

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF:

ENERGY AUTOMATION SYSTEMS, INC.,

Case No. 2007-0207

Respondent,

* * * * *

CONSENT ORDER

WHEREAS, the Maryland Division of Securities (the "Division") initiated an investigation into the activities of Energy Automation Systems, Inc. ("EASI") pursuant to the authority granted under the Maryland Business Opportunities Sales Act, MD. CODE ANN., BUS. REG. §14-101 et seq. (2004 Repl. Vol. and Supp. 2007) (the "Business Opportunity Act"); and

WHEREAS, based on information presented by the Division, the Maryland Securities Commissioner (the "Commissioner") concluded that grounds existed to allege that EASI violated the registration, disclosure and antifraud provisions of the Business Opportunity Act; and

WHEREAS, the Commissioner and the Respondent have reached an agreement in this action whereby Respondent, without admitting or denying any violation of law, consents to the term of this Consent Order; and

WHEREAS, this Consent Order does not prevent Respondents from denying any statement of fact or conclusion of law of the Consent Order in any proceeding, litigation, or arbitration against it in which the Commissioner is not a party; and

WHEREAS, before the holding of a hearing in this matter, without trial or final adjudication

of any issue of fact or law, and upon the consent of the parties hereto;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED:

I. JURISDICTION

1. The Commissioner has jurisdiction in this proceeding pursuant to §14-210(a) of the Business Opportunity Act.

II. STATEMENT OF FACTS

2. EASI is a Tennessee corporation with a principal place of business at 145 Anderson Lane, Hendersonville, Tennessee 37075.

3. EASI offers and sells dealerships for authorized dealers to buy and resell EASI energy conservation products. EASI also provides to authorized dealers, among other things, sales training, sales and technical support, business forms, marketing and sales manuals, and may assist dealers in securing financing for dealer's customer.

4. EASI entered into Authorized Dealer Agreements with Maryland residents and Maryland-based entities ("Maryland Dealers") to operate EASI dealerships ("EASI Business Opportunities").

5. EASI confirms that, prior to the date of this Consent Order, it entered into a total of eleven (11) EASI Business Opportunities with Maryland Dealers.¹ EASI voluntarily agreed to cease offering EASI Business Opportunities to Maryland Dealers in April 2007.

6. Under the EASI Business Opportunity, Maryland Dealers agreed to pay EASI an

¹One Maryland Dealer who purchased his EASI Business Opportunity in 2000 brought an action in federal court in Tennessee against EASI in 2003 alleging, among other things, violations of the Business Opportunity Act. Prior to the date of this Consent Order, this Maryland Dealer (hereafter "Resolved Buyer") resolved his claims against EASI and entered into a mutual Settlement Agreement and Release.

initial payment/dealership fee of up to \$39,875.00. In some cases, EASI financed part of the initial payments it charged to Maryland Dealers.

7. EASI furnished to prospective Maryland Dealers of the EASI business opportunity information that included an “earnings claim” as described under section 14-122 of the Maryland Opportunity Act. At the time EASI furnished the earnings claim to the Maryland Dealers, EASI did not provide those Maryland Dealers with written documentation substantiating that claim.

8. Based on the foregoing, the Commissioner has determined that EASI offered and sold in Maryland “business opportunities” as defined under section 14-101(b) of the Business Opportunity Act in the form of Authorized Dealer Agreements.

9. EASI never registered to offer and sell business opportunities in Maryland, as required under section 14-113 of the Business Opportunity Act.

10. EASI did not give a business opportunity disclosure statement to the Maryland Dealers, as required under section 14-114 of the Business Opportunity Act.

11. EASI did not give to the Maryland Dealers written documentation substantiating the earnings claims at the time EASI made those earnings claims, as required under section 14-122 of the Business Opportunity Act.

III. CONCLUSIONS OF LAW

12. By engaging in the above activities, the Commissioner has determined that EASI violated sections 14-113, 14-114 and 14-122 of the Business Opportunity Act.

IV. ORDER AND CONSENT

13. THE COMMISSIONER HEREBY ORDERS AND EASI REPRESENTS AND

CONSENTS THAT:

- A. EASI shall permanently cease and desist from the offer and sale of business opportunities in violation of the Business Opportunity Act.
- B. Within five (5) days of the date of this Consent Order, EASI shall send a letter, in substantially the form attached as Exhibit 1 (“Refund Letter”), to the last known address of all Maryland Dealers who purchased an EASI Business Opportunity, and any other residents who purchased an EASI Business Opportunity to be operated in Maryland, other than the Resolved Buyer (hereafter collectively “Maryland Buyers”), advising those Maryland Buyers that EASI will cancel their respective Authorized Dealer Agreement and refund a percentage of between 50% and 100% of the initial fees/payments they paid in connection with their EASI Business Opportunity (a “Refund”), if the Maryland Buyers notify EASI in writing that they request such a Refund.
 - i. If any Refund Letter is returned to EASI as nondelivered, EASI shall make a good faith effort to ascertain the current addresses of any such Maryland Buyers and resend the Refund Letter to that address.
 - ii. The maximum amount that EASI will be required to refund is \$143,312.50, representing 50% of the amount of initial fees/payments that EASI has represented it received as a result of all sales of the EASI Business Opportunity to all Maryland Buyers (“Maximum Amount”).
 - iii. If the total amount paid by Maryland Buyers who request refunds (the “Total Requested Refunds”) does not exceed the Maximum Amount, then each Maryland Buyer will receive a full refund of the amounts he or she paid to EASI.
 - iv. If the Total Requested Refunds exceed the Maximum Amount, each Maryland Buyer requesting a refund will receive his or her pro rata share of the Maximum Amount, as determined by the formula of $\text{Maximum Amount} \div \text{Total Requested Refund} = \text{the Refund Factor}$. That is, each Maryland Buyer who requests a refund as provided herein will receive a refund equal to the amount of initial fees/payments that EASI received from that Maryland Buyer, multiplied by the Refund Factor.
 - v. The parties agree that the minimum refund factor will be .50, which equals the Maximum Amount divided by \$286,625.00, the total

amount of initial fees/payments that EASI represents that it received from all Maryland Buyers. The maximum refund factor will be 1.0.

