

ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF: \*

LAWRENCE J. HAYE \* Securities Division No. 2009-0528

and \* OAH Case No. OAG-SD-50-10-32150

HAYE CAPITAL GROUP, LLC \*

RESPONDENTS. \*

\* \* \* \* \*

**CONSENT ORDER**

WHEREAS, the Securities Division of the Office of the Maryland Attorney General (the “Division”), pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Title 11, Corporations and Associations Article, Annotated Code of Maryland (2007 Repl. Vol. and Supp. 2009) (the "Securities Act"), undertook an investigation into the securities-related activities of Lawrence J. Haye (“Haye” or “Respondent Haye”) and Haye Capital Group, LLC (“HCG” or “Respondent HCG”) (collectively, “Respondents”); and

WHEREAS, on the basis of that investigation the Maryland Securities Commissioner (the “Commissioner”) determined that the Respondents have engaged in acts or practices constituting violations of the registration and antifraud provisions of the Securities Act; and

WHEREAS, on July 14, 2010 and October 22, 2010, the Commissioner issued a Summary Order to Cease and Desist and Order to Show Cause and a First Amended Summary Order to Cease and Desist and Order to Show Cause (before the Office of Administrative Hearings for Maryland as Case No. OAG-SD-50-10-32150) (the “Orders”), respectively, which are incorporated by reference, ordering each Respondent to show cause why a final order should not be issued, ordering

each Respondent to cease and desist from further violations of the Securities Act, assessing each Respondent the statutory penalty of up to \$5,000 per violation of the Securities Act, permanently barring each Respondent from engaging in the securities and investment advisory business in Maryland, revoking the broker-dealer agent and investment adviser representative registrations of Respondent Hays; and imposing against each Respondent any other sanction or combination of sanctions as permitted under section 11-701.1 of the Securities Act; and

WHEREAS, Respondents filed an Answer to the Summary Order to Cease and Desist and Order to Show Cause and a request for a hearing; and

WHEREAS, the matter was referred to the Office of Administrative Hearings for the scheduling of a hearing in the matter; and

WHEREAS, the Commissioner and Respondents have reached an agreement in this action whereby Respondents, without admitting or denying any findings of fact or conclusions of law except to admit to the jurisdiction of the Commissioner in this matter and over them in this matter, consent to the terms of this Consent Order; and

WHEREAS, Respondents waive their right to a hearing and any rights they may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Consent Order; and

WHEREAS, the Commissioner has determined that it is in the public interest to issue this Consent Order;

**NOW, THEREFORE, THE COMMISSIONER FINDS, CONCLUDES, AND ORDERS:**

## **I. JURISDICTION**

1. The Commissioner has jurisdiction in this proceeding pursuant to section 11-701.1 of the Securities Act.

## **II. RESPONDENTS**

2. Lawrence J. Haye maintains a place of business and residence in Mitchellville, MD. Haye is the president of Haye Capital Group, LLC. Haye was registered as a broker-dealer agent with the State of Maryland, and as a registered representative with FINRA, through his affiliation with Quest Capital, LLC, from May 2004 to April 6, 2010. Haye also was registered with the State of Maryland as an investment adviser representative, through Quest Capital, LLC, from April 23, 2008 to April 6, 2010. Haye was discharged from Quest Capital on April 6, 2010.

3. Haye Capital Group, LLC is a Maryland limited liability company with a place of business in Mitchellville, MD.

## **III. STATEMENT OF FACTS**

4. According to its Articles of Incorporation filed with the State of Maryland, HCG was founded in 2003 as a “private financial services company that specializes in financial/asset planning while seeking investment opportunities in various investment vehicles (real estate, stocks, bonds, mutual funds, etc).”

5. On its website, [www.hayecapitalgroup.com](http://www.hayecapitalgroup.com), which was first published in 2003, HCG markets itself as offering, among other things, the following products and services: “investment opportunities in direct real estate, hard money lending, and public market investments,” “buying and selling small businesses or their assets,” “investment opportunities in . . . equity and debt markets, real estate (commercial and residential), and small businesses,” fee-based “managed

accounts,” “lending services includ[ing] bridge loans, micro lending, and hard money lending,” and consulting services including “financial planning” and “asset allocation.”

6. According to one of HCG’s brochures, HCG “provide[d] three levels of service: financial consultations, financial planning, and investment advisory services,” all of which fall under the Maryland definition of investment advisory services. The financial consultation services involved providing advice relating to specific areas of finance such as stock options and 529 plans. The financial planning services involved developing written financial plans based on a client’s unique goals. The investment advisory services involved “provid[ing] a comprehensive service that includes financial planning and investment management.”

