

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

In the Matter of:

STATE OF IDAHO,
DEPARTMENT OF FINANCE,
SECURITIES BUREAU,

Complainant,

vs.

CACHE PRIVATE CAPITAL
DIVERSIFIED FUND, LLC

Respondent.

Docket No.: 2015-7-03

AGREEMENT AND ORDER

The Director of the Department of Finance, State of Idaho ("Department"), has conducted an investigation into the conduct of CACHE PRIVATE CAPITAL DIVERSIFIED FUND, LLC ("Respondent"). Pursuant to the investigation, it appears to the Director that violations of Idaho's Uniform Securities Act (2004), Idaho Code Sections 30-14-101, *et. seq.* (the "IUSA"), have occurred. The Director and Respondent have agreed to resolve this matter without a public hearing or other adjudication. Therefore, the Director deems it appropriate and in the public interest to enter into this Agreement and Order ("Order"). Respondent voluntarily consents to the entry of this Order.

PARTIES

1. Respondent Cache Private Capital Diversified Fund, LLC ("CPC") is a Nevada limited liability company organized in June 2009 to primarily engage in providing real property-based investments, including loans.

2. Other related parties, though not Respondents:
 - a. Dale A. Munson (“Munson”) is the Founder and Chief Executive Officer of CPC and Cache Private Capital Management, LLC (“Cache Management”), the Manager of CPC.
 - b. Travis L. Higgins (“Higgins”) was the Chief Executive Officer and Manager of UCI Wealth Advisors, LLC (“UCI”) a limited liability company with its principal place of business located at 1880 S. Cobalt Point Way, Suite 350, Meridian, ID. UCI was formed August 16, 2010 and was a registered investment adviser with the Department from September 27, 2010 to September 30, 2016.

BACKGROUND

3. In early 2011, Higgins met Munson, the Founder and Chief Executive Officer of CPC and Cache Management. After his discussions with Munson, Higgins began recommending investments in CPC to UCI’s advisory clients.

4. According to CPC’s private placement memorandum (“PPM”), investments in CPC are highly speculative and involve a high degree of risk. These investments were to be offered only to “accredited investors” as that term is defined in Regulation D, Rule 501. Disclosed risks associated with an investment in CPC’s fund include, among other things, the possible loss by the investor of their entire investment and are only suitable for investors who have no need for liquidity in the investment.

5. Higgins became more than just a seller of CPC investments. From May 2013 until September 22, 2015, Higgins worked for CPC as its Chief Business Development Officer earning a salary of approximately \$4,000/month over at least a 15 month period. Higgins was also a principal in three affiliates of CPC with profit-sharing arrangements. Between August

2013 and December 2014, Higgins and his affiliated company received \$26,858.74 in profit sharing from Cache Management and affiliates of CPC.

6. Beginning February 7, 2011 and continuing until April 29, 2013, Higgins, his brother, and his father ("Higgins family"), borrowed \$395,000 at 18% through two loans from CPC. Approximately \$219,902 of the CPC loans were used by Higgins to repay promissory notes and reacquire member interests in Unex Capital Inc., a company principally owned by Higgins.

7. Beginning in April 2011 and continuing through January 2012, CPC directly paid UCI \$4,700 to reimburse Higgins for alleged expenses incurred while traveling and selling CPC's membership interests. During this time period, Higgins sold approximately \$795,000 of CPC securities to Idaho investors. Because Higgins received remuneration from CPC that was apparently connected with his participation in CPC securities sales activities, Higgins did not qualify for the exemption set forth in Section 30-14-402(b)(5) of the IUSA. Higgins was not registered as an agent of CPC and did not qualify for an exemption from agent registration pursuant to the IUSA.

8. In the fourth quarter of 2011, as Higgins continued to sell CPC's securities to Idaho investors, Higgins received \$19,000 in informal "loans" from two CPC officers including Munson. The funds from the CPC officers were used in Higgins' businesses and for personal use. Higgins repaid one CPC officer on or about August 22, 2014. Munson accepted an \$8,000 payment in April of 2012 which was viewed by the parties as repayment in full of the undocumented loan. In accepting an \$8,000 repayment to satisfy Higgins' loan Munson essentially forgave/gifted Higgins \$5,000.

9. While CPC's PPM contained general conflict of interest disclosures, neither CPC nor UCI/Higgins explicitly told prospective CPC investors about the payments to UCI, the loan

arrangements, the informal loans and gift/forgiveness from CPC officers, and the conflict of interests this created while Higgins continued to recommend CPC's securities.

VIOLATIONS

Unlawful "Agent" Association

10. Pursuant to Idaho Code §30-14-402(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 as an agent or is exempt from registration.

11. CPC's private placement memorandum states, "Diversified may choose to utilize securities broker/dealers, registered financial advisors, or registered agents of the issuer (collectively "Placement Agents") to facilitate distribution of the Interests." Subject to Cache Management's discretion, a commission of up to 2.5% of a member's initial capital contribution could be paid to a placement agent.

12. Beginning in April 2011 and continuing through January 2012, CPC paid UCI at least \$4,700 for expenses Higgins allegedly incurred while traveling and selling the CPC product.

