

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND**

IN THE MATTER OF: \*

George L. Divel, CRD # 3102446 \* Securities Docket No. 2018-0576

and \*

G.D. III, Inc. \*

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, Corporations and Associations Article, Title 11, Annotated Code of Maryland (2014 Repl. Vol. and 2020 Supp.) (the “Securities Act”), undertook an investigation into the securities activities of George L. Divel (“Divel” or “Respondent Divel”) and G.D. III, Inc. (collectively, the “Respondents”), Brewers Green Development, LLC, 1401 S. Hanover Street, LLC, 12-16 S. Patterson Park Avenue, LLC, TCP 1150 LLC, TCP 1222 LLC, and various entities owned and/or controlled by Divel; and

WHEREAS, on the basis of that investigation the Maryland Securities Commissioner (the “Commissioner”) has found grounds to conclude that Respondents have engaged in acts or practices constituting violations of the anti-fraud and registration provisions of the Securities Act; and

WHEREAS, the Commissioner and Respondents Divel and G.D. III, Inc. have reached an agreement in this action whereby Respondents Divel and G.D. III, Inc., 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 Divel and G.D. III, Inc. waive their rights 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 and appropriate for the protection of investors 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 11-801 of the Securities Act.

**II. RESPONDENTS**

2. At all times relevant to this matter, George L. Divel has maintained a place of residence and business in Maryland. Divel was registered as a securities professional with the State of Maryland and with the Financial Regulatory Industry Authority (“FINRA”) from 1998 to 2016. Divel has not been registered with the Division as a broker-dealer, agent, investment adviser, or investment adviser representative since October 31, 2016.

3. Divel has been the subject of four customer complaints or arbitrations resulting in settlements or awards of approximately \$648,000, of which Divel contributed approximately \$48,000. Divel also has been the subject of two regulatory actions brought by the Division resulting in the suspension of his agent and/or investment advisory representative registrations in Maryland for a cumulative period of seven months and fines totaling \$55,000, two regulatory actions brought by FINRA resulting in the suspension of his FINRA licenses for a cumulative period of seven months and fines totaling \$10,000, and a regulatory action brought by the State of Connecticut resulting in a bar from reapplying for registration or transacting business in or from Connecticut as a broker-dealer, agent, investment adviser or investment adviser agent, with leave to reapply for registration after seven years.

4. G.D. III, Inc. is a Maryland close corporation with a principal place of business in Baltimore, Maryland. Divel is the owner and president of G.D. III, Inc.

### **III. FINDINGS OF FACT**

#### **Real Estate Investment Opportunities**

5. Divel was registered as an agent and investment adviser representative with the State of Maryland until about October 31, 2016, when his registrations through Capitol Securities Management, Inc. were terminated.

6. Subsequent to leaving Capitol Securities Management, Inc., Divel sold his securities and advisory book of business to another securities professional.

7. Shortly after selling his book of business, Divel met with Brian Chance (“Chance”), a local real estate developer to whom he had been introduced through a mutual friend, to discuss teaming up to do real estate projects. Divel believed that Chance had a “decent reputation” for

“projects that he had completed” and wanted to know if he would be willing to “team up to do more projects as partnerships.”

8. Chance was interested, but lacked the funding to do so. The two discussed ways to raise funds, with Divel taking on the responsibility of finding investors and/or loans. Chance’s primary responsibility would be finding and developing the real estate projects.

9. According to Divel, he and Chance started out buying -individual houses, rehabbing those houses, and reselling them. If funds were needed, Divel approached his friends or other investors about investing funds in the project and promised them a return of 10%.

10. In an April 2017 email soliciting a potential investor, Divel set out his 5 stage plan for developing real estate and the investment opportunities associated with the plan.

11. In Stage 1 of the plan, Divel explained that real estate would be purchased and owned by the investor in one of two ways. Either the investor would open an Individual Retirement Account (“IRA account”) and purchase and own the property with funds coming from the IRA account or Divel and the investors would create a limited liability company (“LLC”) that would own the property and investors would fund. Profits generated from rental income from the property would be paid as follows: the first 10% of profits would be paid to the investor, Divel would receive the second 10% of profits, and any additional profits would be split equally between Divel and the investor. If the investor sold the house, the investor would first receive his or her initial investment and then the remaining proceeds would be split equally between Divel and the investor.

12. Divel described the arrangement as a “completely passive investment” for the investor. Divel’s team would manage “all aspects of the property (placing the tenant, collecting

rents, maintenance, etc.)” and the investor would “not [be] responsible for any of the management.”

13. Stage 3 of Divel’s plan, which Divel labeled “Fix and Flips”, involved Divel’s team identifying properties that they could “purchase at a discount, rehab, and sell at a profit in a short amount of time.” Under this stage, Divel’s team would “handle all aspects of the build including listing and selling the property” and profits would be split “per each projects (sic) parameters.”

14. Divel described Stage 4 as identical to Stage 3 but on a larger scale. Under Stage 4, Divel’s team would “purchase entire blocks in the city and/or plot of land to develop a new neighborhood.” Again, Divel’s team would “handle all aspects of finding the land, building the development, [and] listing and selling” the property. All profits would be “split per each projects (sic) parameters.”

15. In line with his five stage plan, Divel began soliciting investors to invest in his real estate investment opportunities via the methods set forth in stages 1 and 3 of his plan. On Divel’s advice and recommendation, investors made passive investments in rental properties or fix and flips through IRA accounts or limited liability companies set up specifically for the real estate investments.

16. Around the same time that Divel began soliciting investors for Stages 1 and 3 of his plan, he and Chance also began putting Stage 4 of their plan, the development of multi-housing development projects, into action. To fund their expanded multi-housing development operations, Divel expanded both the pool of investors and the amount of investment funds sought.

