

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of Finance, Securities Bureau,	)	Docket No. 2007-7-13
	)	
Complainant,	)	
	)	<b>CONSENT ORDER TO CEASE AND DESIST</b>
vs.	)	
	)	
EMI Sun Village, Inc.; Sun Village Juan Dolio, Inc.; and Sun Village Juan Dolio Associates, LLC,	)	
	)	
Respondents.	)	

The Director of the Department of Finance, pursuant to the authority under the Idaho Uniform Securities Act, Idaho Code §30-14-101, *et seq.*, has reasonable grounds to believe that violations of the Idaho Uniform Securities Act have occurred, and may continue to occur, as follows:

**I. RESPONDENTS**

1. EMI Sun Village, Inc. (hereinafter “EMI”) is an alleged Turks and Caicos Islands (British West Indies) company that operates from Sun Village Resorts and Spa, 1 Paradise Drive, Cofresi Beach, Puerto Plata, Dominican Republic. EMI is a party to the contract documents associated with the investment interests offered and sold to Idaho residents as described elsewhere in this Order.

2. Sun Village Juan Dolio, Inc. (hereinafter “SVJD”) is an alleged Turks and Caicos Islands (British West Indies) company that operates c/o P.O. Box 657, Caribbean Place, Providenciales, Turks and Caicos Islands, British West Indies. SVJD is a party to the contract

documents associated with the investment interests offered and sold to Idaho residents as described elsewhere in this Order.

3. Sun Village Juan Dolio Associates, LLC (hereafter “Sun Village Associates”) is known to be a Delaware limited liability company. Sun Village Associates purports to be an issuer of securities that are conjoined with the investment interests contracted or issued by SVJD above.

4. EMI, SVJD and Sun Village Associates are referred to collectively herein as the “Elliott Entities.”

## **II. BACKGROUND**

5. Since perhaps 1999, the Elliott Entities, directly or indirectly, have been engaged in the development and marketing of resort properties located in the Dominican Republic.

6. Since at least 2005, the Elliott Entities have had an ongoing relationship with a network marketing company located in Nevada known as Impact, Inc. aka Impact Net Worth. (hereafter “Impact”). The Elliott Entities have contracted with or otherwise allowed Impact and its representatives to offer and sell resort-related investment interests to Idaho residents and others on behalf of the Elliott Entities.

7. Since at least March 2005, more than \$3 million in resort-related investment interests have been offered and sold to Idaho investors as described below.

### **EMI - Residence**

8. The EMI-Residence investment interests offered and sold in Idaho are associated with a resort property developed, promoted and marketed by the Sun Village Resort & Spa – Cofresi Beach.

9. Beginning on a date uncertain, but at least since March 2005, Impact on behalf of at least one Elliott Entity, has offered and sold, in at least 21 separate transactions, \$1,155,000 in an investment interest known as “EMI Sun Village, Inc. – The Residence” (hereafter “EMI-Residence”). Two other investment transactions in EMI-Residence totaling \$60,000 were offered and sold to Idaho residents by individuals not associated with Impact.

10. In connection with the offer and sale of the EMI-Residence interests in Idaho, investors were promised fixed rates of returns ranging from 7-10% annually, to be paid quarterly. Investors were informed that they could have their principle repaid at the end of five years or re-invest their principle for another five-year term at a rate of return to be determined at that time.

11. By or through Impact, it was represented to investors that the EMI-Residence investment was extremely low risk due to the experience and direct financial backing of Derek Elliott and his companies. Some investors were also led to believe that their investment was also safe since the investor was protected by having some form of “ownership” in the underlying resort property described in Paragraph 8.

12. To make an investment, investors executed a one-page contract between themselves, EMI Sun Village, Inc. and HSV Operadora De Hotels, a Dominican Republic company also called the “Manager.” Investors received a receipt evidencing their investment which stated “Vacationer will be provided with a copy of the vacation interval ownership agreement, with allocation of vacation interval commencement date, vacation unit no. and vacation interval no. Vacationer may rescind agreement if these allocations by EMISV [EMI Sun Village, Inc.] are not entirely satisfactory.”

13. Investors later received a “confirmation and acknowledgement” letter that identified room types, suite numbers, weeks and season. The letter also calculated the promised return and described the contracted return as a “non-use” fee. Generally, investors did not receive, nor did they execute any vacation interval ownership agreement other than the initial one-page purchase document.

14. Contrary to the representations made to Idaho investors by or through Impact, at least one Elliott official has represented to the Department that Idaho investors actually purchased a timeshare interest in the resort. Further, it has been represented to the Department that the non-use compensation after the first five years was not guaranteed and that any return or compensation to the investor after the first five years would be made at the discretion of the developer.

15. Other documents obtained during Complainant’s investigation support a conclusion that the alleged timeshare interest had a term of use through 2050.

16. Omissions of material facts occurred by or through Impact in connection with the offer and sale of the EMI-Residence interests described above.

