

**ADMINISTRATIVE PROCEEDING**

**BEFORE THE**

**SECURITIES COMMISSIONER OF SOUTH CAROLINA**

**IN THE MATTER OF:** )  
 ) **ORDER TO CEASE AND DESIST**  
 )  
**Marc Hubbard** )  
 )  
**and** ) **File No. 09034**  
 )  
**Sports Dimensions, Inc.,** )  
 )  
 )  
**Respondents.** )  
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\_\_\_\_\_ )

WHEREAS, the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”), pursuant to authority granted in the South Carolina Uniform Securities Act of 2005 (the “Act”), S.C. Code Ann. § 35-1-101 to 35-1-703 (Supp. 2009), in or around March 2009, received information regarding alleged activities of Marc Hubbard (“Hubbard”) and Sports Dimensions, Inc. (“SDI”) which could constitute violations of the Act;

WHEREAS, the information led the Division to open and conduct an investigation of Hubbard and SDI (collectively, the “Respondents”) pursuant to S.C. Code Ann. § 35-1-602, and this investigation is ongoing;

NOW THEREFORE, in connection with the investigation, the Division has determined that the Respondents have engaged, are engaging, and are about to engage in acts or practices constituting violations of the Act and hereby includes in this Order to Cease and Desist (“Order”) a statement of the reasons for the Order, a statement of the civil penalty and costs sought as a result, and a notice that a hearing will be scheduled if either Respondent requests a hearing.

## **JURISDICTION**

1. The Division has jurisdiction over this matter pursuant to the Act.

## **RESPONDENTS**

2. Respondent Hubbard has a last known home address of 20223 Colony Point Lane, Cornelius, North Carolina 28031.
3. Respondent Hubbard was, at all material times, President and CEO of Respondent SDI.
4. SDI was, at all material times, a North Carolina corporation with a principal office address of 620 West Blackstock Road, Spartanburg, South Carolina, 29301.
5. Hubbard's business address during the time period of the transactions alleged herein was 620 West Blackstock Road, Spartanburg, South Carolina, 29301.

## **FACTS**

6. In or about February, 2009, SDI and Hubbard sent unsolicited appeals for capital from the State of South Carolina to persons in Nevada and Arizona. The unsolicited appeals offered the Nevada and Arizona persons (the "NV/AZ Offerees") the opportunity to invest in SDI. The appeals were in the form of mailings.
7. In the mailings SDI was represented (a) as a "regional company specializing in the Concert Business;" and (b) as having been in the business for over "twelve successful years."
8. The NV/AZ Offerees were offered promissory notes, referred to by Respondents as "Series 2009-A Convertible Corporate Notes," in exchange for investments of money.
9. As part of the solicitation process, representations were made to NV/AZ Offerees that monies invested in the promissory notes would yield 30% annually.
10. NV/AZ Offerees also were informed the stated return was guaranteed.

11. Finally, NV/AZ Offerees were notified they could triple their investment within 18 months and that the investment was “virtually recession proof.”
12. Hubbard, acting on behalf of himself and SDI, made or caused to be made the representations stated above in paragraph 7 and paragraphs 9-11.
13. Through at least March, 2009, SDI and Hubbard operated a website, [www.sdiconcerts.com](http://www.sdiconcerts.com), which allowed access to offering documents for the offering described above (the “Note Offering”) to certain prospective investors (the “Internet Offerees”).
14. To access the complete website, Internet Offerees had to complete a form indicating they were an accredited investor and provide their contact information.
15. Once the online form was completed, Internet Offerees then received a password to enter the website. With the password, Internet Offerees were able to view what was termed the “Private Placement Memorandum” (“PPM”) for the Notes.
16. Without registration, the website still allowed access to a summary of the Note Offering. The summary was available to anyone who accessed the website.
17. The summary includes details of the Note Offering and has an area to complete for more information.
18. The alleged PPM for the Note Offering is dated January 15, 2009, and has an expiration date of January 15, 2010.
19. According to a “Summary of Private Placement” (the “Summary”) posted on the Internet, SDI and Hubbard are seeking to raise \$10,000,000.
20. According to both the Summary and the PPM, any investor wanting to participate in the Note Offering must purchase at least one promissory note.