## Development Project Investments

17. In emails sent to potential investors, Divel provided potential investors with details of two development projects, which he referred to as the “Canton development (Brewers Green) and the Federal Hill development.”

18. Divel told investors that the Brewers Green project would involve the building of 12 luxury townhouses in the Canton area. The houses would be built for a cost of about \$230,000 and would sell for approximately \$575,000 with an upside potential of \$600,000 to \$650,000. Divel also told investors that profits from the investment would be “split evenly three ways (investor, general contractor and myself), but the **investor is being paid 20% profit before the general contractor and I are paid a penny.**” *Emphasis added.* Any profits above 60% would be split three ways. Divel emphasized that the “project will be fully subscribed quickly.”

19. According to Divel, the Federal Hill development, located at 1401 S. Hanover Street, would involve “buying and demolishing the American Rescue Workers building” and building 10 luxury townhomes in two phases of five houses each. The houses would be identical in design and layout to the Brewers Green houses.

20. Divel told investors that it would cost between \$230,000 and \$250,000 to build the Hanover Street town homes with a total estimated cost of \$2.5 million. Because the homes were being built in two phases, Divel told investors that “we only need to raise \$1.25 million and will use money from the sale of the first phase to pay for the construction of the second phase.”

21. Divel provided investors with a breakdown of how the Hanover Street profits would be allocated, stating that “profits will be split three ways but the investors will receive a 15% profit before Brian and I receive our 15% each (30% total). What that means is that the investors are

paid before we are paid. Any profit above a 45% total return will be split three ways.” Divel also told investors that “we should clear over \$600K per house.”

### **Brewers Green Development Project**

22. Brewers Green Development, LLC (“BGD LLC”) was formed as a Maryland limited liability company in or about April 2017 when Divel caused Articles of Organization to be filed with the Department of Assessments and Taxation.

23. An Operating Agreement was prepared on behalf of BGD LLC.

24. The Operating Agreement, dated April 7, 2017, disclosed that BGD LLC was seeking to raise up to \$1,850,000 from investors.

25. The Operating Agreement listed “George Divel, III, President of G.D. III, Inc” as the “sole and irrevocable Managing Member” of BGD, LLC,<sup>1</sup> and Chance Development, LLC, a Maryland limited liability company owned by Chance, as the Builder Manager. Divel’s residence was listed as BGD LLC’s principal place of business.

26. As the managing member, Divel, individually or in his capacity as the principal of G.D. III, Inc., had “full, exclusive, complete discretion, power, and authority . . . to manage, control, administer, and operate the business and affairs of the LLC”, unless otherwise limited by law or other provisions in the Operating Agreement.

27. Soon after forming BGD LLC, Divel began soliciting potential investors, including his former securities and advisory clients, to invest in BGD LLC. In emails with potential

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<sup>1</sup> Section 1.19 of the Operating Agreement identifies G.D. III, Inc. as the managing member, but section 7.1.1 of the Operating Agreement identifies “George Divel, III, President of G.D. III, Inc.” as the managing member.

investors, Divel openly encouraged those that he solicited to “feel free to share the details with anyone you think would be interested [in] investing in this development.”

28. Early investors in BGD LLC were given a copy of the Operating Agreement which they were required to sign. At least 10 of the 22 investors identified as Investor Members on Exhibit A to the Operating Agreement signed the Operating Agreement. Divel was required to sign the Operating Agreement in his capacity as the sole member of G.D. III, Inc., and Chance in his capacity as the sole member of Chance Development, LLC.

29. G.D. III, Inc. and Chance Development, LLC were listed as Non-Investor Members on Exhibit A to the Operating Agreement. Although they contributed no capital to BGD, LLC, as Non-Investor Members, they each held a one-third interest in BGD LLC, with the remaining one-third interest being split between the Investor Members based upon their capital contribution.

30. According to the Operating Agreement, any distributions would first be paid to Investor Members in proportion to their capital accounts until the balances of their capital accounts have been paid in full, and then each Investor Member would be entitled to receive a proportionate distribution up to 20% of total capital contributions. Only after the aforementioned distributions would the Managing Member and Builder Member be entitled to receive a distribution equal to 40% of the total capital contributions of all members.

31. At Divel’s recommendation and direction, investors invested in BGD LLC in one of two ways, either through Individual Retirement Accounts (“IRA accounts”) or separately created limited liability companies (“Div LLCs”). The IRA accounts and Div LLCs were listed as the Investor Members of BGD LLC in Exhibit A to the Operating Agreement.



## **IRA Accounts**

32. Divel instructed and helped investors set up IRA accounts at third party IRA custodians to facilitate their investment in the real estate development projects offered by Chance and him. At first, Divel instructed investors to set up IRA accounts at Equity Trust, a third party custodian. Divel helped investors establish their IRA accounts by processing paper work and communicating with Equity Trust about the IRA accounts. When Equity Trust discovered Divel's involvement, it expressed concerns regarding his background, including his disciplinary history in the securities industry and refused to send funds to settlement on the Brewers Green development real estate transactions. Divel had to have the investors set up IRA accounts at a new third party custodian, New Direction IRA.

33. Divel handled all communications with New Direction IRA on behalf of BGD LLC, and even set up an email account specifically for communicating with New Direction IRA, [chancedevelopmentbaltimore@gmail.com](mailto:chancedevelopmentbaltimore@gmail.com). Instead of identifying himself as the author of the emails, Divel used Brian Chance's signature line as though the emails were coming from Chance. Although prepared and sent by Divel, Divel never identified himself as the actual author of the emails. Although Divel notified Chance of his use of the email and signature line to which Chance acquiesced, neither New Direction nor investors who were often cc'ed on the emails were aware the emails were sent by Divel.

34. On behalf of the investors, Divel prepared the paperwork necessary to set up the IRA accounts, including the Promissory Note Buy Direction Letter which authorized the funding of the IRA account. Divel then asked the investor to sign the paperwork.

