

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
THE FIRST NATIONAL CENTER, SUITE 860
120 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

ABM Beverage Machine, Inc. and
John Paul Colceri,

Respondents.

ODS File No. 03-036

NOTICE OF SERVICE ON THE ADMINISTRATOR
AND
AFFIDAVIT OF COMPLIANCE

STATE OF OKLAHOMA)
) SS.
COUNTY OF OKLAHOMA)

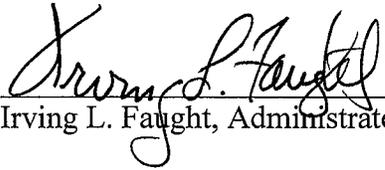
The undersigned Affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. That he is the Administrator of the Oklahoma Department of Securities ("Department").
2. That a copy of the Notice of Opportunity for Hearing ("Notice") with Enforcement Division Recommendation ("Recommendation") attached was delivered to Affiant in the office of the Administrator pursuant to Section 818.F of the Oklahoma Business Opportunity Sales Act ("Act"), Okla. Stat. tit. 71, §§ 801-829 (2001).
3. That the Administrator has received service of process on behalf of ABM Beverage Machine, Inc. and John Paul Colceri, pursuant to Section 818.F of the Act.
4. That a copy of the Notice, with the Recommendation attached, and a copy of this Affidavit of Compliance are being sent this 3rd day of March, 2005, by certified mail, return receipt requested, delivery restricted to addressee, to the last known addresses of ABM Beverage Machine, Inc. and John Paul Colceri, in compliance with Section 818.F of the Act.
5. That this Affidavit of Compliance is declared filed of record as of the date set forth below in compliance with Section 818 of the Act.

FURTHER AFFIANT SAYETH NOT.

Dated this 3rd day of March, 2005.

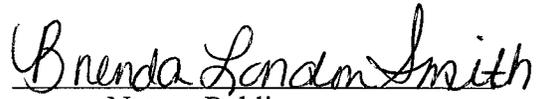
(SEAL)



Irving L. Faught, Administrator

Subscribed and sworn to before me this 3rd day of March, 2005.

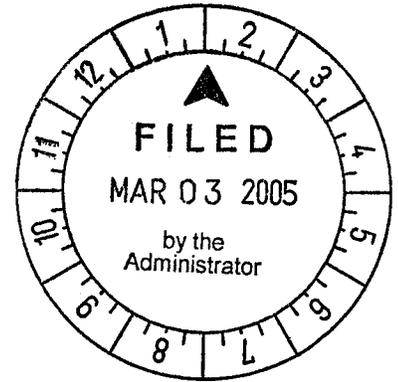
(NOTARY SEAL)



Notary Public

My Commission Expires: August 26, 2005
My Commission Number: 01013792

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NOTICE OF OPPORTUNITY FOR HEARING

1. Pursuant to his authority under Section 813 of the Oklahoma Business Opportunity Sales Act ("Act"), Okla. Stat. tit. 71, §§ 801-829 (2001), the Administrator of the Oklahoma Department of Securities ("Department") authorized an investigation into the activities of ABM Beverage Machine, Inc. and John Paul Colceri (collectively, "Respondents"), in connection with the offer and/or sale of business opportunities in and/or from the state of Oklahoma.

2. On the 2nd day of March, 2005, the attached Enforcement Division Recommendation ("Recommendation") was left in the office of the Administrator.

3. Pursuant to Section 814.B of the Act, the Administrator hereby gives notice to Respondents of their right to request a hearing to show why an order based on the Recommendation should not be issued.

4. The request for a hearing on the Recommendation must be received by the Administrator within fifteen (15) days after service of this Notice. Pursuant to Section 814.B of the Act, failure to request a hearing as provided for herein shall result in the issuance of an order to cease and desist from the offer and sale of business opportunities.

5. The request for hearing shall be in writing and Respondents shall specifically admit or deny each allegation in said request as required by 660:2-9-1(c) of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities ("Rules").

6. Upon receipt of a written request, pursuant to 660:2-9-2 of the Rules, a hearing shall be set within sixty (60) days or a written order denying hearing shall be issued.

7. Notice of the date, time and location of the hearing shall be given to Respondents not less than ten (10) days in advance thereof pursuant to 660:2-9-3(a) of the Rules. Additionally, the notice may contain matters to supplement this Notice and the Recommendation attached hereto.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 3rd day of March, 2005.

(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 3rd day of March, 2005, a true and correct copy of the above and foregoing Notice of Opportunity for Hearing and attached Enforcement Division Recommendation was mailed by certified mail, return receipt requested, delivery restricted, with postage prepaid thereon addressed to:

ABM Beverage Machine, Inc.
c/o John Colceri
4809 Val Verde Drive
Oklahoma City, OK 73142

ABM Beverage Machine, Inc.
P.O. Box 12934
Oklahoma City, OK 73157-2934

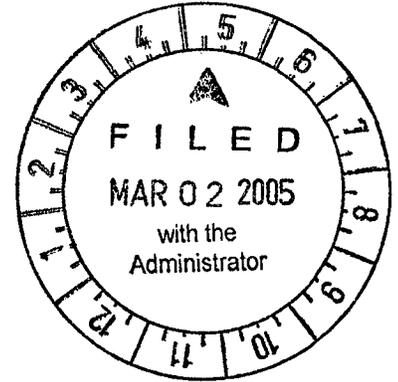
John Paul Colceri
4809 Val Verde Drive
Oklahoma City, OK 73142

John Paul Colceri
P.O. Box 12934
Oklahoma City, OK 73157-2934

John Paul Colceri
23060 Lauren Lane
Edmond, OK 73003-2351


Brenda London
Paralegal

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ODS File No. 03-036

ENFORCEMENT DIVISION RECOMMENDATION

Pursuant to the Oklahoma Business Opportunity Sales Act ("Act"), Okla. Stat. tit. 71, §§ 801-829 (2001), an investigation was conducted into the activities of ABM Beverage Machine, Inc. and John Paul Colceri in connection with the offer and/or sale of business opportunities in and/or from the state of Oklahoma. Based thereon, the following Findings of Fact, Authorities and Conclusions of Law are submitted to the Administrator, or his designee, in support of the issuance of an order to cease and desist against ABM Beverage Machine, Inc. and John Paul Colceri.

