

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION

IN THE MATTER OF DETERMINING  
Whether there has been a violation  
of the Business Opportunity Fraud Act of the  
State of Washington by:

Kenneth D. Grammer, dba Vendcorp, Vendcorp  
Refreshments, Inc. or VSS Refreshments, their  
employees and agents,

Respondents.

SDO - 46(A) - 99

SUMMARY ORDER TO CEASE AND DESIST  
AND DENYING BUSINESS OPPORTUNITY  
REGISTRATION

Case No. 96-10-0355

THE STATE OF WASHINGTON TO:

Kenneth D. Grammer, dba Vencorp  
Vencorp Refreshments, Inc. or  
VSS Refreshments  
10900 N.E. 8th, Suite 900  
Bellevue, WA 98004

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents have violated the Business Opportunity Fraud Act and that such violations justify the entry of an order of the Securities Administrator under RCW 19.110.150 to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be hazardous to investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I.

Vencorp Refreshments, Inc., a Washington corporation incorporated on June 4, 1997, doing business as ("dba") VSS Refreshments, and Kenneth D. Grammer, dba Vendcorp, are the sellers of an opportunity involving the offer and sale of vending machines and provide assistance in finding financing

SUMMARY ORDER TO CEASE AND DESIST  
AND DENYING REGISTRATION

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DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
(360) 902-8760

Vencorp Refreshments, Inc.

1 and locations for the vending machines (the "vending machine opportunity.") Kenneth D. Grammer  
2 ("Grammer") is the President of Vendcorp Refreshments, Inc., and the owner of Vendcorp, a sole  
3 proprietorship and predecessor to Vendcorp Refreshments, Inc. or VSS Refreshments.

4 II.

5 On October 16, 1996, Grammer dba Vendcorp applied to the Securities Division for a business  
6 opportunity registration permit to offer and sell the vending machine opportunity. That application was  
7 filed as Business Opportunity Registration Application File Number B-O0332. In the application,  
8 Grammer admitted having sold or leased eighteen business opportunities between June, 1996, and the date  
9 of the application. In the offers and sales of those business opportunities, Grammer failed to provide a  
10 written disclosure document and to disclose material facts such as his business background and financial  
11 condition.

12 On November 19, 1996, the Securities Division entered a Consent Order (Order Number SDO 96-  
13 078) relating to Kenneth D. Grammer, dba Vendcorp, in settlement of allegations that Grammer and  
14 Vendcorp had violated certain provisions of the Washington Business Opportunity Fraud Act, Chapter  
15 19.110 RCW. Those allegations included that Grammer and Vendcorp had offered and/or sold the  
16 vending machine opportunity in violation of RCW 19.110.120 because they omitted material facts in  
17 connection with the offer, sale or lease of the vending opportunity; that Grammer and Vendcorp had  
18 offered and/or sold the vending machine opportunity in violation of RCW 19.110.050(1) because they  
19 were not registered prior to offering and selling the vending opportunity to the eighteen purchasers; and  
20 that Grammer and Vendorp had offered and/or sold the vending machine opportunity in violation of RCW  
21 19.110.070 because they failed to provide the purchasers with a written disclosure document at least 48  
22 hours before the purchasers signed the business opportunity contract. Under the terms of the Consent  
23 Order, Kenneth D. Grammer was ordered to refrain from the offer and sale of business opportunities in  
24 the state of Washington in violation of the RCW 19.110.120, the anti-fraud provisions of the Business  
Opportunity Fraud Act, and was ordered to disclose the existence of the Consent Order in Vendcorp's

1 disclosure document. In addition, Grammer and Vendcorp were ordered cease offering or selling business  
2 opportunities in this state unless they had a current business opportunities registration number pursuant to  
3 RCW 19.110.050(1), the registration requirement provision of the Business Opportunity Fraud Act, and  
4 were ordered to send a copy of the Consent Order along with a cover letter and a copy of a disclosure  
5 document to all those who purchased the vending machine opportunity prior to its registration.

6 Registration of the vending machine opportunity was effected on November 15, 1996, (Registration File  
7 No. B-O0332), and Grammer and Vendcorp obtained a registration permit that expired on November 15,  
8 1997. The registration permit was subsequently renewed until November 15, 1998, but Grammer and  
9 Vendcorp did not again renew the business opportunity registration permit upon its lapse on November  
10 15, 1998.

11 In February and early March, 1999, Kenneth D. Grammer, Vendcorp Refreshments, Inc. and/or  
12 Vendcorp placed or caused to be placed in the classified section of a Seattle area newspaper the following  
13 advertisement:

14 Vending New full size equip on location. Will finance. Great ROI...

15 The ad concluded with two alternative local telephone numbers for callers to obtain further  
16 information. A Washington resident called one of the numbers given and spoke to Grammer, and after a  
17 number of conversations with Grammer was ultimately convinced to enter the vending business with the  
18 purchase of two vending machines which the Washington resident understood were to be placed in a fire  
19 station in Gig Harbor, Washington. The Washington resident provided Grammer with two personal  
20 checks during meetings in the Gig Harbor area that totaled \$3,053.41 as a down payment for the  
21 machines. On May 22, 1999, the Washington resident signed an installment contract for the equipment  
22 and an "Independent New Vendors Agreement" which provided that "Vendcorp agrees to secure locations  
23 for New Vendors for the purpose of placing vending equipment at those locations." Respondents failed to  
24 provide the Washington resident with a written disclosure document and to disclose material facts such as

1 business background and financial condition of the seller prior to the execution of the contracts. The  
2 Washington resident soon discovered that, contrary to Grammer's representations, that the fire station had  
3 not agreed to have the equipment installed at that location. The Washington resident did not receive  
4 delivery of the vending machines and was unable to obtain a refund of the deposit money.

