

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND**

IN THE MATTER OF:

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THE SIX FIGURE CLUB
and
JAMES S. DAVIS JR.,

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Securities Division No. 2012-0216

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RESPONDENTS.

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**SUMMARY ORDER TO CEASE AND DESIST
AND ORDER TO SHOW CAUSE**

WHEREAS, the Maryland Securities Commissioner (“Commissioner”), pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Title 11, Corporations and Associations Article, Annotated Code of Maryland (2007 Repl. Vol. & Supp. 2012) (“Securities Act” or “Act”), initiated an investigation into the activities of James S. Davis Jr. and the Six Figure Club (“Respondents”); and

WHEREAS, the Commissioner has determined that Respondents have engaged and are about to engage in acts or practices constituting violations of the securities and securities agent registration provisions and the antifraud provisions set forth at §§11-301, 11-401, 11-501, and 11-601 of the Act; and

WHEREAS, the Commissioner has determined that immediate action against Respondents is in the public interest;

NOW THEREFORE, pursuant to §11-701.1(a) of the Securities Act, it is hereby:

ORDERED that James S. Davis Jr. and the Six Figure Club, their officers, directors, employees, agents and anyone else involved in the solicitation or sale of investments in or through the Six Figure Club, immediately cease and desist from soliciting, offering, or selling, by any medium in or from Maryland, investments or interests in sweepstakes machines or profits from such machines owned by others, pending

a hearing in this matter or until such time as the Commissioner modifies or rescinds this Order. Willful violation of this Order is punishable as a criminal offense under §11-705 of the Securities Act, by a fine not exceeding \$50,000 or imprisonment not exceeding three years, or both.

IT IS FURTHER **ORDERED** that each Respondent show cause why a final order should not be issued imposing on that Respondent the statutory penalty of \$5,000 per violation of the Securities Act, and permanently barring that Respondent from the securities business in Maryland.

I. JURISDICTION

1. The Commissioner has jurisdiction in this proceeding pursuant to §11-701.1 of the Act.

II. RESPONDENTS

2. The Six Figure Club (“SFC”) is a Maryland-based entity with its address in Ft. Washington, Maryland, purportedly engaged in the business of offering interests in gambling devices or gaming-device related investments.

3. James S. Davis Jr. (“Davis”), who holds himself out as “the driving force behind” SFC, is the president/CEO/Founder of SFC, with an address in Ft. Washington, Maryland.

III. STATEMENT OF FACTS

4. By letter dated April 16, 2012, Davis contacted the office of the Maryland Attorney General to inquire about the legality of selling and using electronic sweepstakes devices in Maryland; the letter was forwarded to the Securities Division. In his letter, Davis stated that his plan was for SFC to sell or lease “sweepstakes machines,” or interests in them. The machines, when placed in the purchaser’s or other establishments, would generate income for the purchaser/investor.

5. SFC offered three options for owner/operator investors:
 - a. A person could purchase a sweepstakes machine and locate and operate it himself, as an investor/owner.
 - b. A person could lease to purchase a sweepstakes machine, or house other investors’ machines with a goal of purchasing them within 12 months. Such an investor would earn profits based on usage of the machine.

- c. A person could receive profits based on housing machines without owning them.
6. However, investors did not have to have a location. The high-yield return passive investment program offered monthly profits of 18% to 60% annually, a set percentage based on the amount invested.
7. Satisfaction with the investment was guaranteed. If at the end of the year an investor was not happy, his investment (less any monthly profits already paid) would be refunded by SFC.
8. Details of the offering and the plan were available to the public at the SFC website, www.sixfigureclub.com, without a password.
9. Davis also offered links to advisory services, “mentoring” services, and lending services through the site.
10. About May 3, 2012, the Securities Division advised Davis that SFC’s program could constitute the offer or sale of unregistered securities, and requested additional information.
11. In subsequent communications, the Division advised Davis that parts of the SFC program constituted a passive investment and the providing of investment advice, but also that parts of the offering used terminology typical of a “business opportunity” under the Maryland Business Opportunity Sales Act. Six Figure Club was not registered as either.
12. On July 11, 2012, counsel for the Division advised Davis via e-mail that document production and his testimony were needed because “... as long as the website is up, ... it constitutes an offer of securities.”
13. At the Division’s urging, on August 28, 2012, Davis met with two Division attorneys and an investigator, and discussed the aspects of the SFC program that were not in compliance with the Securities Act.
14. After thorough review of the SFC materials and that meeting with Davis, on August 30, 2012, Division counsel wrote and advised Davis that the website constituted the offer of unregistered securities in connection with the possibly unlawful offer of gaming machines.

15. That letter to Davis expressly stated that “The Commissioner has directed that the website offering investments in the Six Figure Club must come down within ten days.” The letter added, however, that because of Davis’ past cooperation he was being given the opportunity to avoid an Order and formal proceedings.

16. The letter advised Davis to seek legal counsel to determine exactly what form of investment, if any, he could offer, and to structure any offering in compliance with the Securities Act and other Maryland law.

