

Division of Securities  
Utah Department of Commerce  
160 East 300 South, 2<sup>nd</sup> Floor  
Box 146760  
Salt Lake City, UT 84114-6760  
Telephone: (801) 530-6600  
FAX: (801) 530-6980

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BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF:

DIABETES MEDICAL DEVELOPMENT  
CORPORATION, INC., a.k.a. DIABMED;  
MICHAEL CLARKE;

Respondents.

STIPULATION AND CONSENT  
ORDER

Docket No. SD-07-0011  
Docket No. SD-07-0012

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The Utah Division of Securities (Division), by and through its Director of Enforcement, Michael Hines, and Diabetes Medical Development Corporation, Inc. and Michael Clarke, hereby stipulate and agree as follows:

1. Diabetes Medical Development Corporation, Inc. and Michael Clarke were the subject of an investigation conducted by the Division into allegations that they violated certain provisions of the Utah Uniform Securities Act (the Act), Utah Code Ann. § 61-1-1, et seq, as amended.

2. In connection with that investigation, on February 14, 2007, the Division issued an Order to Show Cause (OSC) to the Respondents alleging that they committed securities fraud in violation of the Act.
3. Diabetes Medical Development Corporation, Inc., Michael Clarke, and the Division have agreed to settle the matter by way of this Stipulation and Consent Order (Consent Order).
4. Diabetes Medical Development Corporation, Inc. and Michael Clarke are represented by attorney Rinehart L. Peshell and are satisfied with the legal representation they have received.
5. Diabetes Medical Development Corporation, Inc. and Michael Clarke admit the jurisdiction of the Division over them and over the subject matter of this action.
6. Diabetes Medical Development Corporation, Inc. and Michael Clarke waive any right to a hearing to challenge the Division's evidence and present evidence on their own behalf.

#### THE DIVISION'S INVESTIGATIVE FINDINGS

From August 2006 to the present, the Division has been conducting an investigation of Diabetes Medical Development Corporation, Inc. and Michael Clarke which revealed the following:

7. Diabetes Medical Development Corporation, Inc. (DiabMed) was a Utah corporation, registered from September 21, 2004 to January 5, 2007, when its corporate status expired. DiabMed's business address was 3950 South 700 East, Suite 100, Salt Lake City, Utah. Michael Clarke was the president of DiabMed.

8. Michael Clarke (Clarke) resides in Salt Lake County, Utah.
9. On February 2, 2005, Utah investor, J. J., met with Michael Clarke in Salt Lake City, Utah, to discuss an investment opportunity in DiabMed.
10. Clarke told J. J. that, if he invested \$30,000 in DiabMed, J. J. would receive an ownership interest in DiabMed as well as a royalty, paid as a percentage, on all profits brought in by DiabMed for as long as the company operated.
11. Clarke also told J. J. that, if J. J. only invested \$10,000 in DiabMed, the company would return Clarke's principal investment in 90 days, and J. J. would receive \$.07 every time a patient was treated with the "Pulse Insulin Therapy" at the treatment centers in Washington and Oregon.
12. Clarke told J. J. the Pulse Insulin Therapy would arrest complications brought on by diabetes.
13. Clarke told J. J. that DiabMed needed the \$10,000 for 90 days until a \$10 million dollar loan came through. Clarke told J. J. that, if the company received the \$10 million dollar loan within the next 90 days, J. J. would get his principal back early.
14. At the end of the meeting, J. J. invested \$10,000 in DiabMed, by giving Clarke a personal check made payable to DiabMed.
15. In return, J. J. received a promissory note from the company, entitled "Loan Request Term Sheet," signed by Clarke as the president of DiabMed, a copy of DiabMed's November 2004 business plan, and an income projection of operating revenues for

centers in Washington and Oregon. J. J. received no other documentation or information about DiabMed.

16. After 90 days passed, J. J. spoke to Clarke about getting his principal back.
17. Clarke told J. J. that DiabMed would be returning his money in a few more days.
18. On May 25, 2005, J. J. contacted Clarke again, and told Clarke he wanted interest if DiabMed was not going to pay him within the 90 days as per the original promissory note.
19. Clarke agreed to pay J. J. 15% per year on the original \$10,000 until the money was paid back.
20. On May 25, 2005, J. J. received a facsimile from Clarke outlining the new agreement regarding 15% annual interest.
21. J. J. called DiabMed weekly afterward, and asked Clarke and other DiabMed employees to keep J. J. updated on the status of his investment.
22. Despite several demands for payment, J. J. received no return of interest or principal from the Respondents, and J. J. received no payments from DiabMed for its use of the Pulse Insulin Therapy treatment on patients.
23. On July 3, 2007, DiabMed and Clarke paid J. J. \$13,238, in full payment of J. J.'s investment plus interest.

