

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF SECURITIES
COLUMBUS, OHIO 43215-6131

Order No. 13-019

IN THE MATTER OF:

**MICHAEL P. BEAN AND
MICHAEL P. BEAN & ASSOCIATES, INC.**

CEASE AND DESIST ORDER AND CONSENT AGREEMENT

DIVISION ORDER

WHEREAS, the Ohio Division of Securities ("Division") is charged with the responsibility of protecting investors and finds that this Order is necessary or appropriate in the public interest or for the protection of investors, and is consistent with the purposes of the Ohio Securities Act, Chapter 1707 of the Ohio Revised Code ("R.C.");

WHEREAS, the Division has conducted an investigation into the activities of Michael P. Bean ("Respondent Bean") and Michael P. Bean & Associates, Inc. ("Respondent Bean, Inc.") (collectively "Respondents"). Respondents' home and business address is 1269 Crooked Tree Court, Westerville, OH 43081-3252;

WHEREAS, the Division issued a Notice of Opportunity for Hearing and Notice of Intent to Issue a Cease and Desist Order as Division Order No. 13-003 on January 25, 2013;

WHEREAS, counsel for Respondents timely requested a hearing in this matter, but Respondents have agreed to waive their right to a hearing and voluntarily entered into a Consent Agreement attached hereto as Exhibit A ("Consent Agreement"); and

WHEREAS, as a result of said investigation and the admissions set forth in this Order and the Consent Agreement, the Division finds as follows:

- (1) Respondent Bean is a natural person who conducted business as an agent of Respondent Bean, Inc. in the State of Ohio during all time periods relevant to this order;
- (2) Respondent Bean, Inc. is a corporation registered in the State of Ohio;
- (3) Between 2007 and 2008 Respondents offered for sale and sold Income Diamond Investments to Ohio investor Walter O. Lewin, M.D., who was elderly at the date of sale;

- (4) Respondents appointed Timothy Paul Stohs to act as their agent to sell Income Diamond Investments, and paid him a commission of approximately 10 percent on the total sale amount;
- (5) The total amount of Income Diamond Investments Respondents offered for sale and sold in 2007 to Dr. Lewin was approximately \$79,539;
- (6) The total amount of Income Diamond Investments that Respondents offered for sale and sold on or about January 28, 2008, to Dr. Lewin, was \$13,910;
- (7) According to Investment Diamond Order Forms, the investments were to pay a monthly income at a rate of 7.5% over four years for 2007;
- (8) According to an Investment Diamond Order Form, the investment in 2008 was to pay monthly income at a rate of 9.5% for three years;
- (9) The Income Diamond Investments, as described above, are investment contracts, which are securities, as set forth in R.C. 1707.01(B);
- (10) The transactions described above fall within the definition of a "sale" as that term is defined in R.C. 1707.01(C);
- (11) The Income Diamond Investments were not registered with the Division, nor was a claim of exemption filed with the Division with respect to these investment contracts;
- (12) Respondents grossly overstated the value of the 2008 diamonds related to the sale of the Income Diamond Investment;
- (13) Dr. Lewin paid \$13,910 for the 2008 Income Diamond Investment; however, the estimated 2008 fair market value of the diamond is \$1,260;
- (14) R.C. 1707.44(B)(4) provides that: "No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any prospectus, circular, description, application, or written statement, for the purposes of selling any securities in this state";
- (15) Respondents violated R.C. 1707.44(B)(4) by misrepresenting the value of the 2008 diamond, as set forth in the Investment Diamond Order Form;
- (16) The value of the 2008 diamond was material and relevant to the sale of the investment to Dr. Lewin;

- (17) R.C. 1707.44(C)(1) prohibits the sale in Ohio of securities that are not exempt under R.C. 1707.02 from the registration requirements of the Ohio Securities Act, not the subject matter of an exempt transaction under R.C. 1707.03, R.C. 1707.04 or R.C. 1707.34, not registered by coordination or qualification, and not the subject matter of a transaction that has been registered by description;
- (18) The Income Diamond Investment referred to above was not exempt under R.C. 1707.02 from the registration requirements of the Ohio Securities Act, not the subject matter of an exempt transaction under R.C. 1707.03, R.C. 1707.04 or R.C. 1707.34, not registered by coordination or qualification, and not the subject matter of a transaction that was registered by description; and
- (19) Respondents violated R.C. 1707.44(C)(1) by selling the security without the proper registration or claimed exemption.