- vi. If the total of Refunds that EASI makes to Maryland Buyers does not exceed \$100,000.00, EASI shall pay to the Office of the Attorney General of Maryland, as a civil monetary penalty, an amount equal to \$100,000 less the total amount of Refunds made under the above formula.
 - vii. Within fifteen (15) days after making the Refund payments outlined in this Consent Order, EASI will provide to the Division the names and addresses of all Maryland Buyers who received a Refund Letter; the names and addresses of all Maryland Buyers who opted to accept a Refund; and the total amount of Refunds EASI paid each Maryland Buyer who requested a Refund.
- C. EASI represents that if, in the future, EASI offers or sells any business opportunities in Maryland or to any Maryland residents, it will comply with all provisions of the Business Opportunity Act.
 - D. EASI acknowledges that this Consent Order is a discloseable order as described under §14-114(c)(10)(i)(2) of the Business Opportunity Act.

V. JURISDICTION RETAINED

14. Jurisdiction shall be retained by the Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of the Consent Order.

VI. CONSEQUENCES OF VIOLATING THIS CONSENT ORDER

15. If EASI fails to comply with any term of this Consent Order, the Division may bring administrative or judicial proceedings against it to enforce this Consent Order or to sanction it for violating an order of the Commissioner, and may take any other action authorized under the Business Opportunity Act or any other applicable law. In any such proceeding in which, after an opportunity

for a hearing, the Commissioner or a court finds that EASI has violated this Consent Order, the Statement of Facts and the violations of the Business Opportunity Act alleged in the Consent Order shall be deemed admitted and may be introduced into evidence against EASI.

VII. MODIFICATION OF CONSENT ORDER

16. The terms of this Consent Order may be modified only by a subsequent order issued by the Commissioner.

SO ORDERED:

[original signature on file]
MELANIE SENTER LUBIN
SECURITIES COMMISSIONER

DATE OF THIS ORDER:

July 22, _____, 2008

BY CONSENT:

Energy Automation Systems, Inc.

[original signature on file]
By: Paul Bleiweis, President

FORM
(On Seller Letterhead)

Certified Mail
Return Receipt Requested

Re: Notice of Offer to Cancel Authorized Dealer Agreement

Dear _____:

In accordance with discussions our attorneys have had with the Division of Securities of the Maryland Attorney General's Office (the "Division"), Energy Automation Systems, Inc. has agreed to offer to give each Maryland buyer of our business opportunity this opportunity to cancel his or her Authorized Dealer Agreement and receive a refund of certain amounts you have paid to us under that agreement.

The amount of your refund under this opportunity will depend upon the number of other buyers in Maryland who request a refund. Based upon a formula for buyer refunds that we agreed upon with the Division, if you choose to cancel your Authorized Dealer Agreement and accept a refund, the maximum refund that you would receive would be _____ [100% of the total amount of initial payments/dealership fees received from you], and the minimum refund would be _____, [approximately 50 % of the total amount of initial payments/dealership fees we received from you].

If you wish to receive this refund, you must mail or fax a written request for a refund to us within thirty (30) days of your receipt of this letter. You must include your name (and business name, if applicable), your address, and the completed "Acceptance or Rejection of Offer to Cancel Business Opportunity Purchase" form attached to this letter. Our address is 145 Anderson Lane, Henderson, Tennessee 37075. Our fax number is (615) 822-7252.

If you elect to cancel your business opportunity purchase and receive a refund, we will refund all or a portion of your initial payments (based on the formula discussed above) and cancel your Authorized Dealer Agreement. We will make payments within sixty (60) days from the date we receive your written request for a refund.

This offer is being made in settlement of an administrative action the Division may bring under the Maryland Business Opportunity Sales Act. It does not affect any civil liability for damages for which we may be responsible to you under that law. If you have any questions about this matter, please contact Dale E. Cantone, Assistant Attorney General, at the Division (410-576-6368).

This offer will remain open for thirty (30) days from the date you receive this letter. Please check the appropriate place below and return a signed copy of this letter to me within the time period. If you have any questions, please contact Dale E. Cantone, Assistant Attorney General, at the Division (410-576-6368).

Sincerely,

THE SELLER

Exhibit 1

ACCEPTANCE OR REFUSAL OF OFFER TO CANCEL BUSINESS OPPORTUNITY PURCHASE

1. I, the undersigned buyer, acknowledge that I have read the preceding Notice of Offer to Cancel business opportunity purchase and understand its contents.
2. I understand that I have not waived my rights under the Maryland Business Opportunity Sales Act by signing this document.
3. I hereby make the following choice to accept or refuse your offer to cancel my business opportunity purchase:

CHECK ONE

_____ I hereby **accept** your offer to cancel my business opportunity purchase and request a refund. I agree to not use your system and to not use or disclose to anyone any trade secrets and confidential and proprietary information that we may have obtained from you.

_____ I do **not accept** your offer to cancel my business opportunity purchase, and I wish to continue as an Authorized Dealer under the agreement I signed with you.

Date: _____

_____ Authorized Dealer