7. The brochure described HCG as a “fee-only advisor” and disclosed that HCG charges an hourly rate for financial consultations, fixed fee for financial planning, and a fixed fee or a “fee based on a percentage (between 1.0% and 2.5%) of assets under management” for investment advisory services.

8. Neither HCG nor HAYE was registered as an investment adviser.

9. That same brochure as well as another HCG brochure and HCG’s website (collectively, “marketing materials”), also described the investment opportunities offered by HAYE and HCG.

10. According to the marketing materials, HCG served as the general partner to an investment partnership in which investors were solicited to invest. HCG served as the general partner and manager of the partnership and was “responsible for making decisions on behalf of the partnership.” The investors served as “limited partners.” Their role was to “provide the capital and have limited liability, but are not responsible for management decisions.” In other words, HAYE and

HCG would control all aspects of the partnership while the investors would serve only in a passive role.

11. To facilitate the investment process, Haye and HCG set up what they described in their marketing materials as a “private investment fund” or “capital investment fund.”

12. The fund was described as a hybrid between a private equity fund and a hedge fund, “offering our partners the positives of both types of funds.”

13. According to the marketing materials, investor funds that were invested in the partnership would then be invested in the fund. HCG was “responsible for making decisions on behalf of the partnership and fund.”

14. The partnership was described as having a primary investment objective of “growth of capital.” The partnership’s business was that of “buying and selling securities of medium to large capitalized companies, including stocks, warrants, rights and options of U.S. and non-US entities” as well as other investments including real estate, bonds, and currencies.

15. The investment fund was described as “us[ing] an aggressive growth strategy, based on a proprietary trading algorithm” that allowed HCG to exploit “certain market inefficiencies” in order to “create returns for our investors” and “trade in the various capital markets with high positive trade volume creating above average returns for our investors.” Respondents’ marketing materials disclosed that the fund invested in “equity, currency, debt, private equity, and real estate.”

16. HCG categorized this investment service as “private money management.” In describing the fees charged for private money management services, HCG’s brochure stated: “[t]ypical fees for our hedge and proprietary trading fund include 2.5% management fee and 40% of earned capital gains.”

### **HCG’s Investment Opportunities**

17. Beginning in or about 2003, Haye and HCG began soliciting investors to invest in the various investment opportunities advertised on HCG’s website and in its brochures.

18. Haye and HCG solicited investors through a number of means, including by directly reaching out to family and friends; by using marketing materials such as business cards, brochures, and websites; and by using others to solicit investors on their behalf.

19. Haye and HCG used business cards that prominently listed HCG’s website, [www.hayecapitalgroup.com](http://www.hayecapitalgroup.com), at the top of the business card, and listed the services provided by HCG at the bottom: Financial Consulting, Investing, Real Estate, and Asset Allocation.

20. Haye and HCG directed potential investors to view HCG’s website for investment information; in one instance telling a potential investor, “Here is the fund overview, to learn more about us please visit [www.hayecapitalgroup.com](http://www.hayecapitalgroup.com) and for our business insight please visit [www.hayecapitalgroup.blogspot.com](http://www.hayecapitalgroup.blogspot.com).

21. Haye and HCG utilized brochures (referenced above) that advertised HCG’s financial services and investment opportunities and the investment performance purportedly achieved by HCG.

22. Haye and HCG also compensated others, including 100 Miles, LLC (owned by John Fultz II) and Sidney Bampoe,<sup>1</sup> for bringing in new investors. In an e-mail to an investor, Haye wrote “. . . if you have any potential referrals we are paying 3% upfront for each successful referral.”

23. Funds solicited from investors were deposited directly into HCG’s bank account, an account solely owned and controlled by Haye. Haye and HCG then determined where those funds went.

24. Sometimes, Haye and HCG forwarded the full amount of the investors’ funds to one of the investment opportunities described below. Other times, Haye and HCG forwarded a portion of an investor(s)’ funds to the investment opportunities but used a portion of the funds to pay other investors, to pay Haye’s personal expenses, including his personal American Express bill and rental payments for a friend, and to pay other expenses.