35. Divel also assisted investors in liquidating assets necessary to fund their newly formed IRA account.

36. Once Divel received the signed documents from Chance and the investors, Divel forwarded the documents necessary to set up and fund the IRA accounts to New Direction IRA.

37. Investors investing through IRA accounts were required to enter into promissory notes to evidence their investment. Although Divel solicited investment funds from investors and drafted the terms of the promissory notes, Divel caused Chance Development LLC to be listed as the borrower on the notes. New Direction was listed as the lender on behalf of, or for the benefit of, the investors.

38. The promissory notes set forth the obligations of the lender and the borrower, the term of the note, and the interest rate payable to the borrower under the note. Many of the notes had three year maturity dates and all were unsecured.

39. Divel had Chance sign the promissory notes on behalf of Chance Development LLC, sometimes showing up at jobsites to present Chance with promissory notes, as well as other IRA account-related documents, to sign. According to Divel, he signed the non-IRA related promissory notes with investors and having Chance sign the IRA promissory notes gave Chance “skin in the game” or some personal responsibility.

### **Div LLCs**

40. Potential investors also were instructed, and given the option, by Divel of investing in BGD LLC through separately created limited liability companies.

41. Divel set up the Div LLCs on behalf of the investors.

42. The Div LLCs were structured in such a way that the investor was listed as owning 99% of the Div LLC and Divel was listed as owning 1% of the Div LLC. The Div LLCs were named after both the investor, using a few letters of the investor(s)' last name(s), and Divel, using “Div”; for example, “AJAS Div LLC.”

43. Investors were given and required to execute Operating Agreements for the Div LLC investments, which required investors to acknowledge that their interests in the Div LLC was for investment purposes only.

44. As with the Operating Agreement for BGD LLC, the Operating Agreements for the Div LLCs designated “George Divel, III, President of G.D. III” as the managing member for the LLCs and Divel’s residence as the principal place of business. The investor was listed as the Primary Member of the LLC.

45. As managing member, Divel had “full, exclusive, and complete discretion, power, and authority. . . to manage, control, administer, and operate the business and affairs of the LLC . . . and to make all decisions affecting such business and affairs”, subject to the Primary Member’s approval over certain actions set forth in section 6.3 of the Operating Agreement.

#### **1401 S. Hanover Street LLC Project**

46. 1401 S. Hanover Street LLC (“Hanover LLC”) was formed as a Maryland limited liability company in or about June 2017 when Divel caused Articles of Organization to be filed with the Department of Assessments and Taxation.

47. An Operating Agreement was prepared on behalf of Hanover LLC.

48. The Operating Agreement, dated October 30, 2017, listed George Divel, III as the managing number and in that role, Divel had “full, complete and exclusive discretion and authority to manage” Hanover LLC. Chance was listed as a member of Hanover LLC. Each owned a 50% interest in Hanover LLC. Divel’s residence was listed as Hanover LLC’s principal office.

49. Unlike the BGD LLC investment, there were no Investor Members in the Hanover LLC investment.

50. Instead, as with the BGD LLC investment, Divel recommended and directed that investors invest in the Hanover LLC project by either setting up IRA accounts with New Direction IRA or by creating Div LLCs.

51. Divel also facilitated, or assisted in the facilitation of, the opening of IRA accounts on behalf of investors and the transfer of their assets to New Direction LLC. As with the BGD LLC investment, Divel handled all communications with New Direction LLC using the [chancedevelopmentbaltimore@gmail.com](mailto:chancedevelopmentbaltimore@gmail.com) email and Chance's signature line.

### **Use of Investors' Funds**

52. Investment funds solicited by Divel for investment in the two development projects were received by Divel and Chance in a number of ways.

53. In the case of those investors that invested by setting up Div LLCs, at Divel's direction, bank accounts were opened for the vast majority of the Div LLCs.

54. Each bank account was funded by the Div LLC's investor, or the Primary Member of the LLC; however, the bank account was controlled by Divel. Divel was the only person with access to the accounts and had sole authority to sign on behalf of the accounts.<sup>2</sup> Divel's residence was listed as the address on the bank statements for the Div LLCs.

55. The investment funds from investors were subsequently transferred by Divel into bank accounts held in the name of G.D. III, Inc. or one of the accounts set up for the development projects and controlled by Divel or Chance.

56. In cases where bank accounts were not set up for the Div LLCs, the investors wrote checks or wired funds directly to G.D. III, Inc. or to one of the development projects.

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<sup>2</sup> Two of the investors had online access to only view the bank account for their Div LLC.

57. Investors that invested through IRA accounts set up at New Direction IRA invested their funds by forwarding them to New Direction IRA for deposit into their IRA accounts.

58. Because Chance Development LLC was listed as the borrower on the promissory notes submitted to New Direction IRA, Chance Development and its owner, Brian Chance, were authorized to direct where New Direction IRA sent the funds.

59. As the person responsible for communicating with New Direction IRA, Divel provided New Direction IRA with wiring instructions to wire investors' funds to a bank account held in the name of Chance Development. As the authorized signatory on Chance Development's bank account, Chance, with the acquiescence of Divel, then determined where investors' funds were sent or how they were used.

60. There came a time in or about November 2018, however, when Divel, again using the [chancedevelopmentbaltimore@gmail.com](mailto:chancedevelopmentbaltimore@gmail.com) email and Chance's signature line, requested New Direction IRA to redirect IRA funds to a bank account owned by his company, G.D. III, Inc., instead of Chance Development. A New Direction IRA representative questioned the reason for the wiring instruction changes and inquired about the relationship between Chance Development, G.D. III, Inc., and TCP 1150 LLC which, as discussed below, was the new cannabis project that Divel began soliciting investments in and diverting funds to. Divel responded by telling the representative that the monies were for different projects but if it was going to cause a problem, the funds could continue to be sent to Chance Development. Divel never revealed his identity to New Direction IRA. New Direction IRA made the change, and IRA funds were subsequently wired to G.D. III, Inc.

