

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

4 IN THE MATTER OF DETERMINING) Order Number S-07-453-08-SC01
5 whether there has been a violation of the)
6 Securities Act of Washington by:) STATEMENT OF CHARGES AND NOTICE
7 Gitan, LLC; Mark Moroney; Brian Thompson;) OF INTENT TO ENTER AN ORDER TO
8) CEASE AND DESIST, CHARGE COSTS,
9) AND IMPOSE FINES
10)
11 Respondents)

12 THE STATE OF WASHINGTON TO: Gitan, LLC
13 Mark Moroney
14 Brian Thompson, CRD #4620697

15 **STATEMENT OF CHARGES**

16 Please take notice that the Securities Administrator of the State of Washington has reason
17 to believe that Respondents, Gitan, LLC; Mark Moroney; and Brian Thompson, have each
18 violated the Securities Act of Washington and that their violations justify the entry of an order of
19 the Securities Administrator against each to cease and desist from such violations and charge
20 costs pursuant to RCW 21.20.390 and impose fines pursuant to RCW 21.20.395. The Securities
21 Administrator finds as follows:

22 **TENTATIVE FINDINGS OF FACT**

23 *Respondents*

24 1. Gitan, LLC (“Gitan”) was an Arizona limited liability company purportedly in the
business of developing and marketing mold resistant paints and coatings.

2. Mark Moroney (“Moroney”) was a founding member and chief technical officer
of Gitan. Moroney resides in Arizona.

STATEMENT OF CHARGES AND NOTICE OF
INTENT TO ENTER ORDER TO CEASE AND DESIST,
CHARGE COSTS, AND IMPOSE FINES

1 3. Brian Thompson (“Thompson”) was a founding member, president, and manager
2 of Gitan. From December 2002 to July 2004, Thompson was licensed in Washington State as a
3 securities salesperson at JR Snell Capital Management, LLC. His Financial Industry Regulatory
4 Authority salesperson identification number is 4620697. Thompson resides in Arizona.

5 **NATURE OF THE OFFERING**

6 *Investor A*

7 4. In early 2004, Investor A, a resident of Snohomish County, Washington, met
8 Thompson through a mutual friend. Thompson told Investor A that Gitan had developed new
9 technology in mold resistant paints. Investor A owned a business that sealed masonry and the
10 Gitan products, as represented, would be a nice complement to the services Investor A offered.

11 5. Investor A and Thompson met at a restaurant in Seattle, Washington to discuss
12 the product. Thompson provided Investor A with brochures about the product and product
13 samples.

14 6. Investor A tested the product samples for several months and was impressed
15 with it. Investor A asked Thompson and Moroney how the company had obtained the
16 technology. Both Thompson and Moroney told Investor A that Moroney’s uncle had developed
17 the technology. When Moroney’s uncle died, he left the technology to Moroney. This statement
18 was false or misleading because the Veron Coating Systems, Inc. (“Veron”) developed and
19 owned the products. Veron is an Arizona company that develops and manufactures coatings.
20 The Gitan principals did not have an interest in Veron and Gitan only had an informal oral
21 agreement to distribute the products. This was not disclosed to Investor A.
22
23

1 7. Moroney told Investor A that the Gitan product was being sold across the country
2 and distributorships were also being set up. This statement was false or misleading because the
3 product was not being sold across the country and no distributorships had been set up.

4 8. In approximately late May 2004, Moroney called Investor A and asked Investor
5 A if he would like to buy a 1% interest in Gitan for \$30,000. Moroney said that Gitan was only
6 going to sell one 1% interest in the company and there were other people that wanted to invest.
7 Moroney told Investor A that because of their relationship Moroney wanted to sell the interest to
8 Investor A. Moroney told Investor A that he would have to act quickly to purchase the 1%
9 interest.

10 9. On June 7, 2004, based on the representations of Moroney and Thompson,
11 Investor A decided to purchase a convertible promissory note for \$30,000. Thompson sent a
12 Loan Agreement to Investor A's address in Washington State. Investor A thought that the Loan
13 Agreement was for the sole purpose of the converting the funds to a 1% interest in Gitan.
14 Investor A and Moroney signed the Loan Agreement.

15 10. Moroney instructed Investor A to wire his funds from his bank account in
16 Washington State to a Bank One bank account in Arizona. Investor A later found out that the
17 Bank One bank account belonged to Moroney's wife.

18 11. Investor A received at his Washington State address a promissory note signed by
19 Moroney by mail. The promissory note was three paragraphs and did not contain many terms
20 commonly found in a promissory note. Investor A did not receive disclosure about the risks of
21 investing or financial information about the company.