25. Investors had little to no control over their funds once given to Haye and HCG. In one instance, an investor transferred \$22,000 from his IRA account to invest with Haye and HCG. The investor insisted that the funds be used solely to purchase Ford stock and the agreement between the investor and HCG stated the same: “HCG pledges to use the principal for the sole purpose of purchasing and holding Ford (F) stock.” The funds were deposited in HCG’s bank account and

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<sup>1</sup> On the website of another company owned by Haye, Panamaican Holdings, Inc., Sidney Bampoe was described as playing more of a major role in HCG: “Sidney helped to develop the infrastructure for the Haye Capital Group trading desk, formed trading procedures and policies, and co-created the portfolio management computer systems. In addition, Mr. Bampoe was a member of the portfolio management committee that decided investment strategies, asset allocation, and made relative value decisions overseeing the growth in assets. During his tenure, Mr. Bampoe supervised a team of three traders involved in all aspects of the indexed stock markets while he specialized in the trading of options.”

within days transferred to the TD Ameritrade account held in Haye's name. The funds, however, were used to purchase securities other than Ford stock.<sup>2</sup>

26. Haye and HCG also controlled when and how funds were distributed to investors. As an example, in April 2008, one investor requested a partial return of her investment funds when her investment came due. Haye responded by telling the investor that he could not address her withdrawal request "due to our liquidity issue." Four months later, the investor requested the return of all of her investment funds. Haye again denied the request stating that "we are still making progress on your account with late October early November being our goal to begin paying out our clients on a schedule basis." Yet, during that same time and beyond, Haye continued to pay other investors and continued to use funds to pay for personal expenses. To date, the investor has not been repaid.

27. Since 2003, Haye and HCG have solicited approximately \$2 million from a number of investors to fund their various investment opportunities described below.

### **Real Estate Investments**

28. Beginning in or about 2003, Haye and HCG began soliciting investors to invest in real estate-related and business-related investment opportunities being offered through HCG.

29. At the time, neither HCG nor Haye were registered as a broker-dealer, agent, investment adviser, or investment adviser representative.

30. Investment funds initially came from Haye and his father but Haye soon reached out to other family members, friends, and others.

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<sup>2</sup> Nearly six months after the funds were invested, HCG purchased \$900 worth of Ford stock but sold it two days later.



31. Investors' funds were deposited into HCG's bank account.
32. HCG used the solicited funds to, among other things, make loans to businesses, individuals or entities seeking funds for real estate projects, or individuals or entities in need of bridge financing.
33. One such loan was made to Kick Ass Records. Kick Ass Records was seeking funds to help fund a Reggae concert in Canada. HCG made a loan of \$20,000 to the company.
34. In return for financing the various projects, HCG expected the return of its principal investment plus a profit. The profit would then be shared between HCG and the investors that put up the investment funds.
35. Some investors were required to execute a "partnership" contract with HCG.
36. According to the contract, HCG would act as the general partner and manager and the investor would act as the limited partner in a "limited liability real estate partnership."
37. Under some contracts, investors were promised a profit of 10% while, under other contracts, investors were promised a profit of 20%.
38. Some of the loans made by HCG with investor funds were repaid in full with a small profit while others, such as the loan to Kick Ass Records and the \$40,000 investment with Robert Miller who, according to public records, had a criminal history involving theft, were never repaid and thus resulted in a loss to HCG and its underlying investors.
39. The Division has no record of registration, or claim of exemption from registration, for the investments offered through Haye and HCG.
40. Little to no disclosure documents were provided by Haye or HCG to the investors putting up the investment funds.

41. Neither Hays nor HCG told investors about the specific risks associated with the investment opportunities offered by or through them.

42. Neither Hays nor HCG told investors solicited by them that the securities offered by them were not registered with the Division, exempt from registration, or subject to a claim of preemption.

43. Neither Hays nor HCG told investors that they were not registered to offer or sell securities or to provide investment advice.

### **Lynn Pachowicz and Premier Homes & Interiors**

44. In or about the Spring of 2005, Hays was introduced to Lynn Pachowicz. Lynn Pachowicz worked as a health care professional but operated a small home improvement business, Premier Homes & Interiors, with her husband.<sup>3</sup>

45. Pachowicz and Premier Homes & Interiors, were purportedly searching for a venture capital firm to help fund their efforts to import lumber from Nigeria. Once imported, Pachowicz intended to sell the lumber for a profit.

46. After placing several calls in response to Washington Post advertisements offering venture capital services, Pachowicz was introduced to an attorney located in Virginia who put Pachowicz in touch with Hays.

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<sup>3</sup> The Pachowiczs and their business, Premier Homes & Interiors, had a history of financial difficulties. According to public records, beginning as early as the late 1990s and continuing to most recent, the Pachowiczs faced a number of civil monetary judgments and judgment liens. In late 2000, the Pachowiczs and Premier Homes & Interiors filed for Chapter 7 bankruptcy.

47. Haye and Pachowicz met to discuss her investment ideas, including her project to import lumber.

48. Haye and HCG agreed to assist Pachowicz in raising monies to fund her lumber importation project.

49. By this time, Haye had joined Quest Capital as a registered representative and become registered with the State of Maryland as a broker-dealer agent. Pursuant to industry rules and Quest Capital's internal policies, Haye was required to notify Quest Capital, and receive its approval, prior to engaging in any outside business activities or securities transactions not offered through Quest Capital.