21. Also according to both the Summary and the PPM, the face amount of each promissory note is \$10,000, and the maturity of each note is represented to be twelve months after purchase.
22. The “guaranteed return” on each promissory note is stated by the Summary and the PPM to be \$13,000.
23. According to both the Summary and the PPM, each promissory note is convertible into common stock at \$2.00 a share.
24. According to the PPM, the funds raised through the sale of the promissory notes will be used for working capital. The materials sent to the NV/AZ Offerees and posted on the website further indicate that the funds raised from the sale of the promissory notes will be used to “book up to three major North American tours in each of the next three years.”
25. Although the general solicitations that were mailed to NV/AZ Offerees and the information on SDI’s website represent that the investment “Yields 30% Annually Guaranteed,” the PPM contradicts this statement.
26. The PPM specifically states that “there can be no guarantee that the business will be profitable to the extent anticipated.” Further, the PPM states “there can be no guarantee that the results shown in the enclosed projections will be realized in whole or in part.” Moreover, the PPM states that SDI does not “guarantee or warrant the projected results.”
27. On page 45 of the PPM the representation is made that SDI is a “development stage company formed in 2006” and “is relatively new and as such has no substantial long-term operating history.”
28. Yet, on page 29 of the PPM, the representation is made that in eleven years of event promotion, SDI has achieved an average return on investment exceeding 30%.

29. Also in the PPM, there is a representation that SDI was incorporated in 2002 and has an “11-year operating history.”
30. Representations similar to those made in items 28 and 29 also are made in offering materials sent to the NV/AZ Offerees.
31. In materials sent to NV/AZ Offerees and also listed on the SDI website, Respondents represent that SDI sponsored its first musical concert in 1986, and that SDI has posted a profit in each year of operation.
32. In the PPM, the representation is made that there has been no prior execution of a securities offering by SDI.
33. In or around July of 2002, a Form D was filed with the Securities and Exchange Commission on behalf of SDI. The Form D specifically indicated SDI’s intent to offer securities for sale.
34. On September 26, 2006, the California Department of Corporations issued a Desist and Refrain Order against Sports Dimensions, Inc.; Sports Dimensions, Inc., dba SDI; and Marc Hubbard. The basis of the Desist and Refrain Order was that SDI and Hubbard offered to sell promissory notes and investment contracts through general solicitation utilizing postings on its website, newspaper advertisements, and other means.
35. The California Desist and Refrain Order issued against SDI and Hubbard was not disclosed in the PPM or the subscription agreement.
36. On March 5, 2007, the North Carolina Securities Division issued a Final Order to Cease and Desist against Hubbard and SDI and ordered Hubbard and SDI to stop offering “Investment Opportunities” through general solicitation.

37. The North Carolina Cease and Desist Order issued against SDI and Hubbard was not disclosed in the PPM or the related subscription agreement, nor was the information available on the SDI website.

38. On February 23, 2009, the Nevada Secretary of State issued a Cease and Desist Order against SDI and Hubbard for violations of the Nevada Securities Act.

39. The Cease and Desist Order issued by the Nevada Secretary of State against SDI and Hubbard was not disclosed in the PPM or the related subscription agreement, nor was the information available on the SDI website.

40. During the period in or around January 31, 2008, through at least March 31, 2009, SDI and Hubbard engaged in general advertising in and from the State of South Carolina.

41. During the period January 31, 2008, to September 11, 2008, SDI and Hubbard solicited investments of at least one million eight hundred thousand (\$1,800,000.00) dollars in SDI promissory notes.

42. The solicitations referred to in item 41 above were made from the State of South Carolina.

43. During one of more of the solicitations referred to above, the offerees were not told about the California Desist and Refrain Order, the North Carolina Cease and Desist Order, and/or the Nevada Cease and Desist Order.

44. In connection with one or more of the solicitations referred to above, Hubbard and SDI provided documents to NV/AZ and/or Internet Offerees that were fraudulent.

45. One or more of the NV/AZ and/or Internet Offerees invested in SDI through Hubbard, based on representations which were fraudulent.

