



STATE OF CALIFORNIA
Before the
DEPARTMENT OF CORPORATIONS

File No. alpha

In The Matter Of
**THOMAS G. CLOUD, an individual and
CLOUD & ASSOCIATES CONSUTLING,
INC.**
Respondent

**DESIST AND REFRAIN ORDERS
(CSL SECTIONS 25110, 25210, 25401)**

1. The California Corporations Commissioner (“Commissioner”) deems it appropriate and in the public interest for the protection of investors consistent with the purposes of the policy and provisions of the California Corporate Securities Law of 1968 (“CSL”) that these Orders be issued against you **THOMAS G. CLOUD, an individual and CLOUD & ASSOCIATES CONSUTLING, INC.**

2. The Commissioner is finds that:

a. At all time relevant hereto, 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, all of which are securities under the CSL. TLC offered and sold these securities through two distinct investment programs – Tax Liens Certificates and Opportunity Properties.

b. TLC represented that these securities 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 investment for another one-year period. Each offer by **THOMAS G. CLOUD, CLOUD & ASSOCIATES CONSUTLING, INC.**, and/or TLC to “rollover” the investment is a separate offer and each completed “rollover” a separate sale of securities in violation of the California Corporate Securities Law of 1968, Corporations Code 25000 *et. seq.*

c. These securities 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.

d. These securities were not qualified with the State of California nor were there any exemptions from qualification available under the California Corporate Securities Law of 1968, Corporations Code 25000 *et. seq.*

e. Beginning at an exact date that is unknown to plaintiff, **THOMAS G. CLOUD** individually became an agent of TLC, in which capacity he offered and sold securities issued by TLC to California investors.

f. Beginning at an exact date that is unknown to plaintiff, **CLOUD & ASSOCIATES CONSUTLING, INC.** also engaged in the offer and sale of securities issued by TLC to California

investors.

g. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** received sales commissions from TLC ranging from approximately 4½ percent to 6 percent on each dollar invested. Further, each time investors reinvested their initial investments - and some investors “rolled over” their investment more than once - **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** received yet another commission.

h. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** were not licensed by the State of California, or any other similar licensing entity, to sell the securities at issue.

i. The securities issued by TLC were offered and sold by means of untrue statements of material fact and omissions of material facts, in violation of the California Corporate Securities Law of 1968, Corporations Code 25000 *et. seq.*

j. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** offered and sold the securities by way of numerous sales brochures and materials produced by TLC that included untrue statements of material fact and omissions of material facts. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** also made oral representations to investors based on information told them to by TLC. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** performed little independent due diligence to confirm the veracity of either the content of these sales brochures, or to any of the oral or written communications of TLC.

k. Specifically, **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** represented to prospective investors that the Tax Lien Certificates were a “safe, liquid, tax-deferred investment”, in part because the investor held title to the property as tenants in common, and that the investor’s principle was secured by real estate, while the interest was guaranteed by a promissory note. In fact, few, if any, investors were actually placed on the deeds to the properties purchased by TLC and therefore were not secured. These facts would have been material to any investor’s decision to invest in TLC, but **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** did not disclose these facts to the investors.

l. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** also represented to investors, through TLC’s sales brochures and oral representations that these Tax Lien Certificates would pay the investors a fixed interest rate of between 8% and 15%. In fact, TLC never generated a profit, and between 1998 and 2000 when **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** were making these representations to investors and potential investors, TLC had lost at least \$15 million. And in order to make interest payments at these promised rates to investors, TLC used money from new investors, creating a classic Ponzi scheme. These facts would have been material to any investor’s decision to invest in TLC, but **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** did not disclose these facts to the investors.

m. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** represented to prospective investors that the Opportunity Properties investments were a “Safe, Liquid, Fixed Rate Investment,” in part by representing that the investor would be secured by a deed on the real property as tenants in common with TLC. In fact, few if any investors were actually placed on the deeds to the properties purchased by TLC and they were therefore not secured. These facts would have been material to any investor’s decision to invest in TLC, but **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** did not disclose these facts to the investors.

n. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** also represented to investors that the Opportunity Properties investments would provide “Guaranteed high returns.” In fact, TLC never generated a profit, and between 1998 and 2000 had lost at least \$15 million. And in order to make interest payments at these promised rates to investors, TLC used money from new investors, creating a classic Ponzi scheme. These facts would have been material to any investor’s decision to invest in TLC, but **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** did not disclose these facts to the investors.

o. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** further failed to inform potential investors that they received a commission of up to 6 percent on every investment, as well as on every rollover of the investment, and that they also received “override” commissions on the sales of agents that they recruited. They also failed to inform investors that there were people above them who also received commissions on the sale of these investments, including Edward F. “Frank” Cossey (“Cossey”), president of TLC and that the total commissions paid by TLC exceeded \$20 million or approximately 13 percent of every dollar invested. These facts would have been material to any investor’s decision to invest in TLC, but **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** did not disclose these facts to the investors.

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

q. The SEC alleged that TLC engaged in several kinds of securities fraud relating to their purported real estate business. The SEC’s complaint alleged that TLC falsely represented that it was engaged in the real estate business when it in fact was using investor funds to (a) pay other investors; (b) invest over \$10 million in a fraudulent “prime bank” scheme; (3) buy racehorses; (4) make charitable contributions in the amount of \$1.55 million to the high school football team that Cossey’s son played for, including \$1 million for repairs to the stadium; and (5) be wired overseas.

r. **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** did not disclose any of these facts alleged by the SEC in their complaint to prospective investors. These facts would have been material to any investor’s decision to invest in TLC.

s. While unlawfully engaged, **THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.** sold more than \$1,500,000 in unlawful securities to more than 35 separate victims in California, for which they received more than \$1,000,000 in sales commissions and other payments from TLC.

3. Therefore, pursuant to Section 25532 of the CSL, IT IS ORDERED that:

You (“**THOMAS G. CLOUD and CLOUD & ASSOCIATES CONSUTLING, INC.**”) desist and refrain from the offer or sale in the State of California, of investment instruments in the form of promissory notes, real estate investment agreements and/or investment contracts issued by TLC, or of any other security, in violation of section **25110** of the CSL, for the reason that, in the opinion of the Commissioner of Corporations of the State of California (“Commissioner”), the sale of such securities is subject to qualification under the CSL and such securities are being or have been offered for sale without first being qualified.

You desist and refrain from effecting any transaction in, or inducing or attempting to induce the purchase or sale of any security in this state for the reason that, in the opinion of the Commissioner, you are or have been acting as a broker-dealer, you are subject to licensing as a broker-dealer pursuant to section **25210** of the CSL, and you are not currently licensed as a broker-dealer in the State of California.

You desist and refrain from offering or selling or buying or offering to buy any security in the State of California, including but not limited to investment instruments in the form of promissory notes, real estate investment agreements and/or investment contracts issued by TLC, by means of any written or oral communication which includes an untrue statement of a material fact or omits 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. In the opinion of the Commissioner, the offer or sale of such securities has violated or is violating Section **25401** of the CSL.

DATED: Dated: December 24, 2002
Sacramento, California

DEMETRIOS A. BOURTRIS
California Corporations Commissioner

By _____
VIRGINIA JO DUNLAP
Supervising Counsel
Enforcement and Legal Services