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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: MICHAEL DENMAN MCAFEE
CRD # 2111933
10805 Dapple Way
Bakersfield, CA 93312

DESIST AND REFRAIN ORDER
(For violations of section 25110, 25210 and 25401 of the Corporations Code)

The California Corporations Commissioner finds that:

1. At all relevant times, TLC Investment & Trade Co., TLC America, Inc., dba Brea Development Company, TLC Brokerage, Inc., dba TLC Marketing, TLC Development, Inc., and/or TLC Real Properties RLLP-1, (hereinafter collectively referred to as “TLC”), issued investment instruments in the form of promissory notes, real estate investment agreements and/or investment contracts. TLC offered and sold these investments through two distinct programs – Tax Liens Certificates and Opportunity Properties (“TLC Investments”).
2. TLC represented that the TLC investments had a one-year term, carried an interest rate of between 8 and 15 percent, and that the principal would be repaid at the maturity date. At the end of each one-year period, the investor was offered the chance to “rollover” the TLC investment for another one-year period.
3. These TLC investments were offered and sold to California’s investing public by a network of sales agents recruited by TLC. TLC raised more than \$156 million nationwide from more than 1,800 investors.
4. These TLC investments were offered and/or sold in this state in issuer transactions. The Department of Corporations has not issued a permit or other form of qualification authorizing any person to offer and sell these securities in this state.

1 5. Beginning at an exact date that is unknown to plaintiff, **MICHAEL DENMAN**
2 **MCAFEE (“MICHAEL MCAFEE”)** individually became an agent of TLC, in which capacity
3 he offered and sold securities issued by TLC to California investors.

4 6. **MICHAEL MCAFEE** received sales commissions from TLC ranging from
5 approximately 4½ percent to 6 percent on each dollar invested. Further, each time
6 investors reinvested their initial investments - and some investors “rolled over” their
7 investment more than once - **MICHAEL MCAFEE** received yet another commission. Each
8 offer by **MICHAEL MCAFEE** and/or TLC to “rollover” the investment is a separate offer and
9 each completed “rollover” a separate sale of securities under the California Corporate
10 Securities Law of 1968, Corporations Code 25000 *et. seq.*

11 7. Although **MICHAEL MCAFEE** held some form of securities license or licenses with
12 the National Association of Securities Dealers (“NASD”), he did not have the approval of any
13 broker-dealer to sell TLC investments, and thus was not licensed by the State of California,
14 or any other similar licensing entity, to sell the securities at issue.

15 8. The purported purpose of the offering of the securities in the Tax Liens Certificates
16 program was to raise funds to purchase tax liens at auction in jurisdictions that offered a
17 favorable redemption period and redemption penalty, and either have them redeemed for a
18 profit, or obtain the property and sell it for a profit. The purported purpose of the offering of
19 the securities in the Opportunity Properties program was to buy distressed real estate at a
20 low ratio of purchase price to market value, fix it up if necessary, and then sell it for a profit.

21 9. In connection with these offers and sales, **MICHAEL MCAFEE** made, or caused to
22 be made, misrepresentations and/or omitted material facts in connection with the offers or
23 sales of the TLC investments such that the sale of these securities were offered and sold by
24 means of untrue statements of material fact and omissions of material facts. **MICHAEL**
25 **MCAFEE** performed little independent due diligence to confirm the veracity of these
26 representations and/or omissions, including the contents of any TLC sales brochures, or the
27 oral or written communications of TLC.

28 10. Specifically, TLC and/or **MICHAEL MCAFEE** represented that or omitted to disclose

1 to prospective investors that:

2 a. the Tax Lien Certificates were a “safe, liquid, tax-deferred investment”, in part
3 because the investor held title to the property as tenants in common, and that the investor’s
4 principle was secured by real estate, while the interest was guaranteed by a promissory
5 note. In fact, few, if any, investors were actually placed on the deeds to the properties
6 purchased by TLC and therefore were not secured.

7 b. these Tax Lien Certificates would pay the investors a fixed interest rate of
8 between 8% and 15%. In fact, TLC never generated a profit, and between 1998 and 2000
9 when **MICHAEL MCAFEE** was making these representations to investors and potential
10 investors, TLC had lost at least \$15 million. And, in order to make interest payments at
11 these promised rates to investors, TLC used money from new investors, creating a classic
12 Ponzi scheme;

13 c. the Opportunity Properties investments were a “Safe, Liquid, Fixed Rate
14 Investment,” in part by representing that the investor would be secured by a deed on the
15 real property as tenants in common with TLC. In fact, few if any investors were actually
16 placed on the deeds to the properties purchased by TLC and they were therefore not
17 secured;

18 d. the Opportunity Properties investments would provide “Guaranteed high
19 returns.” In fact, TLC never generated a profit and between 1998 and 2000 had lost at least
20 \$15 million. And, in order to make interest payments at these promised rates to investors,
21 TLC used money from new investors, creating a classic Ponzi scheme;

22 e. he received a commission of up to 6 percent on every investment, as well as
23 on every rollover of the investment. He also failed to inform investors that there were
24 people above him who also received commissions on the sale of these investments,
25 including Ernest F. “Frank” Cossey (“Cossey”), president of TLC and that the total
26 commissions paid by TLC exceeded \$20 million or approximately 13 percent of every dollar
27 invested.

