

TRAVIS J. ILES
SECURITIES COMMISSIONER



CLINTON EDGAR
DEPUTY SECURITIES COMMISSIONER

Mail: P.O. BOX 13167
AUSTIN, TEXAS 78711-3167

Phone: (512) 305-8300
Facsimile: (512) 305-8310

Texas State Securities Board

208 E. 10th Street, 5th Floor
Austin, Texas 78701-2407
www.ssb.texas.gov

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IN THE MATTER OF §
WHISKEY SKY, LLC, AND ADRIAN LAMONT § **Order No. ENF-22-CDO-1868**
GUNN §

WHISKEY SKY, LLC

Service by certified mail, return receipt requested, addressed to (1) 5720 91st Street, Lubbock, Texas 79424; (2) 1720 Buddy Holly Avenue, Lubbock, Texas 79401; and (3) its Registered Agent, Heike Tarpley, at 5720 91st Street, Lubbock, Texas 79424.

ADRIAN GUNN

Service by certified mail, return receipt requested, addressed to (1) 5720 91st Street, Lubbock, Texas 79424; and (2) 5433 40th Street, Apartment A, Lubbock, Texas 79414.

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas ("**Securities Commissioner**") of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 4007.104 of The Securities Act, Tex. Gov't Code §§ 4001.001-4008.105 (the "**Securities Act**").

The Staff of the Enforcement Division of the Texas State Securities Board (the "**Enforcement Division**") has presented evidence sufficient for the Securities Commissioner to find:

FINDINGS OF FACT

1. Whiskey Sky, LLC ("**Respondent Whiskey Sky**"), can be served by certified mail, return receipt requested, addressed to (1) 5720 91st Street, Lubbock, Texas 79424; (2) 1720 Buddy Holly Avenue, Lubbock, Texas 79401; and (3) its Registered Agent, Heike Tarpley, at 5720 91st Street, Lubbock, Texas 79424.
2. Adrian Lamont Gunn aka Lamont Gunn aka Andre Guinn aka Andre Gilmore ("**Respondent Gunn**") is an agent of Respondent Whiskey Sky. He can be served by certified mail, return receipt requested, addressed to (1) 5720 91st Street, Lubbock, Texas 79424; and (2) 5433 40th Street, Apartment A, Lubbock, Texas 79414.

OVERVIEW

3. Respondent Gunn is a resident of Lubbock, Texas. In 2013, Gunn pleaded guilty to aggravated identity theft and fraud in connection with access devices. He was sentenced to sixty-one months in prison and four years of supervised release which recently ended in early 2022.
4. During his supervised release, Respondent Gunn was charged with two misdemeanors for selling alcohol without a license and assault. At all times material to the conduct described herein, the cases have been pending.
5. Respondent Whiskey Sky's charter, certificate and/or registration has been forfeited by the Texas Secretary of State pursuant to the Texas Tax Code.
6. Although the Texas Secretary of State forfeited the charter, certificate and/or registration of Respondent Whiskey Sky, Respondents are offering investments issued by Respondent Whiskey Sky to Texans.
7. The investments consist of investments tied to a bar and night club to be managed and controlled by Respondent Gunn.
8. Respondent Gunn is also offering investments tied to a music festival and Holy Toledo Productions, LLC, an entertainment company formed in Indiana and purportedly transacting business in California.
9. Respondents are not registered to offer these investments, are concealing material risks associated with these investments, and are misleading the public and are engaging in other fraudulent acts.
10. The Securities Commissioner is entering this Emergency Cease and Desist Order to protect Texans from immediate and irreparable harm.

THE PROSECUTION OF RESPONDENT GUNN

11. On or about July 15, 2009, in *United States of America v. Adrian Lamont Gunn a/k/a Lamont Gunn, Andre Gunn and Andre Gilmore*, Cause No. CR 09-0168-SBLW, in the United States District Court for the District of Idaho, Respondent Gunn was indicted for seven counts including aggravated identity theft and fraud in connection with access devices.
12. On or about November 11, 2009, Respondent Gunn pleaded guilty to the charges of aggravated identity theft and fraud in connection with access devices. On or about October 22, 2013, Respondent Gunn was sentenced to sixty-one months in prison, ordered to serve four years of supervised release and pay restitution of \$265,322.18.

