

STATE OF ALABAMA  
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF: )  
DISCOVERY FUND, LLC, ) ADMINISTRATIVE ORDER  
GEN TECH ENERGY, LLC, ) NO. CD-2019-0024  
JAMES MOBLEY, )  
ROBERT DUECKEL, )  
Respondents. )

**CEASE AND DESIST ORDER**

The Alabama Securities Commission ("Commission"), having the authority 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. DISCOVERY FUND LLC ("DFL") is a business corporation registered with the Nevada Secretary of State. Their principal business address listed is 112 North Curry Street Carson City, NV 89703.
2. GEN TECH ENERGY LLC ("GTE") is a business corporation registered with the Nevada Secretary of State. GTE is listed as a Collateral Agent on the promissory note issued to the Alabama resident executed by **MOBLEY**. Their principal business address listed is 112 North Curry Street Carson City, NV 89703.
3. JAMES MOBLEY ("MOBLEY"), at all times relevant, acted as a Managing Member of DFL and Manager of GTE with a residential address of 2848 Summershade Lane Concord, TN 37922.
4. ROBERT DUECKEL ("DUECKEL"), at all times relevant, acted as a Managing Member of DFL with an address of 755 Avenida Leon San Marcos, CA 92069.

**STATEMENT OF FACTS**

5. On February 1, 2019, the Commission received a formal complaint from an Alabama resident that **MOBLEY**, representing **DFL**, solicited him via telephone in October 2014, to invest into the development of an educational application that would allow parents to easily track and follow their children's educational development. This educational

application was being developed and marketed by **DFL**. **MOBLEY** told the Alabama investor that his investment of \$25,000.00 would earn a 10% return by December 2015.

6. On October 17, 2014, **MOBLEY** issued the Alabama resident a Promissory Note Guarantee stating that he agrees to pay the full amount of the investment if **DFL** fails to return the Alabama resident his funds by December 2015.

7. On December 12, 2014, a \$10,000.00 wire was credited to **DFL**'s Wells Fargo account by the Alabama resident. On December 26, 2014, the Alabama resident made a second wire of \$15,000.00 into **DFL**'s Wells Fargo account, for a total investment of \$25,000.00.

8. On December 27, 2014, the Alabama resident was issued a promissory note executed by **DUENCKEL** for an investment of \$25,000.00 into **DFL**. **MOBLEY** also executed the promissory note representing **GTE** as a Collateral Agent.

9. Further, there was no disclosure to the Alabama resident of the Chapter 7 Bankruptcy filings by **DUENCKEL** in 2004 and 2005. **DUENCKEL** is identified as a managing member of **DFL** in the materials received by the Alabama resident.

10. A review of the files of the Registration Division of the Alabama Securities Commission was conducted on June 24, 2019, disclosing no record of registration for **DUENCKEL** as broker dealer agents, investment advisors, or investment advisor representatives in the state of Alabama.

11. A review of the files of the Registration Division of the Alabama Securities Commission was conducted on June 24, 2019 and disclosed no record of registration for **MOBLEY** as a broker dealer agent, investment advisor, or investment advisor representative in the state of Alabama.

12. A review of the files of the Registration Division of the Alabama Securities Commission was conducted on June 24, 2019 and disclosed no record of registration for **DFL** or **GTE**, or any perfected exemption from registration for the offered securities, to wit: investments into the development of an educational application.

13. A review of the Alabama Secretary of State's website revealed no registration of **DFL** or **GTE** as a business entity or foreign corporation authorized to do business in the State of Alabama.