50. Beginning in or about the summer of 2005, Haye and HCG began soliciting investors and offering them the opportunity to invest in Pachowicz's lumber importation project.

51. Investors were told that their investment funds would be used to pay the expenses associated with acquiring the lumber, and some investors were provided with an "Executive Summary Overview" which described the lumber project and HCG's role:

Premier Homes and Interiors has arranged a lumber deal with Nigeria to facilitate a monetary draw from the Amsterdam bank. For this reason the Amsterdam bank requires shipping and export documents. All of the work and materials require deposits. The cheapest and quickest way to do this is to get the documents, sign the contracts, ship lumber, and issue a draw for lumber. Sixty percent of the contract is in wood related products. Six containers have been originally ordered for the job. Contract with the Amsterdam bank is to be finalized upon receipt of all documents from Nigeria. A payment of \$2.4 million EU is to be released upon receipt of shipping documents from ship for the purpose of paying for lumber shipment and subsequent deposits to millwork and manufacturers and **Haye Capital Group investors**. (emphasis added) A retail value of 1.5 million USD was placed on the shipment for draw purposes. Additionally Haye Capital Group, LLC, the primary investor, is paying for shipping and export documents.

52. Some investors took Haye and HCG up on their offer and sent funds to HCG for investment in the lumber project. Some investors gave Haye cash while other investors wired their investment funds to HCG's bank account or funded their investment with a check that was deposited into HCG's bank account.

53. Haye and HCG then, at Pachowicz's direction, wired investor funds, from HCG's bank account or through Western Union, to entities located in foreign countries such as Hong Kong, Africa, China, and Canada ("foreign entities"). None of the foreign entities were previously known or vetted by Haye.

54. Haye and HCG also sent funds directly to Pachowicz or Premier Homes & Interiors for investment in the lumber project.

55. To evidence their investment, some investors entered into a partnership contract with Haye and HCG. According to the contract, the investor was entering into a limited liability investment partnership under which Haye and HCG would serve as the "general partner and manager of the partnership" and the investor would act as the "limited partner."

56. In return for their investment, investors were promised the return of their principal plus a profit as high as 50% of their principal.

57. To date, no lumber has been shipped to the United States and none of the investment funds have been returned.

58. According to Pachowicz, there came a time when her Nigerian contacts demanded an additional \$350,000 in shipping costs to ship the containers of lumber to the United States. Pachowicz did not have the funds and Haye was unwilling to continue to invest in the project.

59. Despite the bad history with the lumber project, HCG invested in other projects introduced to him by Pachowicz.

60. In or about February 2006, Pachowicz approached Haye with an opportunity to invest in an old unpaid Nigerian oil contract that she had assumed. Purportedly, the contract concerned the building of an oil pipeline that never came to fruition.

61. Haye and HCG agreed to assume the oil contract and began soliciting investors to fund the project.

62. HCG deposited investor funds into its bank account, and then either forwarded the funds directly to Pachowicz or, at her direction, wired the funds to African-based or other foreign-based entities. Again, Haye did not properly vet the foreign entities.

63. As with the first investment, investors suffered a complete loss on this investment.

64. Several months later, in or about May 2006, HCG again was approached by Pachowicz and, this time, asked to help sponsor a refugee located in Ghana. Purportedly, a refugee named Jonathan Grey was in possession of assets that needed to be “legally” transferred to the United States with the help of a U.S. citizen. Once legally transferred, a portion of the funds would be used to compensate the U.S. citizen for his/her efforts.

65. Haye and HCG again agreed to provide assistance to Pachowicz.

66. At the direction of Pachowicz, HCG wired funds to at least two entities located in Africa. The funds purportedly were needed to pay for the documentation necessary to transfer the refugee’s assets to the United States.

67. As with the other Pachowicz-related investment projects, none of the investment funds put up by Haye and HCG and their underlying investors were returned to HCG.

68. Altogether, HCG forwarded several hundred thousand dollars to Pachowicz-related investments.

69. The Division has no record of registration, or claim of exemption from registration, for the Pachowicz-related investment opportunities offered and sold by Haye and HCG.

70. Little to no disclosure was provided by Haye or HCG to the investors solicited to invest in the Pachowicz-related investments.

71. Neither Haye nor HCG told investors about the specific risks associated with investing in the Pachowicz-related investments.

72. Neither Haye nor HCG told investors solicited by them that the Pachowicz-related investments offered by them were not registered with the Division, exempt from registration, or subject to a claim of preemption.