61. Regardless of how investors' funds were transferred to Divel's and Chance's control, they had full and absolute control over the use of the funds, without any input from investors.

62. Divel and Chance made all decisions relating to the real estate investment projects including, but not limited to, property acquisition, construction costs, rental arrangements, and property sales, and determined how investors' funds and the proceeds from property sales would be allocated to fund the projects and eventually repay investors.

63. Some of the promissory notes designated a specific project to which the funds should be allocated, but many of the notes and the Div LLC Operating Agreements did not designate a specific project. Regardless of whether a designation was or was not made, Divel and Chance alone determined to which projects investors' funds would be allocated.

64. While investors' funds were used to construct the twelve houses for the BGD project, and to partially complete the ten homes for the Hanover LLC project, Divel and Chance often were forced to borrow funds from hard money lenders to complete some of the construction. This was due at least in part to the fact that some of the investors' funds were diverted to other unrelated projects or to Divel and Chance personally.

65. There came a time when Divel and Chance had a conversation relating to funds designated for the projects being advanced to them for their personal benefit.

66. According to Divel, he told Chance that he was comfortable with taking a small percentage of anticipated future profits, but nothing more than that.

67. However, both Divel and Chance took profits that had not yet even materialized and were not guaranteed to materialize.

68. On or about January 26, 2018, Divel transferred \$200,000 from Hanover LLC's bank account to a bank account held personally in the name of Divel and his wife. According to a spreadsheet of expenses prepared for Hanover LLC, the transfer represented a "short-term loan on other deals (taxes, etc.)." Divel's bank records show that once the funds were transferred to his account, the funds were used to pay approximately \$117,000 in federal and state taxes owed by Divel, \$12,000 in mortgage payments for Divel's personal residence, approximately \$28,000 in connection with a closet for Divel's wife, and approximately \$3,000 for an unrelated property owned by Divel.

69. On or about April 27, 2018, another \$50,000 was transferred from Hanover LLC's bank account to Divel's personal bank account. This transfer was characterized as a "short term loan on other deals" and, along with transfers from BGD LLC's bank account that occurred around the same time, was used for Divel's personal expenses.

70. Divel also received loans or advances from BGD LLC. On or about March 5, 2018 and March 19, 2018, transfers of \$20,000 and \$10,000, respectively, were transferred from a bank account in the name of BGD LLC to Divel's personal bank account. The \$20,000 transfer was listed on a spreadsheet of expenses prepared for BGD LLC as a "short term loan/advance." The \$10,000 transfer was not listed on the spreadsheet. Once transferred to Divel's personal account, the funds were used to pay personal expenses, including \$12,000 in mortgage payments for Divel's personal residence, \$10,000 at a casino resort, \$4,200 in memorabilia cards, and \$1,000 for Justin Timberlake concert tickets.

71. Between May 10, 2018 and May 16, 2018, Divel made three additional transfers totaling \$88,000 from BGD LLC's bank account to his personal account. The transfers were described as short term loans or advances on BGD LLC's spreadsheet. The funds were used,

among other things, to pay approximately \$28,000 in federal and state taxes, \$12,000 in mortgage payments for Divel's personal residence, and approximately \$3,000 for an unrelated property of Divel's.

72. Divel received additional short term loans from BGD LLC including, but not limited to, \$10,000 on or about September 6, 2018, \$21,000 on October 14, 2018, and \$1,000 on March 1, 2019.

73. Divel also transferred funds from one or more of the Div LLCs to his personal benefit, including a July 2, 2018 transfer from a Div LLC bank account to his personal bank account in the amount of \$12,658.36.

74. Divel did not always tell Chance when he was transferring funds from business bank accounts held in the name of the development projects or Div LLCs to or for his personal benefit.

75. Chance also received a significant amount of funds for his personal benefit including, but not limited to, \$300,000 from BGD LLC's bank account that was described as the "First payment (\$300K) of Brian's \$950K Profit Buy Out" and \$100,000 from a Div LLC.

76. Outstanding unpaid advances and loans taken by Divel for his benefit approximate \$454,434.

77. The advances or loans taken by Chance and Divel were never documented in writing beyond the spreadsheets. There were no formal loan agreements or other formal documents ordinarily maintained by businesses.

78. The advances or loans made to Chance and Divel were inconsistent with statements in the Operating Agreement for BGD LLC, as discussed above, as well as statements made by



Divel to potential investors, both of which represented that profits would first go to investors before any profits were paid to Divel or Chance.

79. Additionally, investor funds initially directed to one development project were routinely loaned to other development projects or to Divel's and Chance's fix and flips that were separate and apart from the development projects for which investors' funds were intended.

80. The loans made to Divel and Chance or between the various development projects also violated BGD LLC's Operating Agreement as well as the Operating Agreements for the Div LLCs.

81. As discussed above, as the managing member of BGD LLC, Divel or G.D. III, Inc. had absolute authority to manage BGD LLC's business and affairs, unless otherwise limited by law or other provisions in the Operating Agreement.

82. Section 7.1.3 of BGD LLC's Operating Agreement set forth certain extraordinary transactions that the managing member could not undertake without the approval of the members of BGD LLC, one of those transactions being BGD LLC lending more than \$1,000 of its money on any one occasion.

83. However, as discussed above, Divel and Chance repeatedly violated this provision by lending monies to themselves for their personal use and to other non-BGD LLC projects, without seeking and obtaining the approval of BGD LLC's members.

84. The loans taken by Divel and Chance also violated the Operating Agreements for the Div LLCs.

85. Like BGD LLC's Operating Agreement, the Operating Agreements for the Div LLCs provided that certain actions taken by the managing member were subject to the approval of

the Primary Member. One such action was the “lending more than \$1,000.00 of [the Div LLC’s] assets on any one occasion.”