5 On September 3, 1999, Kenneth D. Grammer, as President of Vendcorp Refreshments, Inc. dba  
6 VSS Refreshments did again file an application for registration of the vending machine opportunity (File  
7 No. B-O0449). This was, however, after the offer and sale of at least one vending opportunity on May 22,  
8 1999 in the state of Washington following the expiration of the latest registration permit upon its lapse on  
9 November 15, 1998.

### 10 III.

11 Respondents Vendcorp Refreshments, Inc. dba VSS Refreshments is not currently registered to  
12 offer or sell business opportunities in the state of Washington and has not previously been so registered.  
13 Respondent Kenneth D. Grammer dba Vendcorp is also not currently registered to sell business  
14 opportunities in the state of Washington and has not been so registered following the expiration of his  
15 Washington registration permit on November 15, 1998.

16 It is in the public interest that any offer and/or sale of the above-described vending machine  
17 opportunity in violation of the Washington Business Opportunity Fraud Act cease.

18 An emergency exists in that further offers and/or sales of unregistered vending machine  
19 opportunities would be hazardous to investors and the public of this state.

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

## 21 CONCLUSIONS OF LAW

### 22 I.

1 The offer and/or sale of the vending machine opportunity as described in Tentative Findings of  
2 Fact I and II above constitutes the offer and/or sale of a business opportunity as defined in RCW  
3 19.110.020(1).

4 II.

5 The offer and/or sale of the vending machine opportunity as described in Tentative Findings of  
6 Fact I and II was made in violation of RCW 19.110.070 and RCW 19.110.120 because Respondents failed  
7 to provide at least one Washington purchaser of the opportunity with a written disclosure document and to  
8 disclose material facts such as business background and financial condition of the seller.

9 III.

10 The offer and/or sale of the vending machine opportunity as described in Tentative Findings of  
11 Fact I through III was made in violation of RCW 19.110.050(1) because no business opportunity  
12 registration was in effect at the time of the sale to the Washington purchaser.

13 IV.

14 The offer and/or sale of the vending machine business opportunity as described in Tentative  
15 Findings of Fact I and II made in violation of the terms of Consent Order SDO-98-078 constitutes a  
16 ground for denying effectiveness of a business opportunity registration application pursuant to RCW  
17 19.110.050(7)(b). This is because Respondents and their employees and/or agents sold at least one  
18 vending machine opportunity in the state of Washington in violation of Consent Order SDO-96-078, an  
19 order of the director in which Kenneth D. Grammer dba Vendcorp agreed and were ordered to refrain  
20 from the offer and sale of unregistered business opportunities in the state of Washington. RCW  
21 19.110.050(7)(b) provides that the director may issue an order denying any applicant's registration if the  
22 director finds that the order is in the public interest and that any provision of an order lawfully imposed  
23 under the Washington Business Opportunity Fraud Act has been violated.

1 The Securities Administrator finds that this action is necessary and appropriate in the public  
2 interest and for the protection of investors and that the public safety and welfare require emergency  
3 action.

4 SUMMARY ORDER

5 Based on the premises of the foregoing,

6 IT IS THEREFORE HEREBY SUMMARILY ORDERED That Respondents Kenneth D.  
7 Grammer, dba Vendcorp, Vendcorp Refreshments, Inc. or VSS Refreshments, and their agents and  
8 employees each cease and desist from violations of RCW 19.110.070 and RCW 19.110.120, the  
9 disclosure document and antifraud provisions of the Business Opportunity Fraud Act, respectively.

10 IT IS THEREFORE HEREBY SUMMARILY ORDERED That Respondents Kenneth D.  
11 Grammer, dba Vendcorp, Vendcorp Refreshments, Inc. or VSS Refreshments, and their agents and  
12 employees each cease and desist from violations of RCW 19.110.050(1), the registration requirement  
13 provision of the Business Opportunity Fraud Act.

14 IT IS THEREFORE HEREBY SUMMARILY ORDERED That the application for business  
15 opportunity registration of Vendcorp Refreshments, Inc. or VSS Refreshments and Kenneth Grammer  
16 (File No. B-00449) is hereby denied pursuant to RCW 19.110.050(7)(b).

17 AUTHORITY AND PROCEDURE

18 This SUMMARY ORDER TO CEASE AND DESIST is entered pursuant to RCW 19.110.150  
19 and chapter 34.05 RCW. The Respondents may make a written request for hearing as set forth in the  
20 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
21 SUMMARY ORDER TO CEASE AND DESIST. Any request for a hearing should be in writing and sent  
22 to Deborah R. Bortner, Securities Administrator, Department of Financial Institutions, P.O. Box 9033,  
23 Olympia, Washington 98507-9033 to the attention of Brad Ferber. If a Respondent does not request a  
24 hearing as set forth in the accompanying NOTICE OF OPPORTUNITY TO DEFEND AND  
OPPORTUNITY FOR HEARING, the Securities Administrator intends to adopt the Tentative Findings of

1 Fact and Conclusions of Law as final and make this Summary Order to Cease and Desist permanent as to  
2 such Respondent.

3 CONTINUING INVESTIGATION

4 The Securities Division is continuing to investigate the matters described herein to determine such  
5 information as the identity of additional offerees or investors, if any.

6  
7 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

8  
9 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

10  
11 \_\_\_\_\_  
12 Deborah R. Bortner  
13 Securities Administrator

14 Presented by: \_\_\_\_\_  
15 Brad Ferber  
16 Securities Examiner

17 Approved by: \_\_\_\_\_  
18 Michael E. Stevenson  
19 Chief of Enforcement

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