Findings of Fact

1. ABM Beverage Machine, Inc. ("ABM") is an Oklahoma corporation that was, at all times relevant hereto, doing business in the state of Oklahoma. ABM Beverage Machine, Inc. is in the business of selling products and services to enable its members to distribute adult beverage vending machines.
2. At all times relevant hereto, John Paul Colceri ("Colceri"), a resident of Oklahoma, was the president of ABM Beverage Machine, Inc.
3. In February, 2002, ABM and Colceri (collectively, "Respondents") ran advertisements in a national publication and through the Internet offering adult beverage vending machine distributorships ("Distributorships") to the public. Persons solicited by Respondents ("Purchasers") contacted Colceri in Oklahoma from April, 2002 through at least July, 2002.
4. Respondents represented ABM would assist the Purchasers in securing three locations for the vending machines within forty-five (45) days. If Purchasers were not satisfied with the locations, Respondents agreed to reimburse all money paid to Respondents. Respondents also represented that each vending machine would provide Purchasers with an instant cash flow of Three Hundred to Five Hundred Dollars (\$300-\$500) per month. Respondents agreed to provide software to Purchasers necessary to operate the vending machines and to install the vending machines and the software. Respondents also agreed to acquaint Purchasers with all material aspects of the vending machines and the capabilities of the software.

Respondents promised to arrange for and pay the cost of all labor and replacement parts necessary to maintain the vending machines.

5. Colceri did not reveal to Purchasers that he had been convicted in December, 1993, of felony theft in the state of Arizona, by knowingly obtaining money by means of material misrepresentation, and that he was ordered to pay restitution to victims.

6. In April, 2002, one Purchaser permitted Colceri to charge his credit card for a Distributorship in the sum of \$7,877.50. In June, 2002, Colceri charged the Purchaser's credit card two additional sums of \$5,000.00 and \$1,500.00 without authorization.

7. The Distributorships are not registered under the Act.

Authorities

1. Section 802 of the Act provides in pertinent part:

* * *

3.a. "*Business opportunity*" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, wherein it is agreed that the seller or a person recommended by the seller shall provide to the purchaser any products, equipment, supplies or services enabling the purchaser to start a business and the seller represents directly or indirectly, orally or in writing, that:

(1) The seller or a person recommended by the seller will provide or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases or other similar devices, on premises neither owned nor leased by the purchaser or seller;

* * *

(5) The seller will refund all or part of the price paid to the seller, or repurchase any of the products, equipment or supplies provided by the seller or a person recommended by the seller, if the purchaser is dissatisfied with the business; or

(6) The seller will provide a marketing plan.

* * *

6. "*Marketing plan*" means advice or training, provided to the purchaser by the seller or a person recommended by the seller, pertaining to the sale of any products, equipment, supplies or services and the advice or training includes, but is not limited to, preparing or providing:

- a. Promotional literature, brochures, pamphlets or advertising materials;
- b. Training regarding the promotion, operation or management of the business opportunity; or
- c. Operational, managerial, technical or financial guidelines or assistance.

7. "Offer" or "offer to sell" includes every attempt to dispose of a business opportunity for value or solicitation of an offer to purchase a business opportunity.

* * *

11. "Sale" or "sell" includes every contract or agreement of sale, contract to sell, disposition of a business opportunity or interest in a business opportunity for value.

2. Section 806 of the Act provides:

It is unlawful for any person to offer or sell any business opportunity, as defined in Section 802 of this title, in this state unless the business opportunity is registered under the provisions of the Oklahoma Business Opportunity Sales Act or is exempt under Section 803 of this title.

3. Section 814 of the Act provides in pertinent part:

A. Whenever it appears to the Administrator that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of the Oklahoma Business Opportunity Sales Act or any rule or order hereunder, the Administrator may:

1. Issue an order directing each person to cease and desist from continuing the act or practice and/or issue an order imposing a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or transaction or of Fifty Thousand Dollars (\$50,000.00) for multiple violations or transactions in a single proceeding or a series of related proceedings[.]

4. Section 819 of the Act provides:

It is unlawful for any person, in connection with the offer or sale of any business opportunity in this state, directly or indirectly:

* * *

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

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

Conclusions of Law

1. The Distributorships are business opportunities.
2. Respondents offered and sold business opportunities in and/or from the state of Oklahoma.
3. The offer and sale by Respondents of the Distributorships without registration of the Distributorships under the Act is a violation of Section 806 of the Act.
4. Respondents made untrue statements of material fact and/or omitted material facts, in connection with the offer and sale of business opportunities, in violation of Section 819 of the Act.
5. Respondents engaged in acts and practices that operated as a fraud or deceit, in connection with the offer and sale of business opportunities, in violation of Section 819 of the Act.
6. The Administrator has the authority under Section 814 of the Act to order Respondents to cease and desist from engaging in violations of the Act.

WHEREFORE, it is recommended that the Administrator issue an order against Respondents to cease and desist from the offer and sale of business opportunities in violation of Sections 806 and 819 of the Act.

Dated this 2nd day of March, 2005.

Respectfully Submitted,



Patricia A. Labarthe
Enforcement Attorney
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102
(405) 280-7700