86. The taking of loans or advances on profits that had not materialized was not disclosed to investors.

87. Divel breached or failed to comply with other provisions of the Operating Agreements for the investments.

88. BGD LLC’s Operating Agreement disclosed that the managing member “shall use diligent efforts to cause [BGD LLC] to prepare, within one hundred twenty (120) days after the end of each calendar year, a financial report of [BGD LLC] . . . containing a balance sheet as of the last day of the year then ended, an income statement for the year then ended, a statement of sources and application of funds, and a statement of reconciliation of the Capital Accounts of the Members.”

89. However, financial reports were not annually prepared and Divel did not use diligent efforts to cause them to be prepared.

90. BGD LLC’s Operating Agreement also prohibited the “raising of additional funds . . . exceeding, in the aggregate, \$1,850,000.00” without the approval of the members. However, the amount of investment funds raised on behalf of BGD LLC exceeded \$3.3 million, well in excess of the \$1.85 million threshold.

91. The raising of investment funds in excess of \$1,850,000 was not approved by or disclosed to the Investor Members.

92. The Div LLC Operating Agreements disclosed that “a review or audit of the LLC, as shall be determined by the Managing Member, shall be made as of the close of each fiscal year

of the LLC by the accountants who shall then be engaged by the LLC”, and a copy of the report prepared by the accountant would be sent to the member each fiscal year.

93. Divel failed to engage on behalf of the Div LLCs an accountant to perform the required annual reviews or audits, and no such reports were sent to members.

94. Between May 2017 and May 2019, Divel solicited in excess of \$4,700,000 on behalf of the BGD LLC and Hanover LLC investments through 36 separate investments. Divel raised an additional \$3,500,000, some of which went to the BGD LLC and Hanover LLC projects, through the sale of at least 34 fixed notes to investors. However, in a best case scenario where the remaining properties are sold at or slightly above fair market value and Divel and Chance repay their loans and advances to the projects, investors are expected to only receive back approximately 70% of their principal investment. The profits that Divel and Chance anticipated, and upon which their advances were based, will not in fact materialize.

95. There is no record of a registration filing, a claim of exemption from registration, or a preemption filing, with the State of Maryland, on behalf of the BGD LLC investment offered and sold by Divel and Chance and/or entities owned and/or controlled by them.

96. There is no record of a registration filing, a claim of exemption from registration, or a preemption filing, with the State of Maryland, on behalf of the promissory notes offered and sold by Divel and Chance and/or entities owned and/or controlled by them.

97. There is no record of a registration filing, a claim of exemption from registration, or a preemption filing, with the State of Maryland, on behalf of the Div LLCs offered and sold by Divel and/or entities owned and/or controlled by them.

98. Divel did not disclose to investors that the securities offered and sold by him and Chance and/or entities owned and/or controlled by them should have been registered but were not.

99. Divel did not disclose to investors that he and Chance and/or entities owned and/or controlled by them should have been registered as broker-dealers, agents, investment advisers, or investment adviser representatives.

### **Patterson Park Investment**

100. In or about the fall of 2017, Divel and Chance decided to develop a third multi-housing project.

101. On or about December 2017, Divel engaged his counsel to form a Maryland limited liability company called 12-16 S. Patterson Park Avenue Development LLC (“Patterson LLC”) for the purpose of developing and constructing real property.

102. An Operating Agreement was prepared on behalf of Patterson LLC.

103. The Operating Agreement listed “George Divel, III, President of G.D. III, Inc” as the “sole and irrevocable Managing Member” of Patterson LLC,<sup>3</sup> and Chance Development, LLC as the Builder Manager. Divel’s home residence was listed as Patterson LLC’s principal place of business.

104. As the managing member, Divel, individually or in his capacity as the principal of G.D. III, Inc., had “full, exclusive, complete discretion, power, and authority . . . to manage, control, administer, and operate the business and affairs of the LLC”, unless otherwise limited by law or other provisions in the Operating Agreement.

105. Soon after forming Patterson LLC, Divel began soliciting potential investors to invest in Patterson, LLC.

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<sup>3</sup> Section 1.19 of the Operating Agreement identifies G.D. III, Inc. as the managing member, but section 7.1.1 of the Operating Agreement identifies “George Divel, III, President of G.D. III, Inc.” as the managing member.

106. According to Patterson, LLC's Operating Agreement, only one investor invested in Patterson, LLC. The investor was a former financial client of Divel and had previously invested significant funds in Divel's other real estate projects.

107. As with Divel's other investment projects, Divel recommended that the investor invest in Patterson LLC using a Div LLC that had previously been set up by Divel. The investor's Div LLC was listed as an Investor Member in Patterson LLC's Operating Agreement, which the investor signed.

108. Divel signed the Operating Agreement in his capacity as the sole member of G.D. III, Inc. and Chance in his capacity as the sole member of Chance Development, LLC.

109. G.D. III, Inc. and Chance Development, LLC were listed as Non-Investor Members on Exhibit A to the Operating Agreement. Although they contributed no capital to Patterson LLC, as Non-Investor Members, they each held a one-third interest in Patterson LLC, with the remaining one-third interest owned by the Investor Member.

110. According to the Operating Agreement, any distributions would first be paid to Investor Members in proportion to the capital accounts until the balances of their capital accounts have been paid in full, and then each Investor Member would be entitled to receive a proportionate distribution up to 15% of total capital contributions. Only after the aforementioned distributions would the Managing Member and Builder Member be entitled to receive a distribution equal to 30% of the total capital contributions of all members.

111. Because the investor had previously invested in one or more of Divel's other real estate projects, a Div LLC and corresponding bank account had already been established for the investor. As with all other Div LLC bank accounts, Divel had control over the funds in the account.