73. HCG has never been registered with the Division to offer or sell securities or to provide investment advice.

74. Neither Haye nor HCG told investors that HCG was not registered with the Division as a broker-dealer, agent, investment adviser, or investment adviser representative.

75. Haye neither requested nor obtained Quest Capital's approval to engage in the outside business investment activities and private securities transactions offered through Pachowicz.<sup>4</sup>

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<sup>4</sup> There is evidence that Quest Capital became aware of HCG's website as a result of an audit of HCG's offices conducted by Quest Capital in October 2005; however, it appears that Haye never obtained Quest Capital's permission to engage in the outside business activities or private securities transactions. Additionally, Quest Capital asserts that it twice notified Haye to cease using the website.

76. Neither Haye nor HCG told investors that Haye was unlawfully engaging in private securities transactions and outside business activities without his broker-dealer's permission, and by selling products that were not approved by his broker-dealer.

**Blueworks, Inc. Investments**

77. In or about the Spring of 2006, Haye was introduced to Charisse Barsella.<sup>5</sup> Barsella is a resident of Washington, DC and met Haye while paying off a mortgage-related loan funded by HCG.

78. Barsella told Haye that she had experience investing in the futures and commodities markets. She also told him that she was a trader and agent for Blueworks, Inc., a now defunct Nevada-incorporated company that purportedly traded in futures, commodities and other investments.

79. Haye expressed an interest in investing through Barsella and Blueworks and, in March 2006, entered into an agreement with Barsella to use her "private system to accumulate earnings and contribute to the well being of others."

80. Neither Barsella nor Blueworks have ever been registered as a broker-dealer, agent, investment adviser, investment adviser representative.

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<sup>5</sup> According to public records, in September 2004, Charisse Barsella was sued by the Department of Justice for allegedly filing false claims in connection with student financial aid applications and unjustly receiving federal monies to the detriment of the United States. In 2005, Barsella settled the matter by agreeing to pay approximately \$41,000 to the government. Ms. Barsella also was the subject of a number of civil judgments and liens in the mid to late 1990s.

81. Shortly thereafter, Haye and HCG began soliciting investment funds to invest with Blueworks.

82. Investors were required to execute a contract with HCG called the “mutual non-solicitation partnership agreement.” The agreement was anything but non-solicitation as Haye and HCG actively solicited investment funds through its website, brochures, and otherwise.

83. As with the other investments, the partnership agreement stated that the investors were entering into a limited liability investment partnership with HCG. Under the partnership, HCG would act as the general partner and the investors would act as the limited partners.

84. Under the agreement, investors agreed to provide HCG with funds that would be invested in the “Blueworks trading partnership” for a twelve month period. HCG’s marketing materials disclosed a minimum investment requirement of \$25,000 for individuals and \$100,000 for institutional clients.

85. The funds would then be invested in investment opportunities such as “Forex Currency Market, Futures and E Muni Markets as well as the Stock Market including Penny Stock and Stock with substantial dividends.”

86. In return for their investment of funds, investors were to receive the return of their principal plus a profit. The partnership agreement disclosed that HCG would “use commercially reasonable efforts to grow” the investor’s principal “by twenty (20) percent” in some cases and “by thirty (30) percent” in other cases. The marketing materials included similar disclosures.



87. Some of the partnership agreements included an additional paragraph stating that “Lawrence Haye has errors and omissions insurance through Quest Capital which covers fraudulent financial activities.” Haye never held such insurance.<sup>6</sup>

88. Investor funds were deposited in HCG’s bank account and a substantial amount, but not all of the funds, were forwarded to Blueworks for investment under HCG’s name.

89. Funds not immediately forwarded to Blueworks were used to make payments to other investors or to pay personal or business expenses of Haye and HCG. As an example, at one point in January 2007, Haye and HCG had taken in a total of \$78,000 from five different investors. Of the \$78,000, more than \$71,000 was paid to two other investors, and the remainder of the funds were spent on personal legal expenses, personal credit card purchases, and other miscellaneous expenses.

90. Investors were not told that their funds were not always being used for the intended investment purpose.

91. Haye occasionally provided investors with account statements relating to their investment in HCG’s investment fund. A typical statement consisted of a summary of the amount invested by the investor, the amount of monies added or withdrawn by the investor during the period in question, the change in the value of the investor’s portfolio (both in dollar amount and percentage), and the current value of the investor’s portfolio. The statement also provided the investor with a pie chart showing how the investor’s assets were allocated.

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<sup>6</sup> According to Quest Capital, Haye never held E & O insurance through Quest Capital and, even if he did, E & O insurance, by its very nature, would not have covered fraudulent activities or non-Quest Capital clients; thus, the statement was false and misleading.