#### Securities Fraud

24. In connection with the offer and sale of a security to J. J., DiabMed and Clarke, directly or indirectly, made false statements, including, but not limited to, the following:
- a. That J. J. would receive a payment from DiabMed for every Pulse Insulin Therapy treatment DiabMed administered to patients in Washington and Oregon;
  - b. That DiabMed would return J. J.'s principal in 90 days; and
  - c. That DiabMed was expecting a \$10 million dollar loan to fund.
25. In connection with the offer and sale of a security to J. J., DiabMed and Clarke, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations made not misleading:
- a. Some or all of the information typically provided in an offering circular or prospectus regarding DiabMed, such as:
    - i. The business and operating history for DiabMed including the true status of its treatment center(s);
    - ii. Identities of DiabMed's principals along with their experience in this type of business;
    - iii. An explanation of the income and expenses for DiabMed and copies of financial statements for the company;
    - iv. The market for the product of DiabMed;
    - v. The nature of the competition for the product;
    - vi. Current capitalization of the issuer;

- vii. A description of how the investment would be used by the businesses;
- viii. The track record of the companies to investors;
- ix. Risk factors for investors;
- x. The number of other investors;
- xi. The minimum capitalization needed to participate in the investment;
- xii. The disposition of any investments received if the minimum capitalization were not achieved;
- xiii. The liquidity of the investment;
- xiv. Discussion of pertinent suitability factors for the investment;
- xv. The proposed use of the investment proceeds;
- xvi. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;
- xvii. Agent commissions or compensation for selling the investment;
- xviii. Whether the investment is a registered security or exempt from registration; and
- xix. Whether the person selling the investment is licensed.

#### THE DIVISION'S CONCLUSIONS

26. Based on the Division's investigative findings, the Division concludes that:
  - a. The promissory note offered and sold by DiabMed and Clarke is a security under § 61-1-13 of the Act, and

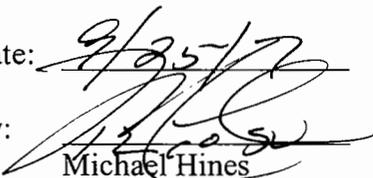
- b. DiabMed and Clarke violated § 61-1-1 of the Act by making misrepresentations of material fact and omitting to state material facts in connection with the offer and sale of a security in or from Utah.
27. DiabMed and Clarke admit the substance of the Division's investigative conclusions and consents to the Division entering an Order:
- a. Requiring Diabetes Medical Development Corporation, Inc. and Michael Clarke to cease and desist from engaging in any further conduct in violation of the Utah Securities Act; and
  - b. Requiring Michael Clarke pay a fine of ten thousand dollars (\$10,000) to be waived in its entirety due to Clarke's payment of full restitution (\$13,238) to the victim on July 3, 2007.
28. DiabMed and Clarke acknowledge that this Consent Order, upon approval by the Division Director, shall be the final compromise and settlement of this matter. DiabMed and Clarke further acknowledge that if the Division Director does not accept the terms of the Consent Order, it shall be deemed null and void and without any force or effect whatsoever.
29. DiabMed and Clarke acknowledge that the Consent Order does not affect any civil or arbitration causes of action that third parties may have against DiabMed or Clarke arising in whole or in part from their actions, and that the Consent Order does not affect any criminal cause of action that a prosecutor might bring.

30. This Consent Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Consent Order in any way.
31. DiabMed and Clarke represent that any information they have provided to the Division is accurate and complete.
32. Violation of this Consent Order is a third degree felony pursuant to § 61-1-21(1) of the Act.
33. DiabMed and Clarke have read this Consent Order, understand its contents, and enter into this Consent Order voluntarily. No promises or threats have been made by the Division, nor by any member, officer, agent, or representative of the Division other than as contained herein, to induce DiabMed or Clarke to enter into this Consent Order.

Utah Division of Securities

Date:

By:

  
Michael Hines

Director of Enforcement

Approved:

  
Jeff Buckner  
Assistant Attorney General

Respondent DiabMed

Date:

By:



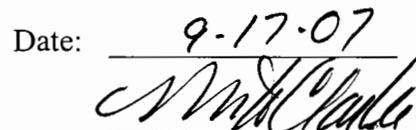
Its:

President.

Respondent Clarke

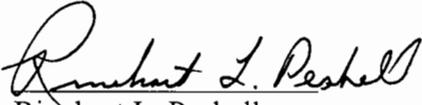
Date:

By:



Michael Clarke

Approved:

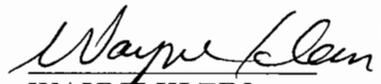
  
Rinehart L. Peshell  
Counsel for DiabMed and Clarke

**ORDER**

Pursuant to the terms of the Stipulation and Consent Order defined above, the Director of the Utah Division of Securities hereby orders that:

- a. Diabetes Medical Development Corporation, Inc. and Michael Clarke, CEASE and DESIST from engaging in any further conduct in violation of the Utah Securities Act; and
- b. Michael Clarke pay a fine of ten thousand dollars (\$10,000) to the Division, which is waived in its entirety due to Clarke's payment of full restitution (\$13,238) to the victim on July 3, 2007.

DATED this 25<sup>TH</sup> day of September, 2007.



WAYNE KLEIN

Director, Utah Division of Securities



**Certificate of Mailing**

I certify that on the 26<sup>TH</sup> day of September 2007, I mailed a true and correct copy of the Stipulation and Consent Order to:

Michael Clarke  
Individually, and as President of Diabetes Medical Development Corporation, Inc.  
2695 Troon Circle  
Salt Lake City, UT 84121

Rinehart L. Peshell (Counsel for DiabMed and Clarke)  
5383 South 900 East, Suite 205  
Salt Lake City, UT 84117

  
Pamela Rasznik  
Executive Secretary