13. CPC's payments constitute a violation of Idaho Code §30-14-402(d) because Higgins was neither registered as an agent nor was exempt from agent registration.

Undisclosed Conflicts and Omissions

14. Idaho Code § 30-14-501(2) provides that it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly 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.

15. Beginning in February of 2011, Respondent made material omissions regarding its relationship with Higgins, including but not limited to, failing to disclose the \$4,700 in

payments to UCI, the \$19,000 in informal loans and \$5,000 gift/forgiveness from CPC officers, as well as \$395,000 in loans obtained by Higgins and other family members from CPC. Respondent failed to disclose its relational conflicts with Higgins. Thus, Respondent violated Idaho Code §30-14-502(2).

AGREEMENT, ACKNOWLEDGEMENT & REMEDIES

16. Respondent neither admits nor denies the Department's violations of Idaho law contained in this Order.

17. Respondent consents to the entry of this Order.

18. Respondent attests and avows that all information provided to the Department directly or through their legal representatives is true, accurate, and complete.

19. Respondent agrees that it will not assert any statute of limitations against any investor's private right of action for one year after the supplemental disclosure referenced in item 20 below is made.

20. Respondent agrees to provide all Idaho investors, who have invested since January 24, 2011, a written supplemental disclosure document reasonably approved by the Department. The supplemental disclosure will describe the Department's regulatory concerns relating to Respondent. The supplemental disclosure shall specifically disclose that the Department's Order does not limit any investor's private right of action. The supplemental disclosure shall also disclose to investors that Respondent has agreed to not assert any statute of limitations against any investor's private right of action for one year after the supplemental disclosure is made. The supplemental disclosure shall be provided to Idaho investors no later than sixty (60) days from this Order's execution date.

21. Respondent agrees that any complaint received by the Department which contains an allegation involving facts or information not previously disclosed to the Department by

Respondent may be investigated by the Department and further action, including but not limited to, legal or administrative proceedings may be taken.

22. Respondent agrees to provide the Department with semi-annual reports detailing all redemption requests submitted by Idaho investors until December 31, 2019. These reports will include the initial date of the redemption request, the amount of redemption requested, the schedule of redemption communicated to the investor (if the redemption is not fully paid within 30 days of the initial request), and the amount of redemption paid to date. These reports shall be submitted to the Department within thirty (30) days (after 6/30 and 12/31) of the applicable years. Respondent agrees to not discriminate against any Idaho investor who submits a redemption request.

23. Respondent agrees to provide the Department with a copy of its annual audited financial statements, if available, and if not available, accurate internal financial statements until December 31, 2019. The annual financial statements shall be provided to the Department within sixty (60) days of being generated.

24. Respondent agrees that it shall not offer, sell, or issue securities in or into Idaho to new investors for three (3) years from the execution date of this Order. Respondent agrees that it shall only accept additional investment from existing Idaho investors on an unsolicited basis provided that the new investment cannot result in the investor's aggregate investment total with the Respondent to exceed ten (10%) of the investor's liquid net worth. For purposes of this Order, liquid net worth is defined as that portion of net worth consisting of cash, cash equivalents and readily marketable securities.

25. Respondent agrees to pay the amount of \$25,000 in fines and penalties for the Department's violations set forth in this Order. The full amount shall be made payable to the order of "Idaho Department of Finance" in five monthly payments of \$5,000 beginning on or before January 31, 2017.


26. Respondent agrees to comply with all provisions of the IUSA and the rules promulgated thereunder in the future.

27. Respondent agrees that failure to comply with this Order may result in the Director bringing further legal proceedings or administrative action.

28. Respondent waives notice and opportunity for a hearing under Idaho Code § 30-14-604(b) and (c), and under the contested case provisions of the Idaho Administrative Procedures Act, I.C. §67-5240 *et. seq.* The terms contained in this Order constitute the entire agreement between the Department and Respondent.


29. This Order is not intended to subject the Respondent to disqualification under federal securities laws, rules or regulations thereunder, or the rules and regulations of any self-regulatory agency, nor the laws, rules or regulations of the various states and U.S. Territories, including without limitation, any disqualification from relying upon the registration exemption or the safe harbor provisions. In addition, this Order is not intended to be the basis for any such disqualifications.

CACHE PRIVATE CAPITAL DIVERSIFIED FUND,
LLC

By: 
Cache Private Capital Management, LLC
A Nevada limited liability company
By Dale A. Munson, its Manager

State of Utah
County of Salt Lake

SUBSCRIBED AND SWORN to before me this 17th day of January, 2017


NOTARY PUBLIC
My Commissions Exp:



AGREEMENT AND ORDER

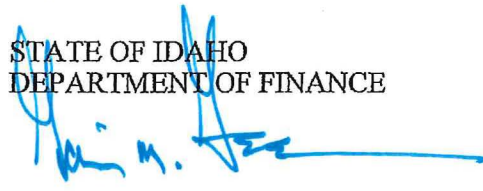


JAMES A. BURNS
Bureau Chief, Securities Bureau
Department of Finance
State of Idaho

IT IS SO ORDERED

DATED this 18th Day of January, 2017.

STATE OF IDAHO
DEPARTMENT OF FINANCE



GAVIN M. GEE, Director
Idaho Department of Finance