22 12. Several months later, Investor A set up a sales meeting with a major builder that
23 wanted to purchase the Gitan product. Investor A contacted Thompson to place the order for the

1 product. Thompson told Investor A that the order could not be filled because there was no Gitan
2 product.

3 13. On November 13, 2005, Investor A asked for his funds back. He has not received
4 any funds back.

5 *Investor B*

6 14. In approximately September 2004, Investor B, a resident of Clark County,
7 Washington, was contacted by telephone in Washington State by Thompson. Investor B owned
8 a transportation company and Thompson told Investor B that he was contacting Investor B to
9 request Investor B's assistance with setting up transportation for his company's product.

10 Thompson said that he would be in Vancouver, Washington on business and asked Investor B if
11 he would be able to meet. Investor B agreed to meet with Thompson.

12 15. In approximately October 2004, Thompson and Investor B met at a restaurant in
13 Vancouver, Washington to discuss transportation of the Gitan product.

14 16. During the meeting, Thompson told Investor B that Moroney was a chemist for
15 Gitan and invented a paint technology that resisted mold and growth of other organisms. This
16 statement was false or misleading because Moroney was not a chemist and did not invent the
17 paint technology.

18 17. Thompson gave Investor B a brochure that described three types of products.
19 Thompson represented that these were the company's products. Thompson failed to disclose to
20 Investor B that Gitan had only an informal oral agreement to distribute the products.

21 18. Thompson told Investor A that the technology was compliant with the
22 regulations of the Environmental Protection Agency ("EPA") and had been approved by the
23

1 Federal Aviation Administration (“FAA”). This statement was false or misleading because the
2 Veron product was not EPA compliant and the FAA had not approved the product.

3 19. Thompson also told Investor B that Gitan had over \$1 million of inventory. This
4 statement was false or misleading because Gitan had only product samples.

5 20. Thompson also represented that the partners believed in the product so much that
6 they had contributed their own money to the company. This statement was false or misleading
7 because Moroney had not contributed funds to Gitan.

8 21. Thompson said that the company salesperson had set up “imminent” orders for
9 the product and would need tankers and other shipping options to transport it. This statement
10 was also misleading. There were no imminent orders.

11 22. After Thompson and Investor B reached an agreement for the transportation of
12 Gitan products, Thompson told Investor B that Investor B would be a perfect investor in the
13 company. Thompson told Investor B that a 1% share of the company could be purchased for
14 \$100,000. Thompson said that they had sold 1% of the company previously for \$30,000 and
15 because of the additional interest in the product and the imminent orders for the product the
16 company was now asking for \$100,000 for a 1% ownership interest.

17 23. Over the next couple of days, while Investor B was in Washington State,
18 Investor B telephonically spoke with Thompson and Moroney about Gitan’s shipping needs and
19 to verify the information that Investor B had been given about the company.

20 24. Thompson sent to Investor B’s Washington State address a document that
21 indicated that Gitan was within months of obtaining exclusive commitments from various
22 Federal agencies, that there were several medical facility clinic trials in the proposal stage, that
23 the Washington Department of Transportation (“DOT”) was rewriting the paint specifications to

1 Gitan's specifications, and that there were imminent contracts worth over \$4,200,000. These
2 statements were false or misleading because there were no such commitments from Federal
3 agencies, no medical facility trials in the proposal stage, DOT was not rewriting paint
4 specifications to Gitan's specification, and contracts worth over \$4,200,000 were not imminent.

5 25. Thompson provided Investor B a resume that indicated he had a doctorate in
6 dentistry and was a part owner in two patent pending formulations developed by Gitan. The
7 heading on the resume was "Brian Thompson D.D.S.". The resume was misleading. Thompson
8 failed to tell Investor B that in July 1999 his dentist license was revoked for giving poor care to
9 his patients and that he had not developed the Gitan products.

10 26. Moroney provided Investor B a resume that indicated he developed and
11 formalized the Gitan product line and its underlying patent pending technology. It also indicated
12 that Moroney had "a lifelong personal fascination with chemicals and their reactions, specifically
13 in the coating area" that was "fueled by a close relative" in the chemical engineering field. The
14 resume also indicated that Moroney's "hands-on construction experiences combined with" his
15 "chemical knowledge have helped to bring about industrial coating materials that work
16 exceptionally well from the lab bench to actual construction site application." The resume was
17 misleading because Moroney was not a chemist but a professional rodeo roper and he did not
18 develop the underlying technology in the Gitan product line.

19 27. Moroney told Investor B that the paint technology had been developed by
20 Moroney's uncle. When the uncle died he left the formulas to Moroney. This information was
21 false because the technology had been developed by Veron.