THE MISDEMEANOR CASES AGAINST RESPONDENT GUNN
FOR SELLING ALCOHOL WITHOUT A LICENSE AND ASSAULT

13. On or about November 4, 2019, in *The State of Texas vs. Adrian Gunn*, Cause No. 2019497025, in the Criminal Court at Law #1 for Lubbock County, Respondent Gunn was charged with assault, a class A misdemeanor.
14. At all times material to the conduct described herein, this case against Respondent Gunn has been pending.
15. Additionally, on or about April 20, 2020, in *The State of Texas vs. Adrian Gunn*, Cause No. 2020498270, in the Criminal Court at Law #1 for Lubbock County, Respondent Gunn was charged with selling alcohol without a license, a class A misdemeanor.
16. At all times material to the conduct described herein, this case against Respondent Gunn has been pending.

THE FORFEITURE OF RESPONDENT WHISKEY SKY

17. On or about September 4, 2019, Respondent Whiskey Sky was organized by the filing of a Certificate of Formation with the Texas Secretary of State.
18. Respondent Whiskey Sky thereafter failed to file a franchise tax return and/or pay state franchise tax.
19. On or about August 20, 2021, the Texas Secretary of State forfeited the charter, certificate and/or registration of Respondent Whiskey Sky pursuant to Section 171.309 of the Texas Tax Code.
20. At all times material to the conduct described herein, Respondent Whiskey Sky has not been in existence and has not been authorized to transact business as a domestic or foreign limited liability company.

THE PUBLIC SOLICITATION

21. Although Respondent Whiskey Sky is no longer in existence, Respondents are soliciting a guaranteed investment by publishing advertisements on Craigslist targeting Texas residents in Houston, Dallas, and Amarillo.
22. The advertisements represent the investment is for a bar or nightclub, "a money making business," and the investment cost is variously represented as \$100,000.00 or \$50,000.00.

THE HOUSTON NIGHTCLUB AND RESTAURANT

23. The “bar or nightclub” referenced in the advertisement is purportedly J Durham Restaurant and Lounge (“**J Durham**”), a nightclub and restaurant located at 14641 Gladebrook Drive, Houston, Texas 77068.
24. Respondents are telling potential investors their investment in J Durham would be guaranteed and protected, because the furniture and equipment could be sold for the potential investors’ investment amount.
25. Respondents are also telling potential investors their investments are protected because the investors could debit from J Durham’s revenue rather than profit if their original investment amount was not returned by an agreed date.
26. Respondents are claiming there is an existing investor in J Durham and are providing a Partnership Agreement with that investor and information relevant to the sale of the investment.
27. The Partnership Agreement sets forth the purported terms for the purchase of the investment as follows:
 - A. The purpose of the partnership will be an investment partnership;
 - B. The place of business of the partnership is 14641 Gladebrook Drive, Houston, Texas 77068, the location of J Durham;
 - C. The purchase price, paid by the purported existing investor, for the investment issued by Respondent Whiskey Sky is \$75,000.00;
 - D. Respondent Gunn contributed \$70,000.00 plus sweat equity as managing partner;
 - E. In exchange for the \$75,000.00, the existing investor will receive fifty percent of the profits and bear fifty percent of the losses; and
 - F. Respondent Gunn will be the managing partner and will manage and control the day-to-day business of J Durham.

THE CLAIM OF OWNERSHIP OF J DURHAM

28. Respondents are providing potential investors with an executed Business Sale Offer and Acceptance Agreement as proof that Respondents have purchased, and currently own, J Durham.

29. The executed Business Sale Offer and Acceptance Agreement is a forgery. Respondents representations are false, they have not purchased J Durham and are not the current owners of J Durham.

THE SOLICITATION FOR INVESTMENTS IN A MUSIC FESTIVAL

30. Respondent Gunn is also soliciting investments purportedly issued by Holy Toledo Productions, LLC ("**HTP**"), an entertainment company organized in Indiana and located in California.
31. Respondent Gunn is representing that, in conjunction with HTP, he is bringing a music festival to west Texas.
32. Respondent Gunn is representing the music festival will be a three-day event including performances by "old school hip hop acts" with comedy acts included.
33. Respondent Gunn is explaining he expects to sell seven hundred tickets per day, fifty meet and greet tickets per day along with merchandise, alcohol, and food.
34. Notwithstanding the forgoing, Respondent Gunn is affording potential investors the opportunity to participate in the music festival with HTP as follows:
 - A. An investment of \$50,000.00 in the music festival entitles potential investors to a return of one hundred percent of the ticket sales or \$102,000.00 as claimed by Respondent Gunn; and
 - B. Potential investors will receive their initial investment back within two weeks of the initial advertising of the music festival.