**Residence - Juan Dolio**

17. A second resort property developed, promoted and marketed by various Elliott-related entities is known as the Sun Village Resort & Spa – Juan Dolio (hereafter “Juan Dolio Hotel”). This property is described in marketing materials as “a luxury destination resort hotel located in the town of Juan Dolio, Municipality of Los Llanos, Province of San Pedro de Macoris” in the Dominican Republic. During all times pertinent to this Order, the Respondents and others retained by them were in the process of raising funds for the express purpose of updating the Juan Dolio Hotel property and converting it to a condominium hotel.

18. Beginning on a date uncertain, but at least since March 2006, Impact, on behalf of SVJD, has offered and sold, in at least 12 separate transactions, \$607,406 in investment interests in what is generally referred to as "Residence Juan Dolio."

19. In connection with the offer and sale of the Residence Juan Dolio investment interests in Idaho, investors were promised fixed rates of returns ranging from 10-12% annually, to be paid quarterly. Investors were informed that they could have their principle returned at the end of five years or they could re-invest their principle for another five-year term at a rate of return to be determined at that time.

20. To make an investment, investors executed a one-page contract between themselves, Sun Village Juan Dolio, Inc. and Promotora Xara, S.A., a Dominican Republic company also called the "Manager." Investors also received a receipt evidencing their investment which often stated "Vacationer will be provided with a copy of the super residence vacation interval ownership agreement, with allocation of vacation interval commencement date, vacation unit no. and vacation interval no. Vacationer may rescind agreement if these allocations by EMISV [EMI Sun Village, Inc.] are not entirely satisfactory."

21. Investors later received a "confirmation and acknowledgement" letter that identified room types, unit numbers, weeks and season. The letter also calculated the promised return and described the contracted return as a "non-use" fee. Generally, investors did not receive, nor did they execute any vacation interval ownership agreement other than the initial one-page purchase document.

22. Contrary to the representations made to Idaho investors by or through Impact, at least one Elliott official has represented that Idaho investors actually purchased a timeshare interest in the resort with a usage right in excess of five years. It was further represented to the

Department that non-use compensation after the first five years was not guaranteed and that such compensation offers would be made at the discretion of the developer.

23. Omissions of material facts by or through Impact occurred in connection with the offer and sale of the Residence Juan Dolio interests described above.

**Juan Dolio Hotel “Fractional” Investment Interests**

24. The Juan Dolio Hotel described in Paragraph 18 above, was also the subject of various other investment interests associated with the renovation and conversion of the Juan Dolio Hotel into a condominium hotel. These investment interests included Founders Interests, Founders (Phase I) Interests, Passport Founders Phase, Passport Phase I, and Passport Phase II.

25. Generally speaking, Idaho investors were induced to provide funding for the renovation and development of the Juan Dolio Hotel. Idaho investors were promised a 5% annual rate of return on their investment until such time as the Juan Dolio Hotel was available for use, at which time the investor had the right to purchase a deeded fractional interest in the class of hotel unit for which the investor had previously subscribed.

26. As a part of the investment solicitation, Idaho investors were told by or through Impact to expect profits from a) rental income from their unit that they would split with the property developer, b) the guaranteed appreciation that would accrue to purchasers during the conversion phase of the project, and c) investment appreciation due to U.S. demographic trends that would tend to increase the demand for resort real estate properties.

27. To make an investment, investors executed a one-to-four page contract between themselves and Sun Village Juan Dolio, Inc. Investors were not provided with any offering document or other written offering materials, although a private placement memorandum had

been produced for Founders Interests and Founders (Phase I) Interests. After investing, most investors only received confirmation letters.

28. Beginning on a date uncertain, but at least since October 2005, Impact, on behalf of SVJD and Sun Village Associates, has offered and sold, in at least 21 separate transactions, \$1,260,937 in investment interests in the property described in paragraph 18 and are characterized for the purposes of this Order as the “Fractional Interests”.

29. Omissions of material facts occurred in connection with the offer and sale of the Fractional Interests described above.

### **III. FINDINGS OF VIOLATIONS**

30. In this Order, various investment interests have been described and further identified as a) EMI–Residence, b) Residence Juan Dolio, and c) Founders Interests, Founders (Phase I) Interests, Passport Founders Phase, Passport Phase I, and Passport Phase II (collectively the “Fractional Interests”).

31. The identified investments interests offered and sold by and through Impact and the various Elliott-related entities are securities within the meaning of Idaho Code §30-14-102(28) of the Idaho Uniform Securities Act.

### **COUNT ONE**

#### **OFFER & SALE OF UNREGISTERED SECURITIES**

32. Paragraphs 1 through 31 set forth above are fully incorporated herein by this reference.

33. Beginning on a date uncertain, but at least during the time period from March 2005 through early 2007, the Respondents offered for sale, either directly or indirectly, or aided and

abetted in the offer or sale, to Idaho residents and others, various investment interests which constitute securities under the Idaho Uniform Securities Act.