92. Most investors were told, or given statements showing, that their investments had appreciated significantly in value.

93. For example, one investor's statement showed that her \$5,000 investment had grown by 4.9% during the 4<sup>th</sup> quarter of 2008. However, bank records show that only \$2,100 of her \$5,000 was initially transferred to Ameritrade account, and the Ameritrade account into which her funds were invested actually incurred a loss for the 4<sup>th</sup> quarter. Further, as discussed in detail below, as early as November 2008, Haye and HCG were notifying investors of the problems they were having with "repairing. . . clients' principal accounts."

94. HCG also advertised its purported high investment returns in marketing materials given to potential investors. In a brochure given to some investors in 2006, HCG showed that its investment returns exceeded those achieved by the Dow Jones, NASDAQ, and S&P 500 for calendar year 2006.

95. Haye claims that the investment returns provided to investors were provided to him through Blueworks' investment platform. According to Haye, he was capable of monitoring HCG's investments through an online platform maintained by Blueworks. Haye indicates that, through Blueworks platform, he could view screen shots reflecting the current positions held by HCG and the current market value of those positions.<sup>7</sup> Haye and HCG, however, were unable to provide the Division with copies of any of the historical screen shots supporting the positions held, and the

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<sup>7</sup> Haye claims that he was only capable of monitoring the Blueworks investments from Charisse Barsella's offices. However, in one of HCG's brochures, HCG stated: "Blueworks provides the trading platform technology that we use to execute our trades. Blueworks provides the sophisticated trader with the technology edge that is necessary for the management of a profitable trading enterprise."

values of those positions held, by HCG at any point in time and, thus, cannot substantiate the performance numbers issued to investors.<sup>8</sup>

96. Bank records show that HCG ultimately invested approximately \$1 million with Blueworks. During the course of HCG's investment with Blueworks, Blueworks periodically wired funds back to HCG's bank account. Of the approximately \$1 million that was sent to Blueworks, approximately \$330,000 was returned to HCG. Those repayments, however, ceased in the early part of 2008.

97. According to Haye, one of the companies with whom Blueworks invested HCG's funds, CFG Trader, was shut down and put into receivership by the CFTC.

98. The remaining investments with Blueworks have not paid off and the company is now defunct.

99. With the drying up of the Blueworks investments, Haye and HCG decided to set up trading accounts to try to make back the losses.

100. In the Spring of 2008, Haye and HCG opened up a trading account at OptionsXpress under the name of HCG. Haye already held a trading account at TD Ameritrade under his name.<sup>9</sup>

101. Haye and HCG solicited investors and, according to Haye, took out personal loans, to fund the trading accounts.

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<sup>8</sup> Haye claims that all of his records relating to the investments were lost in a computer crash.

<sup>9</sup> In or about December 2009, Haye opened a third trading account at Interactive Brokers under his name.

102. Investor funds were deposited in HCG's bank account and subsequently transferred to one or more of the trading accounts where he began trading in options, stocks, futures, and other investment products.

103. In the Spring of 2008, Haye and HCG began experiencing problems with repaying their investors, telling investors by e-mail that "I'm sorry to inform you all that due to liquidity issues we are suspending all withdrawals for the next 90 day[s] commencing April 26<sup>th</sup> 2008. We are however still taking deposits."

104. In e-mails to some investors in November and December of 2008, Haye and HCG expressed their regrets with being "behind in terms of repairing our clients' principal accounts" and stated that they were working on obtaining a line of credit to repay investors.

105. In an e-mail sent to investors in March 2009, Haye and HCG indicated that they were "on schedule in terms of repairing our clients' principal accounts" and "anticipated having our applications for commercial lines of credit complete and awaiting approval" by the end of March.

106. By October 2009, Haye and HCG sent an e-mail informing investors that they were not able to qualify for the loan amount for which they were initially pre-approved, but that they expected to "be able to resume organic growth without the aid of a loan starting at the end of this month."

107. That statement never materialized.

108. The Division has no record of registration, or claim of exemption from registration, for the interests in the investment fund or the Blueworks investments offered and sold by Haye and HCG.

109. Little to no disclosure was provided by Haye or HCG to the investors solicited to invest in HCG's investment fund and Blueworks.

110. Neither Haye nor HCG told investors about the specific risks associated with investing in the investment fund or Blueworks.

111. Neither Haye nor HCG took into consideration the investment objectives and financial backgrounds of the investors solicited by them and, in fact, the investments offered and sold by Respondents were unsuitable to some investors given their investment objectives and financial backgrounds.

112. Neither Haye nor HCG told investors solicited by them that the investment fund and Blueworks investments offered by them were not registered with the Division, exempt from registration, or subject to a claim of preemption.