THE CLAIM OF AFFILIATION WITH HTP

35. HTP is an entertainment company organized in Indiana and located in California. It is owned and operated by Matthew Markoff.
36. Respondent Gunn is sending potential investors documents and wiring instructions containing HTP's name and information and representing he is affiliated and partnered with HTP to offer the investments tied to the music festival.
37. These representations are false. Respondent Gunn is not partnering with HTP and has no affiliation with HTP.

REGISTRATION VIOLATIONS

38. Respondents have not been registered with the Securities Commissioner as dealers or agents at any time material hereto.

39. The investments in the J Durham have not been registered by qualification, notification, or coordination at any time material hereto, and no permit has been granted for their sale in Texas.
40. The investments tied to HTP, and the music festival have not been registered by qualification, notification, or coordination at any time material hereto, and no permit has been granted for their sale in Texas.

FRAUD AND THE PROSECUTION OF RESPONDENT GUNN

41. As described herein, on or about November 11, 2009, in *United States of America v. Adrian Lamont Gunn a/k/a Lamont Gunn, Andre Gunn and Andre Gilmore*, Cause No. CR 09-0168-SBLW, in the United States District Court for the District of Idaho, Respondent Gunn pleaded guilty to the charges of aggravated identity theft and fraud in connection with access devices, was sentenced to sixty-one months in prison, ordered to serve four years of supervised release, and pay restitution of \$265,322.18.
42. In connection with the offer of the investments in the J Durham and the investments tied to HTP and the music festival, Respondents are intentionally failing to disclose this information, and this information constitutes a material fact.

FRAUD AND THE MISDEMEANOR CASES AGAINST RESPONDENT GUNN FOR ASSAULT AND SELLING ALCOHOL WITHOUT A LICENSE

43. As described herein, on or about November 4, 2019, in *The State of Texas vs. Adrian Gunn*, Cause No. 2019497025, in the Criminal Court at Law #1 for Lubbock County, Respondent Gunn was charged with assault, a class A misdemeanor.
44. In connection with the offer of the investments in the J Durham and the investments tied to HTP and the music festival, Respondents are intentionally failing to disclose information about this criminal case, and this information constitutes a material fact.
45. As described herein, on or about April 20, 2020, in *The State of Texas vs. Adrian Gunn*, Cause No. 2020498270, in the Criminal Court at Law #1 for Lubbock County, Respondent Gunn was charged with selling alcohol without a license, a class A misdemeanor.
46. In connection with the offer of the investments in the J Durham and the investments tied to HTP and the music festival, Respondents are intentionally failing to disclose information about this criminal case, and this information constitutes a material fact.

FRAUD AND THE BUSINESS REPUTE AND QUALIFICATIONS OF THE PARTIES

47. In connection with the offer of the investments in the J Durham and the investments tied to HTP and the music festival, Respondents are intentionally failing to disclose the following material facts relating to the parties:
- A. Respondents are intentionally failing to disclose the business repute, qualifications and experience of Respondents Whiskey Sky and Gunn, including their experience in managing, operating, and administering bars and restaurants and dealing with music festivals; and
 - B. Respondents are intentionally failing to disclose the business repute, qualifications and experience of the officers, directors, and managers of HTP.

FRAUD AND THE CLAIM OF OWNERSHIP OF J DURHAM

48. As described herein, in connection with the offer of investments tied to J Durham, Respondents are misrepresenting they purchased and currently own J Durham, and this misrepresentation constitutes a misrepresentation of a relevant fact.

FRAUD AND THE INVESTMENTS IN J DURHAM

49. In connection with the offer of investments in J Durham, Respondents are intentionally failing to disclose the following risks associated with the management and operation of J Durham, and these risks constitute material facts:
- A. The impact of COVID-19 on costs, labor or other operational issues associated with the management of J Durham;
 - B. The current and/or anticipated changes in the costs of hiring, training, and retaining employees;
 - C. The current and/or anticipated changes in the costs associated with marketing the J Durham, establishing its brand and maintaining its reputation;
 - D. The competition with other bars and restaurants, particularly bars and restaurants located in close geographic proximity to J Durham;
 - E. The risk of increases in key operating expenses, including but not limited to food and other raw materials, rent expenses, costs for insurance, and employee compensation costs;
 - F. The processes, and costs related thereto, of complying with the Texas Alcoholic Beverage Code and any legal proceedings brought or initiated by the Texas Alcoholic Beverage Commission or other regulatory agency; and

- G. The potential impact of any publicity, public comments, or social media presences on the patronage or profitability of J Durham.