112. At the time of the investor's investment in Patterson LLC, approximately \$1.1 million was on deposit in the investor's Div LLC bank account.

113. On or about March 23, 2018, \$1.05 million was transferred from the Div LLC's bank account to a bank account established for Patterson LLC, representing the investor's investment in Patterson LLC.

114. Seven days later, Divel transferred \$110,000 of those funds from Patterson LLC's bank account to a personal bank account held in the names of Divel and his wife. Divel used those funds to purchase 1991 Topps Desert Storm trading cards at an auction. Divel listed the transfer to his personal account as a loan on a spreadsheet that he kept for the Patterson LLC investment.

115. On or about August 14, 2018, Divel transferred \$10,000 from Patterson LLC's bank account to his personal bank account. According to Patterson LLC's spreadsheet, the funds were a short-term loan to Divel to pay his monthly personal expenses.

116. In addition to loaning funds to himself, Divel also loaned funds designated to Patterson LLC to his other real estate projects, which had nothing to do with Patterson LLC. At least two short-term loans totaling \$189,000 were made to BGD LLC. At least three short-term loans totaling \$60,000 were made to Hanover LLC. Approximately \$394,000 was loaned to Chance Development LLC in connection with three different fix and flip projects that had no connection with Patterson LLC, and another \$152,000 was paid directly to third parties in connection with fix and flips.

117. None of the loans were documented in writing beyond the spreadsheet.

118. Approximately \$700,000 of the investor's funds were used to purchase land at the 12 S. Patterson Park location; however, the land was not subsequently developed and is now up for sale.

119. As discussed above, as the managing member, Divel or G.D. III, Inc. had absolute authority to manage Patterson LLC's business and affairs, unless otherwise limited by law or other provisions in the Operating Agreement.

120. Section 7.1.3 of Patterson LLC's Operating Agreement set forth certain extraordinary transactions that the managing member could not undertake without the approval of the members of Patterson LLC, one of those transactions being Patterson LLC lending more than \$1,000 of its money on any one occasion.

121. Divel violated this provision by lending monies to himself as well as to non-Patterson LLC projects, without seeking and obtaining the approval of Patterson LLC's Investor Member.

122. Divel did not disclose to the investor that he was loaning monies to others in violation of the Operating Agreement.

123. There is no record of a registration filing, a claim of exemption from registration, or a preemption filing, with the State of Maryland, on behalf of the Patterson LLC investment offered and sold by Divel.

124. Divel did not disclose to the investor in Patterson LLC that the Patterson LLC interest offered and sold by him and Chance and/or entities owned and/or controlled by them should have been registered as a security but was not.

125. Divel did not disclose to the investor in Patterson LLC that he and Chance and/or entities owned and/or controlled by them should have been registered as broker-dealers, agents, investment advisers, or investment adviser representatives.

## **Cannabis Investment Opportunities**

126. In or about the summer of 2018, Divel began offering investors a new investment opportunity involving cannabis farms.

127. In emails to potential investors, Divel explained that there would be two cannabis locations, one in San Francisco and one in Oakland. Each location would have its own license and separately created entity. The San Francisco location would be known as TCP 1150 LLC and the Oakland location would be known as TCP 1222 LLC (collectively, referred to as “TCP-related investments”).

128. In or about April 2018, TCP 1150 LLC was formed as a California limited liability company.

129. According to a Confidential Offering Memorandum (“COM”) that Divel had prepared for the TCP 1150 LLC investment, TCP 1150 LLC was formed by Divel and Michael Warfield (“Warfield”) for the purpose of “penetrat[ing] into the cannabis cultivation market in California” and “build[ing] a successful commercial cultivation facility.” Divel and Warfield served as TCP 1150 LLC’s initial managing members.

130. On or about November 19, 2018, TCP 1222 LLC was formed by Divel as a Maryland limited liability company. According to TCP 1222 LLC’s Articles of Organization, TCP 1222 LLC was formed for the purposes of investing and managing agricultural businesses. According to an email sent to potential investors, Divel was seeking to raise up to \$1.8 million “on a \$4.8 million valuation (33% of the company)” for the TCP 1150 LLC investment and up to \$3.2 million “on a valuation of \$9.6 million (33% of the company)” for the TCP 1222 LLC investment.

131. TCP 1150 LLC’s COM disclosed that TCP 1150 LLC was seeking to raise up to \$1,600,000 in equity, with a minimum purchase per investor of \$25,000.



132. The COM also disclosed that TCP 1150 LLC's equity securities were "offered in a private placement offering pursuant to an exemption from registration under Rule 506 of Regulation D promulgated under the Securities Act of 1933, as amended, under exemptions under applicable state securities laws." However, a Form D was never filed with the Securities and Exchange Commission or with the State of Maryland.

133. Divel told potential investors that they could "invest in one location or the other, it ultimately doesn't matter because they will each have the same annual return to the investor." As an example, Divel told investors that if they invested \$192,000 into TCP 1222 LLC, they would own 2% of the location which would be equivalent to 1.33% of both locations combined.

134. Divel further told potential investors that "we are registering for our Regulation A. . . the first step of going public" and that "the goal is to have a minimum valuation of \$150M and to raise \$9M - \$10M in that round" with a "target of tripl[ing] our revenue, profits and valuation." Divel told potential investors that the next goal would be to go public, however, in a "worst case scenario, should the public listing not happen. . . based upon our current revenues and profits our goal is to double your investment in 18 months and then pay you an annual return of roughly 30% annually."

135. Despite Divel's representation, a Regulation A filing was never filed on behalf of the TCP securities offerings.

136. To further describe the cannabis investment opportunity, Divel prepared, or caused to be prepared, a video consisting of a self-narrated PowerPoint slide in which he referred to the cannabis investment as The Cannabis Project. The video, entitled the "TCP – Investor Overview -Draft v3" or "The Cannabis Project Investor Overview" (hereinafter, referred to as "Investor

Overview”), was posted to the internet and available to the general public. A copy of the Investor Overview also was emailed by Divel to potential investors.