34. The securities offered and sold by the Respondents were not registered with the Department as required by Idaho Code § 30-14-301.

35. The Respondents' failure to register such securities constitutes a violation of Idaho Code § 30-14-301.

### **COUNT TWO**

#### **OMISSIONS OF MATERIAL FACTS**

36. Paragraphs 1 through 35 set forth above are fully incorporated herein by this reference.

37. In connection with the offer and sale of the investment securities, the Respondents failed to provide adequate disclosures such that omissions of material facts occurred in violation of the Idaho Uniform Securities Act.

38. Respondents have violated Idaho Code §30-14-501(2).

#### **IV. CEASE AND DESIST ORDER**

**NOW, THEREFORE, PURSUANT TO IDAHO CODE §30-14-604(a)(1), IT IS HEREBY ORDERED THAT EMI SUN VILLAGE, INC., SUN VILLAGE JUAN DOLIO, INC., AND SUN VILLAGE JUAN DOLIO ASSOCIATES, LLC IMMEDIATELY CEASE AND DESIST FROM:**

A. While engaged in or in connection with the offer, or sale, of any security in the state of Idaho:

(1) offering or selling unregistered securities which are otherwise required to be registered pursuant to the Idaho Uniform Securities Act;

(2) making any untrue statement of material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;

(3) Engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

**V. ACKNOWLEDGMENT, AGREEMENT AND CONSENT BY RESPONDENTS**

1. The Respondents consent to the entry of this Order.
2. The Respondents represent that the information they have provided to Complainant in its investigation of this matter is accurate and complete.
3. The Respondents neither admit nor deny the allegations or findings of violations set forth in this Order.
4. Respondents agree to offer rescission to all Idaho investors that purchased the investment interests described in this Order, with said rescission offering being made in accordance with Idaho Code §30-14-510. Respondents agree to submit their proposed rescission offering documents, in the form of an application for registration of a real estate offering, and supplemental disclosure materials, to the Director within forty-five (45) days of the date of this Order. The Director shall approve the supplemental materials in advance of the offer of rescission to Idaho investors. Said rescission offer shall be made to Idaho investors not later than thirty (30) days from the date of the approval of the real estate registration by the Idaho Real Estate Commission, but in no event shall the rescission offer be made later than December 15, 2007.
5. In connection with the offer and completion of the rescission offering, Respondents agree to provide a report to Complainant that identifies those investors offered rescission and the results

of such rescission offers. Respondents agree to provide additional documentation evidencing rescission payments and other documents if so requested by the Complainant.

6. In connection with the rescission offer noted in Item 5, above, Respondents agree to conduct their rescission offer without the assistance of Impact or any of its officers, agents or representatives.

7. In conjunction with this Order, Respondents agree to fully cooperate with the Department in any further related investigation or enforcement action pursuant to the terms of the cooperation agreement executed with this Order.

8. Respondent agrees to pay the Complainant a civil penalty in the amount of forty thousand dollars (\$40,000). Said civil penalty is to be paid not later than thirty (30) days from the date of this Order.

9. Respondents agree to not offer or sell, or to retain any company or agent to offer or sell any security in, into or from Idaho unless the securities and the sales agents are properly qualified pursuant to the Idaho Uniform Securities Act.

10. Respondents agree to abide by the Idaho Uniform Securities Act. In the event that the Respondents commit future violations of the Idaho Uniform Securities Act or fail to adhere to the terms of this Order, Respondents acknowledge that Complainant can incorporate the allegations giving rise to this Order in any future proceeding. Further, the Respondents acknowledge that failure to adhere to any term of Sections IV, V and VI of this Consent Order will be a breach of the entire Consent Order and will render the Consent Order and the Agreements contained in it void ab initio, and will entitle the Department to proceed with any civil or administrative proceeding available to the Department as if this Consent Order never existed.

11. The Complainant acknowledges that the Respondents intend to submit their Idaho real estate application with the Director as soon as it is filed with the Idaho Real Estate Commission.

12. This Consent Order To Cease And Desist is in lieu of civil litigation or other proceedings.

**SUN VILLAGE JUAN DOLIO, INC.**

BY [Signature]

Date July 12, 2007

NAME Derek Burnett

TITLE PRESIDENT

**EMI SUN VILLAGE, INC.**

BY [Signature]

Date July 12, 2007

NAME Derek Burnett

TITLE PRESIDENT

**SUN VILLAGE JUAN DOLIO ASSOCIATES, LLC**

BY [Signature]

Date July 12, 2007

NAME Derek Burnett

TITLE AUTHORIZED SIGNING OFFICER

The foregoing Cease and Desist Order is necessary and appropriate, in the public interest, and for the protection of the public.

**IT IS SO ORDERED.**

DATED this 16<sup>th</sup> day of July, 2007.

[Signature]

GAVIN M. GEE, Director  
Idaho Department of Finance

