

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **SECURITIES DIVISION**

4 IN THE MATTER OF DETERMINING
5 whether there has been a violation
6 of the Business Opportunity Fraud Act of
7 Washington by:

Smart Advertising, Inc.;
and Brad Lober,

Respondents.

Order Number S-05-043-06-FO01

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL
ORDER TO CEASE AND DESIST

8 THE STATE OF WASHINGTON TO:

Smart Advertising, Inc.
Brad Lober

9
10 On April 4, 2006, the Securities Administrator of the State of Washington issued Statement of
11 Charges and Notice of Intent to Enter an Order to Cease and Desist number S-05-043-06-SC01, hereinafter
12 referred to as the "Statement of Charges" against Smart Advertising, Inc. and Brad Lober.

13 The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for
14 hearing, hereinafter referred to as the "Notice of Opportunity for Hearing" and an Application for
15 Adjudicative Hearing, hereinafter referred to as the "Application for Hearing", were served on Smart
16 Advertising, Inc. and Brad Lober on April 13, 2006 via certified mail. The Notice for Opportunity for
17 Hearing advised Smart Advertising, Inc. and Brad Lober that a written application for an administrative
18 hearing on the Statement of Charges must be received within twenty days from the date of receipt of the
19 notice. Smart Advertising, Inc. and Brad Lober failed to request an administrative hearing within
20 twenty days of receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the
21 Application for Hearing provided or otherwise.

22
23 ENTRY OF FINDINGS OF FACT AND
24 CONCLUSIONS OF LAW AND FINAL ORDER
TO CEASE AND DESIST

1 The Securities Administrator therefore will adopt as final the findings of fact and conclusions of law
2 as set forth in the Statement of Charges.

3
4 The Securities Administrator makes the following findings of fact and conclusions of law:

5 **FINDINGS OF FACT**

6 Respondents

7 1. Smart Advertising, Inc., an Arizona Corporation, was incorporated on October 23, 2002 and
8 conducted business at 3200 North Hayden Suite #320 Scottsdale, AZ 85251. Smart Advertising, Inc. is
9 currently not in good standing with the Arizona Corporation Commission. Smart Advertising, Inc.
10 maintained a website at www.smartadvertisinginc.com.

11 2. Brad Lober is the President and Registered Agent of Smart Advertising, Inc.

12
13 Nature of Offering

14 3. Smart Advertising, Inc. ("Smart Advertising") is the seller of a business opportunity to own a
15 fully automated and self-sufficient website that markets and sells third party products. Smart
16 Advertising built, maintained and hosted the individual website. Purchasers of the opportunity pay
17 Smart Advertising a fee for a marketing plan to advertise their individual website and generate sales.
18 Purchasers of the opportunity receive commission payments based upon the number of sales their
19 website generates.

20 4. Respondents mailed unsolicited offers of the business opportunity to Washington residents.

21 5. Respondents made unsolicited phone calls offering the business opportunity to Washington
22 residents after sending residents the offers by mail.

1 6. Respondents represented to Washington residents in a brochure that Smart Advertising could
2 provide purchasers “with an incredible product that can not only make you money but save clients
3 money” and that “the process is fully automated and virtually hands free” so much so that “you can
4 make money even when you are sleeping.” Respondents further represented to purchasers in a
5 brochure that “Smart Advertising, Inc. will do all the work for you” and that Smart Advertising had
6 links “to some of the largest and most reputable companies in the world.”

7 7. In phone conversations, Respondents told a Washington resident that Smart Advertising had
8 been in business for five years and that the resident’s first year earnings would be \$20,000. Another
9 Washington resident was told purchasers of the opportunity did not have to do any work to generate an
10 income.

11 8. Purchasers of the opportunity paid \$299 for the initial marketing program which included
12 advertising materials, an individual website and company support. Respondents told one purchaser he
13 was receiving a \$100 discount on the marketing package.

14 9. Respondents took payment via check and credit card for the marketing packages. After
15 purchasers of the opportunity paid the Respondents they received a contract in the mail to complete
16 and sign. The term of the agreement was for two years with a one year automatic renewal at the end of
17 the two year term. No disclosure documents were provided to the purchasers of the opportunity.

18 10. Respondents continued to call purchasers of the opportunity and offer additional marketing
19 programs to increase purchasers’ revenue potential. The additional marketing packages ranged in
20 price from \$400 to \$3500. Washington residents purchased one to two additional marketing packages
21 shortly after their initial purchases.

1 11. Purchasers of the opportunity received a letter from Smart Advertising dated May 15, 2005
2 informing them that Smart Advertising had “decided to close our doors” because the company was “in
3 a financial black hole.” The letter also informed the purchasers of the opportunity that Smart
4 Advertising had made arrangements for another company to host the purchasers’ individual websites
5 for the next 24 months and purchasers of the opportunity were provided with a back up copy of their
6 individual website on a compact disk.

7
8 Registration Status

9 12. Smart Advertising, Inc. is not currently and has not previously been registered to offer or sell
10 business opportunities in the state of Washington.

11
12 Based upon the above Findings of Fact, the following Conclusions of Law are made:

13
14 **CONCLUSIONS OF LAW**

15 1. The offers and/or sales of the business opportunity described above constitute the offer and/or
16 sale of a business opportunity as defined in RCW 19.110.020(1) and RCW 19.110.030(1).

17 2. The offers and/or sales of said business opportunity were in violation of RCW 19.110.050, the
18 registration requirement provision of the Business Opportunity Fraud Act, because no registration for
19 offers and/or sales is on file with the Securities Administrator.

20 3. The offers and/or sales of said business opportunity were in violation of RCW 19.110.070 and
21 RCW 19.110.120, the disclosure document and antifraud provisions of the Business Opportunity Fraud
22 Act, because Respondents failed to provide purchasers of the opportunity with a disclosure document

1 containing complete and material information regarding the business opportunity, including but not
2 limited to a financial statement of the seller.

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5 **FINAL ORDER**

6 Based on the foregoing:

7 It is hereby ORDERED that Respondents, Smart Advertising, Inc., Brad Lober, and their agents and
8 employees, each cease and desist from violations of RCW 19.110.050, the registration requirement
9 provision of the Business Opportunity Fraud Act.

10 It is further ORDERED that Smart Advertising, Inc., Brad Lober, and their agents and employees,
11 each cease and desist from violations of RCW 19.110.070, the antifraud provision of the Business
12 Opportunity Fraud Act.

13 It is further ORDERED that Smart Advertising, Inc., Brad Lober, and their agents and employees,
14 each cease and desist from violations of RCW 19.110.120, the disclosure document provision of the
15 Business Opportunity Fraud Act.

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18 **AUTHORITY AND PROCEDURE**

19 This Final Order is entered pursuant to the provisions of RCW 19.110.150, and is subject to the
20 provisions of Chapter 34.05 RCW. Respondents have the right to petition the superior court for judicial
21 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a
22

1 Petition for Judicial Review, see RCW 34.050.510 and sections following.

2
3 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

4
5 DATED AND ENTERED this 18th day of May, 2006.

6
7 By:

8 

9 MICHAEL E. STEVENSON
10 Securities Administrator

11 Approved by:

11 Presented by:

12 

13 

14 Martin Cordell
15 Chief of Enforcement

16 Angela Vogel
17 Financial Legal Examiner