WHEREAS, based on the above, the Division finds that Respondents violated Revised Code sections 1707.44(B)(4) and 1707.44(C)(1);

WHEREAS, Respondents wish to waive their R.C. 119.07 right to a hearing pursuant to R.C. 119; and

WHEREAS, Respondents and the Division have entered into a Consent Agreement, which is attached hereto as Exhibit A and incorporated herein by reference.

THEREFORE, IT IS ORDERED THAT, pursuant to R.C. 1707.23(G), Respondents are hereby ordered to **CEASE AND DESIST** from the described acts and practices that constitute a violation of Revised Code Chapter 1707.

TIME AND METHOD TO PERFECT AN APPEAL

Any party desiring to appeal shall file a Notice of Appeal with the Ohio Division of Securities, 77 South High Street, 22nd Floor, Columbus, Ohio 43215, setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal shall also be filed by the appellant with the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident. If any party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the Court of Common Pleas of Franklin County.

Such notices of appeal shall be filed within fifteen (15) days after the mailing of the notice of the Ohio Division of Securities' Order as provided in Section 119.12 of the Ohio Revised Code.

MJB/cn

WITNESS MY HAND AND THE OFFICIAL SEAL OF THIS DIVISION at
Columbus, Ohio this 3rd day of May, 2013.



Andrea L. Seidt, Commissioner of Securities

EXHIBIT A

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF SECURITIES
COLUMBUS, OHIO 43215-6131

IN THE MATTER OF: **MICHAEL P. BEAN AND
MICHAEL P. BEAN & ASSOCIATES, INC.**

CONSENT AGREEMENT

Based upon discussions between representatives of the Ohio Division of Securities (the "Division") and Michael P. Bean ("Respondent Bean") and Michael P. Bean & Associates, Inc. ("Respondent Bean, Inc.") (collectively "Respondents"), the Division and the Respondents consent to the following:

- 1) Respondents waive the issuance, lawful service and receipt of a Notice of Opportunity for Hearing in this matter, and stipulate to the jurisdiction of the Division.
- 2) Respondents, with full knowledge of their rights, voluntarily waive the right to an adjudicative hearing pursuant to Ohio Revised Code Chapter 119, upon the issuance and lawful service of a Notice of Opportunity for Hearing.
- 3) The Division and Respondents consent, stipulate, and agree to the findings, conclusions and order set forth in the attached Division Order and to issuance of same.
- 4) After being fully and adequately apprised of their right to appeal the attached Division Order, as set forth in section 119.12 of the Ohio Revised Code, Respondents knowingly and voluntarily waive their rights.
- 5) The undersigned have read this Consent Agreement, understand all of its terms, and have agreed to execute this Consent Agreement voluntarily.

SO AGREED:

By: Michael P. Bean
Michael P. Bean, Individually and as
President of Michael P. Bean & Associates,
Inc.
1269 Crooked Tree Court, Westerville, OH
43081-3252

By: Andrew L. Seidt
Andrea L. Seidt
Commissioner of Securities
Ohio Division of Securities
77 S. High St., 22nd Floor
Columbus, OH 43215

Dated: May 17, 2013

Dated: 05/31/2013

By: Matthew Fornshell
Matthew Fornshell
Attorney for Respondents
Ice Miller LLP
250 West Street
Columbus, OH 43215

Dated: 5/21/13

43215
COLUMBUS, OH
MAY 31 2013