137. In the video, Divel provided a summary of The Cannabis Project’s activities, including the current and projected statuses of the cultivation process, facility acquisition and licensing. According to the video, the project was managed by a three member team that included Divel, who was described as the person responsible for, among other things, business development, “all aspects of the everchanging climate within and around the cannabis project”, and working with investors.

138. In the video, Divel also discussed the projected revenues for the project and the opportunities for investment in the project. Divel promoted the capital raising efforts for the project, stating that “this round of capital raise is for \$4.8 million” which “is equivalent to a 33% equity stake of our San Francisco and Oakland indoor cultivation facilities.” Divel represented that the purpose of the capital was to expand operations at both facilities, to pay down purchase loans, and brand development and marketing. The video listed a minimum investment of \$25,000, and projected annual return of 30% to investors’ funds within 18 months. Divel’s email address, [Georgedivel3@gmail.com](mailto:Georgedivel3@gmail.com), was listed as the point of contact.

139. Shortly after their formations, Divel began soliciting investors to invest in TCP 1150 LLC or TCP 1222 LLC. Divel solicited investments from his former securities and advisory clients, investors that had previously invested in his real estate projects, and others. Divel sometimes solicited investments in one or more of the real estate development projects in the same email in which he solicited investments in the TCP-related cannabis projects.

140. In connection with his solicitation of investors, Divel provided investors with a number of forms to invest in the TCP-related investments including, but not limited to,

the “TCP – Investor Overview -Draft v3”, Confidential Offering Memoranda for the TCP-related investments, Pro forma financial statements, and Investor Agreements for the TCP-related investments. Divel referred to the documents as the “TCP Investment forms.”

141. Divel told investors that they could invest in the TCP-related investments “using either cash or assets from retirement accounts” such as IRA accounts.

142. As with the real estate-related investments, Divel instructed investors to set up IRA accounts at New Direction IRA to facilitate their TCP-related investments. Divel assisted investors in setting up the IRA accounts.

143. Divel also assisted investors in liquidating, or directed clients in the steps to liquidate, the securities necessary to fund the newly formed IRA accounts. For example, in an email to one potential investor, Divel stated: “Attached are the new account and transfer forms as promised. Please sign the forms then scan and email them back to me with a copy of your Vanguard statement. Please also let me know when you are free to make a conference call to Vanguard so that we can liquidate that account.”

144. Divel frequently prepared on behalf of the investors the paperwork necessary for the TCP-related investments and then asked the investors to “sign, scan and email the form back to me.” Divel also directed investors to “make your investment check payable to [TCP 1150 LLC or TCP 1222 LLC] and mail it to me”, providing his home address as the mailing address.

145. Divel forwarded the TCP-related investment forms to New Direction on behalf of the investors, telling one investor: “Everything looks good. The forms are being sent to New Direction today and you will be CC’d on the email.”

146. To effectuate their investment, investors in the TCP-related investments were required to execute an Investors Agreement. The Investors Agreement evidenced the investor’s

investment in TCP 1150 LLC or TCP 1222 LLC, and listed their capital contribution and ownership interest in one of the TCP-related investments. The Investors Agreements were signed by Divel and Warfield, who were listed as the President and Vice President of the TCP-related investments, respectively.

147. Between May 2018 and May 2019, more than \$2,300,000 was raised on behalf of the TCP investments in more than 30 separate sales transactions.

148. There is no record of a registration filing, a claim of exemption from registration, or a preemption filing, with the State of Maryland, on behalf of the TCP 1150 LLC investment offered and sold by Divel.

149. There is no record of a registration filing, a claim of exemption from registration, or a preemption filing, with the State of Maryland, on behalf of the TCP 1222 LLC investment offered and sold by Divel.

150. Divel did not disclose to investors in the TCP-related investments offered and sold by him and/or entities owned and/or controlled by him that the interests should have been registered as a security but were not.

151. Divel did not disclose to investors in the TCP-related investments offered and sold by him that he should have been but was not registered as a broker-dealer, agent, investment adviser, or investment adviser representative.

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

The Commissioner concludes that:

152. Respondents Divel and G.D. III, Inc. offered and sold unregistered securities in violation of section 11-501 of the Securities Act.

153. Respondents Divel and G.D. III, Inc. violated sections 11-301(2) and (3) of the Securities Act by, among other things, falsely representing that a Regulation A filing or Form D would be made on behalf of the TCP-related offerings, failing to disclose to investors the risks associated with their investment programs, failing to disclose to investors that the securities offered and sold by them were not registered with the Division or subject to a claim of exemption or a preemption filing, failing to disclose to investors that they were not registered to offer and sell the securities sold by them or to provide advice with respect to the securities, failing to disclose to investors that Divel and Chance were taking advances and loans in contravention to the Operating Agreements, and misrepresenting himself as Chance in connection with the setting up of IRA accounts and the transfer of investor funds to and from the IRA accounts.

154. Respondents Divel and G.D. III, Inc. violated sections 11-302(2) and (3), and (c) of the Securities Act by, among other things, falsely representing that a Regulation A filing or Form D would be made on behalf of the TCP-related offerings, failing to disclose to investors the risks associated with their investment programs, failing to disclose to investors that the securities offered and sold by them were not registered with the Division or subject to a claim of exemption or a preemption filing, failing to disclose to investors that they were not registered to offer and sell the securities sold by them or to provide advice with respect to the securities, failing to disclose to investors that he and Chance were taking advances and loans in contravention to the Operating Agreements, and misrepresenting himself as Chance in connection with the setting up of IRA accounts and the transfer of investor funds to and from the IRA accounts.