113. HCG has never been registered with the Division to offer or sell securities or to provide investment advice.

114. Neither Haye nor HCG told investors that HCG was not registered with the Division as a broker-dealer or investment adviser.

115. Neither Haye nor HCG told investors that Haye was unlawfully engaging in private securities transactions and outside business activities without his broker-dealer's permission, and by selling products that were not approved by his broker-dealer.

#### **Haye's Insolvency and Failure to Disclose Material Civil Judgment**

116. Item 14M of the Form U4 application requires securities professional registrants and those applying for agent or investment adviser representative registration to disclose "any unsatisfied judgments or liens against" the agent or investment adviser representative. Agents and investment

adviser representatives are under a continuing obligation to update their application to disclose such unsatisfied judgments or liens and must do so within 30 days of the judgment or lien being entered.

117. The Form U4 application also requires registrants and applicants to acknowledge that their answers are true and complete and that they may be “subject to administrative, civil or criminal penalties if [they] give false or misleading answers.”

118. In late 2007, First Mariner Bank sued Respondent Haye for breach of contract.

119. On or about March 18, 2008, that lawsuit was resolved by way of a civil judgment against Haye in the amount of approximately \$387,000.

120. On or about April 6, 2008, Quest Capital amended Respondent Haye’s Form U4 application to request registration as an investment adviser representative with the State of Maryland.

121. That application failed to disclose the judgment filed against Respondent Haye and thus was incomplete and materially inaccurate.

122. Again, on August 26, 2008, an amendment to Respondent Haye’s Form U4 was filed with the State of Maryland. The civil judgment, however, was not disclosed on this filing. To date, Respondent’s Form U4 has not been amended to disclose the civil judgment.

123. In their Answer to the Division’s Summary Order to Cease and Desist and Order to Show Cause, Respondents stated that their combined “net worth is less than two thousand dollars.”

124. The civil judgment against Respondent Haye far exceeds his net worth.

125. Respondent Haye is insolvent in the sense that his liabilities exceed his assets and he is unable to meet his obligations as they mature.

#### **IV. CONCLUSIONS OF LAW**

The Commissioner concludes that:

126. Respondents offered and sold unregistered securities in the form of investment contracts, evidence of indebtedness, and certificates of interest in or participation in profit-sharing agreements, in violation of section 11-501 of the Securities Act.

127. Respondents violated sections 11-301 of the Securities Act by, among other things, failing to disclose to investors the risks associated with the investments offered by or through HCG, misrepresenting how investors' funds were being used and the investment returns that those funds were generating, and engaging in outside business activities and private securities transactions, in violation of FINRA rules and failing to disclose this fact to investors.

128. Respondents violated sections 11-302(a) and (c) of the Securities Act by, among other things, failing to disclose to investors the risks associated with the investments offered by or through HCG, misrepresenting how investors' funds were being used and the investment returns that those funds were generating, engaging in outside business activities and private securities transactions, in violation of FINRA rules and failing to disclose this fact to investors, and commingling client assets with those of their own.

129. Respondents violated section 11-302(f) of the Securities Act by taking custody of client funds without notifying the Securities Commissioner, by depositing client funds into their bank accounts and thus commingling client assets with those of their own, and by failing to comply with the requirements set forth under Regulation 02.02.05.04 of the Code of Maryland Regulations.

130. Respondents acted as unregistered broker-dealers, agents, investment advisers, and/or investment adviser representatives, in violation of section 11-401 of the Securities Act.

131. Respondent HCG employed unregistered investment adviser representatives and/or broker-dealer agents, in violation of section 11-402 of the Securities Act.

132. Respondents had custody of client funds but failed to maintain at all times the minimum required net capital or to be bonded, in violation of sections 11-409 and 11-410 of the Securities Act.

133. Respondent Haye failed to timely amend his Form U4 application to disclose a material judgment entered against him, in violation of section 11-411 of the Securities Act.

134. Respondent Haye made a false filing with the Division by filing a Form U4 in which he answered that he did not have any unsatisfied judgment liens when in fact he did, in violation of section 11-303 of the Securities Act; and

135. Respondents willfully violated sections 11-501, 11-301, 11-302, 11-303, 11-401, 11-402, 11-409, 11-410, 11-411 of the Securities Act, and grounds exist to revoke Respondent Haye's investment adviser representative and broker-dealer agent registrations under sections 11-412(a)(2) and 11-412(a)(7) of the Securities Act.

