avenue, Suite 570
Montgomery, AL 36130-4700
(334) 242-2984

BY:

JOSEPH R. BORG
Director