155. Respondents G.D. III, Inc. and Divel violated section 11-401(a) of the Securities Act by transacting business as an unregistered broker-dealer and/or agent.

156. Respondents Divel and G.D. III, Inc. violated section 11-401(b) of the Securities Act by transacting business as an unregistered investment adviser and/or investment adviser representative.

157. Respondent G.D. III, Inc. violated section 11-402(a) of the Securities Act by employing or associating with an unregistered agent.

158. Respondent G.D. III, Inc. violated section 11-402(b) of the Securities Act by employing or associating with an unregistered investment adviser representative.

## V. SANCTIONS

**NOW THEREFORE, IT IS HEREBY ORDERED**, and Respondents Divel and G.D. III, Inc. expressly consent and agree:

159. Respondents G.D. III, Inc. and Divel shall permanently cease and desist violating sections 11-301, 11-302, 11-401, 11-402, and 11-501 of the Securities Act.

160. Respondents G.D. III, Inc. and Divel are barred from engaging in the securities or investment advisory business in Maryland for or on behalf of any others, or from acting as principal or consultant in any entity so engaged, including engaging in the offer and sale of any securities whether registered, exempted or preempted from registration. After ten years from the date of this Consent Order, Respondent Divel may petition the Commissioner to seek permission to apply as an agent or investment adviser representative in Maryland. Any such petition shall be evaluated in light of Respondent Divel's current and past disciplinary history as well as any other then relevant information.

161. In lieu of imposing a civil monetary penalty against Respondents equal to the amount of funds raised by them offset by the funds returned to investors, and in light of the sworn financial affidavit submitted by Respondent Divel, incorporated by reference herein, and

Respondent Divel's consent agreement with the SEC to disgorge all profits he received in connection with the acts underlying this Consent Order and to pay \$35,000 in pre-judgment interest and a civil penalty of \$100,000, all of which will be paid to the SEC and subsequently paid by the SEC to investors, Respondents G.D. III, Inc. and Divel are, jointly and severally, assessed a civil monetary penalty pursuant to section 11-702 of the Securities Act in the amount of \$589,434 for the violations set forth in this Consent Order. Collection of the civil monetary penalty imposed under this Consent Order shall be reduced by the amount of monies paid by Respondent Divel pursuant to the SEC consent agreement.

162. Prior to engaging in any project or activity that could possibly be in violation of the terms of this Consent Order, including soliciting or raising funds from anyone, Respondent Divel shall obtain a written opinion of competent securities counsel that said activities do not violate the terms of the Consent Order, operate as a securities offering, or otherwise violate the Securities Act. If Respondent Divel decides not follow counsel's advice, Respondent Divel shall be required to request a no-action or interpretative opinion from the Division prior to engaging in said activities.

163. Respondent Divel shall complete the construction and sale of any remaining Hanover LLC townhouses and the Patterson LLC lot(s), and any other real estate properties acquired with or partially or fully funded with investors' funds, including any fix and flip properties over which Divel or any entities owned or controlled by Divel has any ownership or control (collectively, the "restitution asset(s)"). The proceeds from the sale of the restitution assets shall be held in an escrow account controlled by an independent attorney or CPA for ultimate distribution to investors on a pro rata basis. Within thirty (30) days of the sale of the final restitution asset, Respondent Divel shall cause all monies held in the escrow account to be turned over to the Office of the Attorney General by a certified check made payable to the Office of the

Attorney General. All proceeds shall be distributed to investors on a pro rata basis based upon their capital balances by the Office of the Attorney General in a manner within its discretion. Divel shall cooperate with the Office of the Attorney General by, simultaneously with turning over the restitution assets to the Office of the Attorney General, providing the Commissioner with a recommended plan of pro rata distribution that lists the names, mailing addresses and email addresses of all investors who invested in the real-estate projects, the amount invested by each investor, the amount already paid to each investor, and the principal amount owed to each investor.

164. Respondents G.D. III, Inc. and Divel shall comply fully with the Securities Act and the regulations promulgated thereunder.

#### **VI. RESPONDENT'S REPRESENTATIONS OF FINANCIAL CONDITION**

165. Respondent Divel has provided a sworn financial affidavit to the Commissioner as a condition of this Consent Order, and the Commissioner has relied upon the document in establishing the terms of, and agreeing to enter into, this Consent Order. If the Commissioner receives information that the affidavit 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. For the purpose of determining the relief, the Findings of Fact and violations of the Securities Act set forth in this Consent Order shall be deemed admitted and may be introduced into evidence against the Respondents.

166. 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 Commissioner within five business days of such discovery or acquisition of the recovered assets. In a manner approved by the Commissioner, Respondents shall then turn any recovered



assets over to the Office of the Attorney General for subsequent distribution to investors in a manner within its discretion.

167. Respondents acknowledge that any sanctions or relief imposed under this Consent Order are not dischargeable in bankruptcy and, if not satisfied at the time of Respondent Divil's death, survives Respondent Divil's death and becomes an obligation of Respondent Divil's estate.

## **VII. JURISDICTION RETAINED**

168. 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.

169. 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 the 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 Findings of Fact and violations of the Securities Act set forth in this Consent Order shall be deemed admitted and may be introduced into evidence against the Respondent.

170. In the event that judicial intervention in this matter is sought by the Commissioner or Respondents, 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 Respondents pursuant to section 6-103(b) of the Courts and Judicial Proceedings

Article, Title 6, Annotated Code of Maryland (2013 Repl. Vol. and 2020 Supp.). Venue will be properly in that Court pursuant to section 6-201(a) and 6-202(11) of that article.

171. 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 on File  
w/Original Documents**

October 4, 2021

\_\_\_\_\_  
MELANIE SENTER LUBIN  
SECURITIES COMMISSIONER

BY CONSENT:

\_\_\_\_\_  
George Divel

Subscribed to and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
G.D. III, Inc.

by: George Divel, President

Subscribed to and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_