17. On September 11, 2012, Davis notified the Division that “I will be removing our www.sixfigureclub.com website from the internet tonight at 11:50 PM on today’s date. I have acquired an attorney and they will be in touch with your office to resolve any corrections required to update my website to be fully compliant ...” In reliance upon Davis’ removing the website and seeking legal advice, the Division took no action against Davis or SFC for the offer of unregistered securities.

18. Now, however, the Division has discovered that the Six Figure Club website is once again available to the public, and is offering the passive investment opportunities related to gaming devices.

19. On May 6, 2013, Division counsel contacted Davis’ prior counsel, who stated that she no longer represents Davis or the Six Figure Club, and has not done so since late last year.

20. The SFC website, backed by constant rolling “testimonials” from unidentifiable persons, describes the various facets of Respondents’ business services including investment, lending, advising, and mentoring, with repeated reference to unidentified successful ventures and alleged successful clients over Davis’ 35 years of experience.

21. The current Six Figure Club website, www.sixfigureclub.com, like the 2012 website, offers a variety of investment opportunities for those with available locations in which to place a sweepstakes machine:

- a. Owner/operator investors own or house the sweepstakes machines and “rake in up to 35% of the net profit per machine every month” for machines in their locations.

- b. Investors can lease-to-purchase machines, or house other investors' machines while waiting to purchase them within 12 months, and earn 30%.
- c. Investors can earn 25% of all net profits when they house others' machines in their locations but choose not to purchase machines.

See Six Figure Club website, "How It Works."

22. However, investors do not have to own a location. "Our **high-yield return, passive investment program** offers 18% to 60% annual returns that can be paid on a monthly basis." (Emphasis in original.) *Id.* The return is a set percentage dependant on the amount invested.

23. Furthermore, investors are guaranteed that their investments are risk free. The "Money-Back Guarantee" will refund an investment, less returns received, if an investor is unsatisfied after 12 months. In addition, the "No-Fee Guarantee" promises to return the annual management fee (1% to 3%) if the Six Figure Club fails to produce at least double the annual return of an investor's re-allocated investments.

24. Mentor Services Unlimited, LLC ("Mentor"), with its address in Ft. Washington, Maryland, holds itself out as the parent company of a consortium of successful businesses, including the Six Figure Club. The Six Figure Club site states "For more than three and a half decades, the Six Figure Club and [Mentor] have assisted thousands of Private Members achieve their financial goals. ... We can help you as well."

25. Instructions, testimonials, application forms, and encouragement to roll over other funds or borrow funds to buy SFC interests are also on the site, without need of a password. There is no banner or notice on the site that the investments are not available to Maryland residents.

26. The Securities Division has no record of securities registration for an offering by the name Six Figure Club, Mentor Services, or any other name listed on the site as a SFC affiliate. No claim of exemption or status as a federal-covered security has been made with the Division for any such offering.

27. SFC is not registered with the Securities Division as a broker-dealer, securities agent, investment adviser or investment adviser representative.

28. Davis is not registered with the Securities Division as a broker-dealer, securities agent, investment adviser or investment adviser representative.

29. The SFC website does not contain adequate disclosure to advise potential investors of the registration requirements of the offering, or information regarding Respondents' history and prior successes and promised rates of return.

30. This passive, high-yield investment is a security in the form of an investment contract or interest in a profit-sharing agreement.

COUNT I
(Offer of Unregistered Securities)

WHEREAS, §11-501 of the Securities Act makes it unlawful for any person to offer or sell a security in this state unless the security is registered, is exempt from registration under the Act, or is a federal covered security; and

WHEREAS, Respondents have offered and may continue to offer investments in sweepstakes machine interests that promise to pay interest at 18-60% per annum, which are investment contracts or participatory interests in a profit-sharing plan and fall within the definition of a security at §11-101 of the Securities Act; and

WHEREAS, the securities offered by Respondents are not registered with the Division, and no claim of exemption from registration or status as a federal-covered security has been filed for them; and

WHEREAS, Respondents have offered and/or sold securities in violation of the registration requirement of §11-501 of the Act;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondents, their officers, directors, employees, agents and anyone else involved in the offer or sale of SFC securities, cease and desist from offering or selling these or other investments in or from Maryland by any medium, pending a hearing in this matter or until such time as the Commissioner modifies or rescinds this Order. Willful violation of this Order

could result in criminal penalties under §11-705 of the Securities Act.

IT IS FURTHER **ORDERED** that Respondents show cause why a final order should not be issued against them, imposing on each the statutory penalty of \$5,000 per violation of §11-501, and permanently barring each from engaging in the securities business in Maryland.

