STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING Whether there has been a violation of the Franchise Investment Protection Act of Washington by:

Commercial Property Consultants, LLC,

Respondent.

Order Number S-10-242-11-SC01

STATEMENT OF CHARGES AND NOTICE OF INTENT TO ENTER ORDER TO CEASE AND DESIST

THE STATE OF WASHINGTON TO: Commercial Property Consultants, LLC

STATEMENT OF CHARGES

Please take notice that the Securities Administrator for the State of Washington has reason to believe that Respondent Commercial Property Consultants, LLC has violated the Franchise Investment Protection Act of Washington, RCW 19.100, and that its violations justify the entry of an order of the Securities Administrator under RCW 19.100.248 against it to cease and desist from such violations. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondent

1. Commercial Property Consultants, LLC ("CPC") was an Arizona limited liability company that was established on April 22, 2005. CPC maintained a principal place of business at 16435 N. Scottsdale Road, Suite 280, Scottsdale, Arizona. CPC was administratively dissolved on January 7, 2010 for failure to appoint and/or maintain a statutory agent.

Nature of the Conduct

2. Commercial Property Consultants, LLC offered and sold franchises that involved providing engineered cost segregation services to owners of commercial property. Engineered cost segregation is

purportedly "an in-depth analysis by construction engineering experts of the costs incurred to build, acquire or renovate a real estate holding." According to CPC, the "primary goal of a cost segregation study is to identify all construction-related costs that qualify for accelerated income tax depreciation." CPC represented that by accelerating depreciation, commercial property owners could usually reduce their tax liability and increase their cash flow.

3. CPC referred to its franchisees as "affiliates." Affiliates would locate commercial property owners who were interested in cost segregation services and refer them to CPC. CPC performed the initial analysis, which would provide an estimate of expected monetary benefits, at no cost to the customer. The customer would then pay a fee if they wished to go forward with a full study.

4. Affiliates could choose to purchase one of several different CPC "programs." The cost of the programs varied from $9,995 ("Diamond Program") to $89,995 ("Presidential Club Program"). By purchasing a more expensive program, affiliates could engage a greater number of "associate affiliates" to "create additional income and referral streams," receive a greater amount of marketing materials such as business cards and brochures, and earn a higher commission rate. For example, an affiliate who purchased the "Gold Program" for $20,995 could earn a commission rate up to 35%, whereas an affiliate who purchased the Presidential Club Program could earn a commission rate up to 85%. Affiliates who purchased the franchise opportunity within a certain timeframe could also qualify for an "Action Bonus," which would entitle them to receive additional commissions and payments.

5. CPC sold franchises to at least three Washington residents. The first Washington resident, who purchased the franchise in September 2006, paid $59,995 for the "Platinum Professional Program." The other Washington residents, who made their purchase in March 2008, paid $89,995 for the Presidential Club Program. Although CPC provided the Washington purchasers with a "disclosure document," this document did not contain the information about the franchise required by RCW 19.100.040.

6. CPC told at least one Washington purchaser that affiliates could expect to earn their fee back in one month to one year. CPC failed to provide a reasonable basis for this projection.

7. The Washington purchasers signed an "Affiliate Marketing Agreement." The agreement granted the Washington purchasers the right to sell and market CPC's cost segregation services.

8. CPC provided training for the Washington purchasers, which included a two-day training program held in Scottsdale, Arizona and a "comprehensive training manual" on sales and marketing strategies. CPC also provided marketing materials, such as brochures, presentation folders, and a PowerPoint presentation. Although affiliates conducted business under their own business name, the marketing materials provided were branded with the CPC logo. The Washington purchasers received business cards and letterhead that were branded with the CPC logo. Additional marketing materials had to be purchased through CPC's authorized printer.

9. CPC continued to provide ongoing support to its affiliates after the initial training. CPC represented that affiliates would be granted "[u]nlimited support by [CPC's] trained staff" and "comprehensive sales and marketing support for the life of [their] business," which included regularly scheduled support conference calls, unlimited access to CPC's "business coach mentoring program," and assistance in presenting the free analysis to customers. The Washington purchasers received an access code to CPC's virtual "back office" where they could access various tools such as training materials, forms, and past support phone calls.

10. The Washington purchasers received their last commission payments from CPC in the spring of 2009. CPC failed to pay one Washington purchaser $13,700 in earned commissions. Another Washington purchaser only received partial commissions on one contract, and no commissions on another.

<u>Other Actions</u>

11. On May 1, 2006, the Maryland Division of Securities entered into a Consent Order with CPC and William Stredney, the principal and founder of CPC. In the Consent Order, CPC and Stredney neither

admitted nor denied any violations of law, but consented to cease and desist from offering and selling business opportunities in violation of the Business Opportunity Act.

12. On June 24, 2009, the State of Minnesota, Department of Commerce, issued a Cease and Desist Order and Notice of Right to Hearing against CPC for the sale of an unregistered franchise and for failing to respond to an Order for Reported Sales.

<u>Misrepresentations and Omissions</u>

13. Respondent failed to provide material information regarding the franchises including but not limited to, financial statements and the total number of franchises and changes in the number of franchises located in each state during each of the last three fiscal years.

14. Respondent failed to disclose to the Washington purchasers the Consent Order entered into with the Maryland Division of Securities.

<u>Registration Status</u>

15. Commercial Property Consultants, LLC is not currently registered to sell franchises in the State of Washington and has not previously been so registered.

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

CONCLUSIONS OF LAW

1. The offer or sale of the opportunity described above constitutes the offer and/or sale of a franchise as defined in RCW 19.100.010(4) and RCW 19.100.010(16).

2. The offer or sale of said franchises were in violation of RCW 19.100.020 because no registration for such offer and/or sale is on file with the Securities Administrator.

3. The offer and/or sale of said franchises were in violation of RCW 19.100.080, the disclosure document requirement provision of the Franchise Investment Protection Act, because the Respondent failed

to provide prospective purchasers with a UFOC that contained all material information about the franchise including, but not necessarily limited to, a financial statement for the seller.

4. The offer and/or sale of said franchises were made in violation of RCW 19.100.170 because the Respondent either made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

NOTICE OF INTENT TO ORDER THE RESPONDENTS TO CEASE AND DESIST

Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent Commercial Property Consultants, LLC, its agents and employees each shall cease and desist from violations of RCW 19.100.020, RCW 19.100.080, and RCW 19.100.170.

AUTHORITY AND PROCEDURE

This Statement of Charges is entered pursuant to the provisions of RCW 19.100.248 and is subject to the provisions of Chapter 34.05 RCW. The Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this order.

If a respondent does not request a hearing within the allowed time, the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and enter an order to cease and desist permanent as to that respondent.

Signed and Entered this 2nd day of June 2011.

William M. Beatty
Securities Administrator

Approved by:

Suzanne Sarason
Chief of Enforcement

Presented by:

Jiyoung C. Kwon
Financial Legal Examiner

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