28 11. These facts would have been material to any investor’s decision to invest in TLC, but

1 **MICHAEL MCAFEE** did not disclose these facts to the investors.

2 12. On October 5, 2000, the United States Securities and Exchange Commission (“SEC”)
3 obtained a restraining order against TLC and Cossey, among others. The SEC alleged that
4 TLC was operating an illegal Ponzi scheme. The United States District Court, Central
5 District of California, also put TLC into receivership, appointing Robb Evans as receiver.
6 Since that time, Cossey, along with Gary Williams, Chief Financial Officer of TLC, have pled
7 guilty in federal criminal actions instituted against them and received prison sentences,
8 based on their activities at TLC.

9 13. The SEC alleged that TLC engaged in several kinds of securities fraud relating to its
10 purported real estate business. The SEC’s complaint alleged that TLC falsely represented
11 that it was engaged in the real estate business when it, in fact, was using investor funds to
12 (a) pay other investors; (b) invest over \$10 million in a fraudulent “prime bank” scheme; (c)
13 buy racehorses; (d) make charitable contributions in the amount of \$1.55 million to the high
14 school football team that Cossey’s son played for, including \$1 million for repairs to the
15 stadium; and (e) be wired overseas.

16 14. **MICHAEL MCAFEE** did not disclose any of these facts alleged by the SEC in their
17 complaint to prospective investors. These facts would have been material to any investor’s
18 decision to invest in TLC.

19 15. While so unlawfully engaged, **MICHAEL MCAFEE** sold more than \$1,750,000 in
20 unlawful securities to at least 17 victims in California, for which he received sales
21 commissions from TLC.

22 Based upon the foregoing findings, the California Corporations Commissioner is of
23 the opinion that the, promissory notes, real estate investment agreements and/or investment
24 contracts, offered in either the Tax Lien Certificate program or the Opportunity Properties
25 program of TLC are securities subject to qualification under the California Corporate
26 Securities Law of 1968 and are being or have been offered or sold without being qualified in
27 violation of Corporations Code section 25110. Pursuant to section 25532 of the Corporate
28 Securities Law of 1968, **MICHAEL MCAFEE** is hereby ordered to desist and refrain from the

1 further offer or sale in the State of California of securities in the form of promissory notes,
2 real estate investment agreements and/or investment contracts, unless and until
3 qualification has been made under the law. This Order is necessary, in the public interest,
4 for the protection of investors and consistent with the purposes, policies, and provisions of
5 the Corporate Securities Law of 1968.

6 In addition, based upon the foregoing, the California Corporations Commissioner is of
7 the opinion that **MICHAEL MCAFEE** has effected transactions in securities as a broker-
8 dealer without having first applied for and secured from the Commissioner a certificate,
9 authorizing him to act in that capacity, in violation of section 25210 of the Corporate
10 Securities Law of 1968. Pursuant to section 25532 of the Corporate Securities Law of 1968,
11 **MICHAEL MCAFEE** is hereby ordered to desist and refrain from effecting any transaction
12 in, or inducing or attempting to induce the purchase or sale of, any security in this state,
13 unless and until he have applied for and secured from the Commissioner a certificate, then
14 in effect, authorizing him to act in that capacity. This Order is necessary, in the public
15 interest, for the protection of investors and consistent with the purposes, policies, and
16 provisions of the Corporate Securities Law of 1968.

17 Further, the California Corporations Commissioner is of the opinion that the securities
18 of TLC were offered or sold in this state by means of written or oral communications which
19 included an untrue statement of a material fact or omitted to state a material fact necessary
20 in order to make the statements made, in the light of the circumstances under which they
21 were made, not misleading, in violation of section 25401 of the Corporate Securities Law of
22 1968. Pursuant to section 25532 of the Corporate Securities Law of 1968, **MICHAEL**
23 **MCAFEE** is hereby ordered to desist and refrain from offering or selling or buying or offering
24 to buy any security in the State of California, including but not limited to promissory notes,
25 real estate investment agreements and/or investment contracts, by means of any written or
26 oral communication which includes an untrue statement of a material fact or omits to state a
27 material fact necessary in order to make the statements made, in the light of the
28 circumstances under which they were made, not misleading. This Order is necessary, in

1 the public interest, for the protection of investors and consistent with the purposes, policies,
2 and provisions of the Corporate Securities Law of 1968.

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Dated: September 18, 2003
Sacramento, California

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

By _____
VIRGINIA JO DUNLAP
Deputy Commissioner
Enforcement and Legal Services