**FRAUD AND THE
THE INVESTMENTS TIED TO HTP AND THE MUSIC FESTIVAL**

50. In connection with the offer of investments tied to HTP and the music festival, Respondent Gunn is intentionally failing to disclose financial data relating to HTP, including material facts such as financial information relating to its assets, liabilities, and actual or projected cashflow.
51. In connection with the offer of investments tied to HTP and the music festival, Respondent Gunn is intentionally failing to disclose the following risks associated with the investments in HTP and the music festival, and these risks include the following material facts:
- A. The competition with other recreational activities and the reliance on market interest in the music festival over other activities;
 - B. Music festivals are dependent on municipal ordinances and other relevant government laws and regulations and the laws and regulations concerning the hosting of music or outdoor festivals may be subject to change;
 - C. Music festivals rely on third parties to provide a variety of essential business functions, such as advertising, alcohol and food vendors, merchandise manufacturing and distribution, and the failure of third parties to perform their services or to perform them in an acceptable manner may negatively impact the ability of HTP to conduct business and host the music festival;
 - D. The music festival may be susceptible to government restrictions based on large crowds as was made evident during the COVID-19 pandemic;
 - E. The risk that certain national talent is unavailable, or could become unavailable prior to the music festival, may impact the ticket sales; and
 - F. The risk that inclement weather could impact the daily ticket sales and affect revenue for a specific day of the music festival.

**FRAUD AND DECEIT AND THE
FALSE CLAIM OF AFFILIATION WITH HTP**

52. As described herein, HTP is an entertainment company organized in Indiana and located in California. It is owned and operated by Matthew Markoff.
53. As also described herein, Respondent Gunn is providing potential investors documents and wiring instructions containing HTP's name and information and

representing he is affiliated and partnered with HTP to offer the investments tied to the music festival.

54. In connection with the offer of the investments tied to the music festival, Respondent Gunn is misrepresenting its relationship with HTP, and this misrepresentation constitutes a misrepresentation of material fact.
55. Its use of documents and wiring instructions containing HTP's name and information, coupled with its claim of partnering and being affiliated with HTP, constitute statements that are materially misleading or otherwise likely to deceive the public because Respondent Gunn is not partnered with or affiliated with HTP.

CONCLUSIONS OF LAW

1. The investments described herein are securities as the term is defined by Section 4001.068 of the Securities Act.
2. Respondents are violating Section 4003.001 of the Securities Act by offering securities for sale in Texas at a time when the securities are not registered with the Securities Commissioner.
3. Respondents are violating Section 4004.051 of the Securities Act by offering securities for sale in Texas without being registered pursuant to the provisions of Section 4004.051 of the Securities Act.
4. Respondents are engaging in fraud in connection with the offer for sale of securities.
5. Respondents have made an offer containing statements that are materially misleading or otherwise likely to deceive the public.
6. Respondents' conduct, acts, and practices threaten immediate and irreparable public harm.
7. The foregoing violations constitute bases for the issuance of an Emergency Cease and Desist Order pursuant to Section 4007.104 of the Securities Act.

ORDER

1. It is therefore ORDERED Respondents immediately CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered pursuant to an exemption from registration under the Securities Act.
2. It is further ORDERED Respondents immediately CEASE AND DESIST from acting as a securities dealer or agent in Texas until Respondents are registered with the Securities Commissioner or is acting pursuant to an exemption from registration under the Securities Act.

3. It is further ORDERED Respondents immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.
4. It is further ORDERED Respondents immediately CEASE AND DESIST from offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public.

NOTICE

Pursuant to Section 4007.104 of the Texas Securities Act, you may request a hearing before the 31st day after the date you were served with this Order. The request for a hearing must be in writing, directed to the Securities Commissioner, and state the grounds for the request to set aside or modify the Order. Failure to request a hearing will result in the Order becoming final and non-appealable.

You are advised under Section 4007.206 of the Texas Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 4007.104 of the Texas Securities Act is a criminal offense punishable by a fine of not more than \$10,000, or imprisonment in the penitentiary for two to ten years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 8th day of November, 2022.



TRAVIS ILES
Securities Commissioner