46. As of August 29, 2009, Hubbard and SDI were in default on one or more of the notes they had represented to investors as “guaranteed.”
47. Hubbard filed personal bankruptcy on or around November 29, 2006.
48. Civil judgments were filed against SDI in July, 2007, and October, 2008.
49. On or about October 31, 2008, a federal tax lien in excess of \$450,000.00 was filed against SDI.
50. A second tax lien in the amount of \$297,034.00 was filed against SDI on or about January 14, 2009.
51. The federal tax liens, Hubbard’s personal bankruptcy, and civil judgments against SDI were not disclosed in the PPM or the related subscription agreement, nor was the information available on the SDI website.
52. SDI and Hubbard claim to profit from concerts they allegedly sponsor with well-known performers.
53. Among the performers SDI and Hubbard claim to sponsor concerts with is artist Alicia Keys (“Keys”).
54. Solicitation materials used by SDI and Hubbard provide specific dates, locations, the names of the performers, total expenses and the net profit allegedly achieved by SDI for each concert sponsored by SDI.
55. A subpoena was issued that required the Respondents to provide copies of all contracts between musical artists and the Respondents.
56. To date the Respondents have failed to provide any contracts between musical artists and the Respondents.

57. Upon contacting the William Morris Agency (the “Agency”), the Agency confirmed it represents Keys for all musical performance matters. The Agency has no knowledge of, nor agreements, past or current, with the Respondents. The Agency stated that Keys’ concert tours are managed by the Los Angeles based company AEG, and not SDI.

58. The Agency was asked to verify specific performance dates and locations for concerts by Keys that are listed by the Respondents in solicitation materials as SDI sponsored events. The Agency stated that several of the performance dates and locations Respondents gave for Keys were not accurate.

59. SDI and Hubbard claimed on the website and in mass mailing solicitation materials that the “industry [is] not subject to cyclical [sic] ...” and the “company does business in a recession proof industry!”

60. Hubbard and SDI have not provided support for the claims listed in item 59 above.

61. None of the offerees were instructed they needed to do anything, other than provide Respondents with money, to receive the advertised returns.

#### **APPLICABLE LAW**

62. Pursuant to S.C. Code Ann. § 35-1-703, the Act took effect on January 1, 2006.

63. Pursuant to S.C. Code Ann. § 35-1-102(29), promissory notes are considered “securities” in this State.

64. Additionally, investment opportunities that involve investments of money, in a common enterprise, with the expectation of profits, to be derived primarily from the efforts of others, also qualify as securities under S.C. Code Ann. § 35-1-102(29).

65. Pursuant to S.C. Code Ann. § 35-1-301, it is unlawful for a person to offer or sell a security in this State unless (1) the security is a federal covered security; (2) the security,

transaction, or offer is exempted from registration under Sections 35-1-201 through 35-1-203; or  
(3) the security is registered under the Act.

66. Pursuant to S.C. Code Ann. § 35-1-402(a), it is unlawful for a person to transact business in this State as an agent unless the individual is registered as an agent under the Act or exempt from registration as an agent under the Act.

67. Pursuant to S.C. Code Ann. § 35-1-402(d), it is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this State, to employ or associate with an agent who transacts business in this State on behalf of broker-dealers or issuers unless the agent is registered under Section 35-1-402(a) or exempt from registration under Section 35-1-402(b).

68. Pursuant to S.C. Code Ann. § 35-1-503(a), in a civil action or administrative proceeding under the Act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the claim.

69. Pursuant to S.C. Code Ann. § 35-1-501, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly: (1) to employ a device, scheme, or artifice to defraud; (2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

70. Pursuant to S.C. Code Ann. § 35-1-602(a)(1), the Securities Commissioner may conduct public or private investigations within or outside South Carolina which the Securities Commissioner considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate the Act or a rule adopted or order issued under the Act, or to aid in the enforcement of the Act or in the adoption of rules and forms under the Act.

71. Regarding administrative remedies under the Act:

- a. Pursuant to S.C. Code Ann. § 35-1-604(a)(1), if the Securities Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act, the Securities Commissioner may issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with the Act.
- b. Pursuant to S.C. Code Ann. § 35-1-604(b), a cease and desist order issued under S.C. Code Ann. § 35-1-604(a)(1) must include a statement of any civil penalty or costs of investigation the Securities Commissioner will seek, a statement of the reasons for the order, and notice about a hearing.
- c. Pursuant to S.C. Code Ann. § 35-1-604(d), in a final order, the Securities Commissioner may impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for each violation.
- d. Pursuant to S.C. Code Ann. § 35-1-604(e), in a final order, the Securities Commissioner may charge the actual cost of an investigation or proceeding for a violation of the Act or a rule adopted or order issued under the Act.