22 28. Based on their representations, Investor B told Thompson that he would be
23 willing to purchase a 1% interest in the company for \$60,000. Thompson instructed Investor B

1 to wire \$60,000 from his bank account in Washington State to Gitan. On October 28, 2004,
2 Investor B wired \$60,000 to the Gitan account at Wells Fargo bank in Arizona.

3 29. At the time of the investment, while Investor B was in Washington State, he
4 received an operating agreement. He did not receive written financial statements or documents
5 disclosing the risk of the investment. After the investment, Thompson and Moroney continued
6 to represent that Gitan had imminent orders that needed transportation by Investor B's company.
7 They also continued to make representations about the company's products and financial
8 condition.

9 30. In 2006, Investor B was notified that Gitan was filing for bankruptcy. Through
10 the bankruptcy process Investor B obtained the financial records of the company.

11 31. Investor B learned that the investment funds were not used as represented. He
12 also discovered numerous misrepresentations about the company and the products had been
13 made to him.

14 32. Investor B requested his funds back. He has not been repaid.

15 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are
16 made:

17 CONCLUSIONS OF LAW

18 1. The offer or sale of the LLC ownership interest in Gitan in the manner described
19 above each constitutes the offer or sale of a security, as defined in RCW 21.20.005(10) and (12).

20 2. Respondents, Gitan, LLC; Mark Moroney; and Brian Thompson, have violated
21 RCW 21.20.010 because, in connection with the offer or sale of said securities, they directly or
22 indirectly, made untrue statements of material fact, or omitted to state material facts necessary in
23

1 order to make the statements made, in the light of the circumstances under which they were
2 made, not misleading.

3 3. Respondents, Gitan, LLC; Mark Moroney; and Brian Thompson, have violated
4 RCW 21.20.140, the securities registration provision of the Securities Act, because they offered
5 and/or sold securities for which there was no registration on file with the Securities
6 Administrator.

7 4. Respondents, Mark Moroney and Brian Thompson, have violated RCW
8 21.20.040 because they transacted business in Washington State as a broker-dealer or securities
9 salesperson while not registered as such.

10 **NOTICE OF INTENT TO ORDER RESPONDENT TO CEASE AND DESIST**

11 Pursuant to RCW 21.20.390, and based upon the above Tentative Findings of Fact and
12 Conclusions of Law, the Securities Administrator intends to order that the Respondents,
13 Gitan, LLC; Mark Moroney; and Brian Thompson, permanently cease and desist from
14 violations of RCW 21.20.010, RCW 21.20.040, and RCW 21.20.140.

15 **NOTICE OF INTENT TO CHARGE COSTS**

16 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and
17 Conclusions of Law, the Securities Administrator intends to order that: Respondent, Gitan, LLC,
18 shall be liable for and pay the costs, fees, and other expenses incurred in the investigation of
19 \$500; Respondent, Mark Moroney, shall be liable for and pay the costs, fees, and other expenses
20 incurred in the investigation of \$500; and Respondent, Brian Thompson, shall be liable for and
21 pay the costs, fees, and other expenses incurred in the investigation of \$500.

1 **NOTICE OF INTENT TO IMPOSE FINES**

2 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and
3 Conclusions of Law, the Securities Administrator intends to order that:

- 4 a. Respondent, Gitan, LLC, shall be liable for and pay a fine of \$15,000;
- 5 b. Respondent, Mark Moroney, shall be liable for and pay a fine of \$15,000; and
- 6 c. Respondent, Brian Thompson, shall be liable for and pay a fine of \$20,000.

7 **AUTHORITY AND PROCEDURE**

8 This Statement of Charges is entered pursuant to the provisions of RCW 21.20.390 and
9 RCW 21.20.395, and is subject to the provisions of Chapter 21.20 and 34.05 RCW. The
10 Respondents may make a written request for a hearing as set forth in the NOTICE OF
11 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
12 Order. If a Respondent does not request a hearing, the Securities Administrator intends to
13 adopt the foregoing Tentative Findings of Fact and Conclusions of Law as final, enter a
14 permanent cease and desist order, charge costs, and impose the fine against that Respondent.

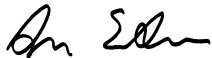
15 DATED and ENTERED this 23rd day of April, 2008.

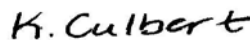
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17 _____
18 MICHAEL E. STEVENSON
19 Securities Administrator

20 Approved by:

Presented by:

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23 _____
24 Suzanne Sarason
Chief of Compliance

Kristen Culbert
Financial Legal Examiner