## **V. SANCTIONS**

**NOW THEREFORE, IT IS HEREBY ORDERED**, and Respondents expressly consent and agree:

136. Respondents shall permanently cease and desist from violating sections 11-501, 11-301, 11-302, 11-303, 11-401, 11-402, 11-409, 11-410, 11-411, and 11-412 of the Securities Act.

137. Respondents are barred from engaging in the securities or investment advisory business in Maryland for or on behalf of others, or from acting as a principal or consultant in any entity so engaged.



138. Respondents, jointly and severally, are assessed a civil monetary penalty pursuant to section 11-702 of the Act in the amount of \$1,200,000 for the violations set forth in this Order. In light of the sworn financial affidavit and financial records submitted by Respondents, however, collection of all but \$250,000 of the penalty shall be waived. Collection of the remaining \$250,000 penalty shall further be reduced by the amount of restitution made by Respondents to those investors who invested with or through Respondents. Payment of the restitution shall be deferred until such time as Respondents are able to pay the amount owed, as determined by the Office of the Attorney General based upon updated sworn financial affidavits submitted by Respondents. Respondents shall submit an updated sworn financial affidavit to the Office of the Attorney General on a semiannual basis. The updated sworn financial affidavits shall be submitted by July 31<sup>st</sup> and December 31<sup>st</sup> of each year. Once it is determined by the Office of the Attorney General that Respondents are capable of paying restitution, Respondents shall make restitution in one lump sum or in quarterly installment payments, depending Respondents' ability to pay, as determined by the Securities Commissioner based upon Respondents' financial affidavits. Restitution shall be paid by certified check made payable to the Office of the Attorney General, and will be distributed to the investors by the Office of the Attorney General in a manner within its discretion. The civil penalty imposed herein shall be waived completely if restitution of \$250,000 is paid in full.

139. Respondents shall comply fully with the Securities Act and the regulations promulgated thereunder.

## **VI. RESPONDENTS' REPRESENTATIONS OF FINANCIAL CONDITION**

140. Respondents have provided a sworn financial affidavit and other financial records to the Commissioner as a condition of this Consent Order, and the Commissioner has relied upon those

documents in establishing the terms of and agreeing to enter into this Consent Order. If the Commissioner receives information that the affidavit, or the underlying financial records, is false in any material respect, that misrepresentation shall be considered a violation of this Consent Order, and the Commissioner may reopen these proceedings and seek such further relief as is appropriate.

141. In the event Respondents discover or become aware of, or if Respondents acquire or recover from any source, assets not now in their possession but attributable or accruing to or having been received from or belonging to investors (“recovered assets”), Respondents shall notify the Securities Commissioner within five business days of such discovery or acquisition of assets. In a manner approved by the Commissioner, Respondents shall then turn those assets over to the Office of the Attorney General for subsequent distribution to investors in a manner within its discretion.

Use of the recovered assets for restitution shall not be considered to satisfy or offset the \$250,000 civil penalty under paragraph 138 until full restitution of \$1.2 million is made to those investors who invested with or through Respondents.

## **VII. JURISDICTION RETAINED**

142. 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 this Consent Order.

143. If a Respondent fails to comply with any term of this Consent Order, the Commissioner may institute administrative or judicial proceedings against that Respondent to enforce this Consent Order and/or to sanction that Respondent for violating an Order of the Commissioner, and may take any other action authorized under the Securities Act or under any other

applicable law, including the issuance of fines or penalties as provided by the Securities Act. In any such proceeding, the Division may also seek other sanctions for the violations that initiated this matter. For the purpose of determining those sanctions, the Statement of Facts and violations of the Securities Act set forth in this Consent Order shall be deemed admitted, and may be introduced into evidence against that Respondent.

144. In the event that judicial intervention in this matter is sought by the Commissioner or Respondent, subject matter jurisdiction will lie in the Circuit Court for Baltimore City pursuant to section 11-702 of the Securities Act. The Circuit Court for Baltimore City will have personal jurisdiction over Respondent pursuant to section 6-103(b) of the Courts and Judicial Proceedings Article, Title 6, Annotated Code of Maryland (2006 Repl. Vol. and 2009 Supp.). Venue will be properly in that Court pursuant to Section 6-201(a) and 6-202(11) of that article.

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

**SO ORDERED:**

**Commissioner's Signature is on  
File with Original Documents.**

Date: January 3, 2011

\_\_\_\_\_  
Melanie Senter Lubin  
Securities Commissioner

**BY CONSENT:**

\_\_\_\_\_  
Lawrence J. Haye

\_\_\_\_\_  
Haye Capital Group, LLC

by: Lawrence J. Haye, President

\_\_\_\_\_, 2010  
Date

\_\_\_\_\_, 2010  
Date

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2010.

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Notary Public  
My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission expires \_\_\_\_\_