COUNT II
(Unregistered Broker-Dealer and/or Agent)

WHEREAS, §11-401 of the Securities Act makes it unlawful for any person to transact business in the offer and sale of securities in this state as a broker-dealer or agent unless that person is registered as such pursuant to the Act; and

WHEREAS, §11-101(c) of the Securities Act defines "broker-dealer" to mean a person engaged in the business of effecting transactions in securities for the account of others or for his own account; and

WHEREAS, §11-101(b) of the Securities Act defines "agent" to mean an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect the purchase or sale of securities; and

WHEREAS, Respondents transacted business as a broker-dealer or agent in this state by engaging in the offer or sale of securities; and

WHEREAS, neither Respondent is registered with the Division as a broker-dealer or agent, or in any other capacity;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondents, their officers, directors, employees, agents and anyone else involved in the offer or sale of SFC securities, cease and desist from acting as a broker-dealer or agent in this state pending a hearing in this matter or until such time as the Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under §11-705 of the Securities Act.

IT IS FURTHER **ORDERED** that Respondents show cause why a final order should not be issued

against them, imposing on each the statutory penalty of \$5,000 per violation of the §11-401 broker-dealer and broker-dealer agent registration provisions, and permanently barring each from engaging in the securities or investment advisory business in Maryland.

COUNT III
(Employment of Unregistered Agents for Sale of Securities)

WHEREAS, the Act defines "broker-dealer" to include a person engaged in the business of effecting transactions in securities for the account of others or for his own account; and

WHEREAS, the Act defines "agent" to mean an individual other than a broker-dealer, including a partner, officer or director of an issuer, who represents a broker-dealer or issuer in effecting or attempting to effect the purchase or sale of securities; and

WHEREAS, § 11-101(k) of the Act defines "issuer" to be a person who issues or proposes to issue a security; and

WHEREAS, the investment interests and profit-sharing investments that Respondents offered or sold to investors are securities under the Act; and

WHEREAS, Davis acted as a broker-dealer or agent and offered or sold securities in and from Maryland without being registered to do so; and

WHEREAS, §11-402 of the Act makes it unlawful for any broker-dealer or issuer to employ an agent for the offer or sale of securities in this state unless the agent is registered pursuant to the Act; and

WHEREAS, SFC has not identified other agents employed for the offer or sale of those securities, although SFC is not registered with the Division as an agent;

THEREFORE, IT IS HEREBY **ORDERED** that SFC cease and desist employing unregistered agents for the offer or sale of securities in or from this state, pending a hearing in this matter or until such time as the Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under §11-705 of the Securities Act.

IT IS FURTHER **ORDERED** that SFC show cause why a final order should not be issued against it, assessing the statutory penalty of \$5,000 per violation of § 11-402's broker-dealer and broker-dealer agent registration-requirement provisions, and permanently barring SFC from engaging in the securities business in Maryland.

COUNT IV

(Material Misrepresentation or Omission in Offer or Sale of Securities)

WHEREAS, § 11-301 of the Act prohibits any person, in connection with the offer, sale or purchase of any security, directly or indirectly to: (1) employ any device, scheme or artifice to defraud; (2) make any untrue statement of a material fact 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; or (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person; and

WHEREAS, the SFC website misrepresents the need to register the SFC interests or file a claim of exemption from registration; and

WHEREAS, the SFC website does not provide any information or historical evidence regarding how the investors' funds will be used to generate guaranteed future income; and

WHEREAS, Respondents fail to provide disclosure information that a reasonable investor would find material in making an investment decision, such as the financial background of the company and its officers and directors, or detailed information regarding the sources of income;

NOW, THEREFORE, IT IS HEREBY **ORDERED** that Respondents, their officers, directors, employees, agents and anyone else involved in the offer or sale of SFC securities, cease and desist from engaging in material misrepresentations or omissions in connection with the offer or sale of securities, in violation of section 11-301 of the Securities Act, pending a hearing in this matter or until such time as the Commissioner modifies or rescinds this Order. Willful violation of this Order could result in criminal penalties under section 11-705 of the Securities Act.

IT IS FURTHER **ORDERED** that each Respondent show cause why a final order should not be

issued against it, assessing the statutory penalty of \$5,000 per violation of section 11-301, and permanently barring it from engaging in the securities business in Maryland.

**NOTICE OF HEARING
AND REQUIREMENT OF ANSWER**

IT IS FURTHER **ORDERED**, pursuant to §11-701.1 of the Act and COMAR 02.02.06.06, that each Respondent must file with the Securities Commissioner a written Answer to this Order within fifteen days of service of the Order. The Answer must admit or deny each factual allegation in the Order and should set forth affirmative defenses, if any. If a Respondent lacks knowledge or information sufficient to form a belief as to the truth of an allegation, it should so state.

The Answer also must indicate whether that Respondent requests a hearing. A hearing will be scheduled in this matter if one is requested in writing. Failure to file a written request for a hearing in this matter will be deemed a waiver of the right to a hearing.

Failure to file an Answer or a request for a hearing may result in entry of a final order directing Respondents permanently to cease and desist from violation of the Securities Act and imposing the sanctions sought in this Order.

IT IS SO ORDERED:

**Commissioner's Signature is
on File with Original Document**

MELANIE SENTER LUBIN
SECURITIES COMMISSIONER

June 14, 2013