#### **DIVISION'S DETERMINATION**

WHEREAS, based on the foregoing, the Division has determined that Respondent Hubbard and Respondent SDI have engaged, are engaging, and/or are about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act as follows:

a. During the period in or around January 31, 2008, to at least March 31, 2009, Respondents offered and sold securities in and from the State of South Carolina.

b. Respondents violated S.C. Code Ann. § 35-1-301 by offering securities in and from the State of South Carolina when the securities offered by Respondents are not now and during the time period of their offering in and from the State of South Carolina were not registered for sale in or from the State of South Carolina.

c. Respondent Hubbard violated S.C. Code Ann. § 35-1-402(a) when Respondent Hubbard, who is not now and during the time of the offering described above was not registered to offer or sell securities in or from the State of South Carolina, offered and sold securities in and from the State of South Carolina.

d. Respondent SDI violated S.C. Code Ann. § 35-1-402(d) when Respondent SDI employed and associated with an unregistered agent who identified and solicited potential investors for Respondent SDI, in connection with the offer of the security in and from the State of South Carolina.

e. The Respondents have not asserted to the Division any claim of exemption from registration, either on their own behalf or on behalf of the security.

f. Respondents violated S.C. Code Ann. § 35-1-501 and engaged in securities fraud when they (1) made misrepresentations of one or more material facts, and (2) omitted to state one or more material facts concerning themselves, their prior business experience, the security, the use of funds gathered from the investors, and past distributions to investors, in connection with the offer of the security in and from the State of South Carolina.

## **CEASE AND DESIST ORDER**

NOW THEREFORE, pursuant to S.C. Code Ann. § 35-1-604(a)(1), IT IS HEREBY **ORDERED** that each Respondent:

- a. Cease and desist from offering and/or selling securities in South Carolina, in violation of S.C. Code Ann. §§ 35-1-301, 35-1-402(a), 35-1-402(d), and 35-1-501; and
- b. Pay a civil penalty in the amount of fifty thousand dollars (\$50,000.00) if this Order becomes effective by operation of law, or, if either Respondent seeks a hearing and a hearing officer or any other legal authority resolves this matter, pay a civil penalty in an amount not to exceed ten thousand dollars (\$10,000.00) for each violation of the Act by each Respondent, and the actual cost of the investigation or proceeding.

### **REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING**

Respondents are hereby notified that they each have the right to a hearing on the matters contained herein. To schedule such a hearing, a Respondent must file with the Securities Division, Post Office Box 11549, Rembert C. Dennis Building, Columbia, South Carolina 29211-1549, attention: Thresechia Navarro, within thirty (30) days of notification of the issuance of this Order to Cease and Desist a written Answer specifically requesting a hearing therein.

In the written Answer, the Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation in this Order, shall set forth specific facts on which the Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent relies. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.

Failure by a Respondent to file a written request for a hearing in this matter within the thirty (30) day period stated above shall be deemed a waiver by that Respondent of his right to

such a hearing. Failure of a Respondent to file an Answer, including a request for a hearing, shall result in this Order, including the stated civil penalty, becoming final as to that Respondent by operation of law.

CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS ORDER AND/OR SIMILAR ACTS MAY RESULT IN THE DIVISION'S FILING ADDITIONAL ADMINISTRATIVE ACTIONS AND/OR SEEKING FURTHER ADMINISTRATIVE FINES. WILLFUL VIOLATION OF THIS ORDER COULD RESULT IN CRIMINAL PENALTIES UNDER S.C. CODE ANN. § 35-1-508. REGARDING MATTERS DESCRIBED HEREIN, THIS ORDER DOES NOT PRECLUDE THE FILING OF PRIVATE CAUSES OF ACTION OR THE FILING OF CRIMINAL CHARGES UNDER S.C. CODE ANN. § 35-1-508.

**IT IS SO ORDERED.**

This \_\_15th\_\_ day of December, 2009

\_\_\_/S/ Tracy A. Meyers\_\_\_\_\_  
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