

1 STATE OF CALIFORNIA
2 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
3 DEPARTMENT OF CORPORATIONS

4 **TO: Active Capital Partners, Fund I, L.P. dba Active Capital Partners**
5 **Active Holdings, L.L.C.**
6 **Carvel Azusa L.P.**
7 **Foothill Capital**
8 **Zachary A. Miller aka Zach Miller**
9 150 East Meda Street, Suite 270
10 Glendora, CA 91741

11 **DESIST AND REFRAIN ORDER**
12 **(For violations of sections 25110 and 25401 of the Corporations Code)**

13 The California Corporations Commissioner finds that:

- 14 1. At all relevant times, Active Capital Partners, Fund I, L.P. dba Active Capital Partners, Active
15 Holdings, L.L.C., Carvel Azusa L.P. and Foothill Capital (herein, collectively “Active Capital”) are
16 or were California limited liability partnerships or companies with a principal place of business
17 located at 150 East Meda Street, Suite 270, Glendora, CA 91741 and doing business in California.
18 Active Capital was or is purportedly in the business of pooling capital for the purpose of investing in
19 entrepreneurial business opportunities or multimedia marketing.
- 20 2. At all relevant times, Zachary A. Miller aka Zach Miller (herein “Miller”) is an individual
21 who was or is located at 150 East Meda Street, Suite 270, Glendora, CA 91741 and doing business in
22 California. Miller, at all relevant times, was or is a manager and founder of Active Capital and
23 represented to others that he was the “president” or “owner” of Active Capital.
- 24 3. Beginning in or about 2005, Miller and Active Capital maintained a web site located at
25 www.activecapital.biz (herein “Website”) through which Miller and Active Capital offered
26 entrepreneurial business investment opportunities.
- 27 4. Beginning in or about 2006, Miller and Active Capital offered and sold securities in the form
28 of promissory notes, debentures or evidences of indebtedness, with Active Capital as the borrower for
a period of twelve (12) months yielding at least a twenty percent (20%) return profit on monies
invested. California investors invested at least \$200,000.00 in Active Capital.

1 5. The purported purpose of the offerings was to fund the start up and ongoing ventures of
2 various entrepreneurial businesses or projects through Miller and Active Capital.

3 6. Beginning in or about 2006, Miller and Active Capital offered and sold the above described
4 securities in the State of California to investors by way of the Website and other such means.

5 7. These securities were offered and sold in California in issuer transactions. The Department of
6 Corporations has not issued a permit or other form of qualification authorizing any person to offer
7 and sell these securities in California.

8 8. Beginning in or about 2006, Miller and Active Capital represented to investors that that
9 Active Capital was a profitable “stable” business, investors would receive a profitable return on the
10 securities and all monies invested would be easily returned to investors at anytime they requested in
11 an effort to entice persons to invest.

12 9. Beginning in or about 2007, Miller and Active Capital failed to disclose to potential investors
13 that Active Capital experienced financial hardships, which ultimately lead to Active Capital’s
14 purported insolvency.

15 Based on the foregoing findings, the California Corporations Commissioner finds that the
16 promissory notes, debentures or evidences of indebtedness sold by Active Capital Partners, Fund I,
17 L.P. dba Active Capital Partners, Active Holdings, L.L.C., Carvel Azusa L.P. and Foothill Capital
18 and Zachary A. Miller aka Zach Miller, are securities subject to qualification under the California
19 Corporations Code. These securities are or were offered and sold without being qualified or exempt,
20 in violation of Section 25110 of the California Corporations Code.

21 Further, the California Corporations Commissioner is of the opinion that the securities
22 representing promissory notes, debentures or evidences of indebtedness were offered or sold in this
23 State by means of a written or oral communication which included an untrue statement of material
24 fact or omitted to state a material fact necessary to make the statement made, in the light of the
25 circumstances under which they were made, not misleading, in violation of section 25401 of the
26 Corporate Securities Law of 1968.

27 Pursuant to section 25532 of the Corporate Securities Law of 1968, Active Capital Partners,
28 Fund I, L.P. dba Active Capital Partners, Active Holdings, L.L.C., Carvel Azusa L.P. and Foothill

1 Capital and Zachary A. Miller aka Zach Miller are hereby ordered to desist and refrain from offering
2 or selling or buying or offering to buy any security in the State of California, including but not
3 limited to promissory notes, debentures or evidences of indebtedness, by means of any written or oral
4 communications which include untrue statements of material facts or omits to state a material facts
5 necessary in order to make the statements made, in the light of circumstances under which they were
6 made, not misleading.

7 Pursuant to Section 25532 of the California Corporations Code, Active Capital Partners, Fund
8 I, L.P. dba Active Capital Partners, Active Holdings, L.L.C., Carvel Azusa L.P. and Foothill Capital
9 and Zachary A. Miller aka Zach Miller are hereby ordered to desist and refrain from the further offer
10 or sale in the State of California of securities, including, but not limited to the promissory notes,
11 debentures or evidences of indebtedness in Active Capital Partners, Fund I, L.P. dba Active Capital
12 Partners, Active Holdings, L.L.C., Carvel Azusa L.P. and Foothill Capital unless and until
13 qualification has been made under said law or unless exempt.

14 This Order is necessary, in the public interest, for the protection of investors and consistent
15 with the purposes, policies, and provisions of the California Corporations Code.

16 Dated: April 17, 2008
17 Sacramento, California

18 PRESTON DUFAUCHARD
19 California Corporations Commissioner

20 By _____
21 ALAN S. WEINGER
22 Lead Corporations Counsel
23 Enforcement Division
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