## CONCLUSIONS OF LAW

14. Pursuant to § 8-6-2(10), Code of Alabama 1975, the definition of “security” includes investment contracts and/or promissory note in the definition of a security. **DFL** and **GTE** required the investor to invest money into a common enterprise with the expectation of profits derived from the significant managerial efforts of **DFL** and **GTE**. Therefore, **DFL** and **GTE**’s promissory notes issued to the investor constitute investment contracts and/or promissory notes and are “securities” as defined by the Act.
15. Pursuant to § 8-6-4, Code of Alabama 1975, it is unlawful for any person to offer or sell any security in this state unless it is registered or exempt from registration under § 8-6-10; or the transaction is exempt under § 8-6-11. The securities, i.e. the promissory note and/or investment contracts offered and sold by **DFL** and **GTE**, were neither registered nor subject to a perfected exemption from registration in Alabama at the time of the solicitation or sale and were offered and sold in violation of the Act.
16. Pursuant to § 8-6-2(5), Code of Alabama 1975, the definition of an “issuer” includes every person who proposes to issue, or has issued, any security. **RESPONDENTS**, by issuing securities, to wit: investment contracts and/or promissory Notes, is an “issuer” as defined by the Act.
17. Pursuant to § 8-6-2(2), Code of Alabama 1975, an agent is the only individual other than a dealer who represents a dealer in effecting or attempting to effect sales of securities. **MOBLEY** effected the solicitation and sale of securities, to wit: the investment contracts and/or promissory notes to the investor on behalf of **DFL** and **GTE**, and is an agent as defined by the Act.
18. Pursuant to § 8-6-2(2), Code of Alabama 1975, an agent is any individual other than a dealer who represents a dealer in effecting or attempting to effect sales of securities. **DUENCKEL** effected the solicitation and sale of securities, to wit: the investment contracts and/or promissory notes to the investor on behalf of **DFL** and **GTE**, and is an agent as defined by the Act.
19. Pursuant to § 8-6-3(a), Code of Alabama 1975, it is unlawful for any person to employ an agent who is not registered with the Commission to solicit or effect sales of securities in this State. **DLF** and **GTE** employed **MOBLEY** and **DUENCKEL** as unregistered agents in Alabama, in violation of the Act.
20. Pursuant to § 8-6-17(a)(2), Code of Alabama 1975, it is unlawful for a person, in connection with the offer, sale or purchase of a security, to make or omit to state a material fact

necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading. **RESPONDENTS** failed to disclose that the investments offered and sold by **DFL** and **GTE** were securities which required registration in the State of Alabama, a material omission, in violation of the Act. Moreover, **RESPONDENTS** failed to disclose to the Alabama resident of the Chapter 7 Bankruptcy filings by **ROBERT DUENCKEL** in 2004 and 2005. **RESPONDENT DUENCKEL** is identified as a managing member of **DFL** in the materials received by the Alabama resident.

This Order does not prevent the Commission from seeking such other civil or criminal remedies that are available to it under the Act.

This Order is appropriate to protect the public interest and the protection of investors and is consistent with the purposes of the Alabama Securities Act.

Additionally, if the allegations set forth herein are found to be true, through either administrative adjudication, failure of the **RESPONDENTS** to make a timely request for hearing, or default of the **RESPONDENTS**, it is the intention of the Commission to impose sanctions upon the **RESPONDENTS**. Such sanctions may include, *inter alia*, an administrative assessment imposed on **RESPONDENTS**, an additional administrative assessment for investigative costs arising from the investigation of the violations described herein against **RESPONDENTS**, and a permanent order to bar **RESPONDENTS** from participation in any securities-related industry in the State of Alabama.

**ACCORDINGLY, IT IS HEREBY ORDERED** that **RESPONDENTS** immediately **CEASE AND DESIST** from further offers or sales of any security into, within, or from the state of Alabama.

Entered at Montgomery, Alabama, this 9<sup>th</sup> day of July 2019.

ALABAMA SECURITIES COMMISSION

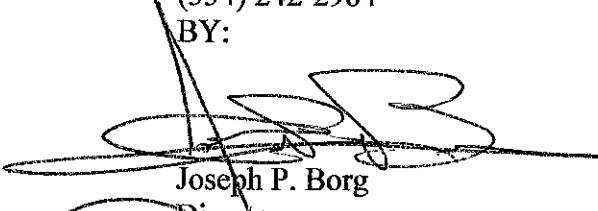
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BY:

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Director



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