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COMMONWEALTH OF PENNSYLVANIA 2022 APR -5 AM 7:47
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF SECURITIES	:	
COMPLIANCE AND EXAMINATIONS	:	Docket No.: 22 <u>0013</u> (SEC-OSC)
	:	
v.	:	
	:	
AQUA INNOVATIONS, LTD.	:	
PETER DEMARCO	:	

NOTICE TO ANSWER AND REQUEST A HEARING

You have the right to challenge the attached Order to Show Cause ("Order") by filing an Answer, in writing, with the Docket Clerk **within 30 days** of the date of this Order as required by 1 Pa. Code § 35.37. **If you do not file an Answer within 30 days, then you will waive your right to a hearing and the Banking and Securities Commission ("Commission") may enter a final order against you.**

Your Answer must be in writing. Your Answer must specifically admit or deny the allegations in this Order, set forth the facts you rely upon, and state concisely the law upon which you rely. General denials of the allegations set forth in the Order are not sufficient; you must support your denials with specific facts. Failure to support your denials with specific facts may cause the Commission to deem the facts in the Order as admitted and to enter a final order against you, without a hearing.

The Answer and any other documents must be filed via first-class mail and electronic mail with the Docket Clerk:

Eileen Smith, Docket Clerk
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, Pennsylvania 17101
Email: RA-BNDOCKETCLERK@pa.gov

Further, you must serve a copy of the Answer and any other documents on the person who signed the Order by providing a hard and electronic copy to his or her counsel indicated below:

Veronica N. Hoof
Assistant Counsel
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300

Harrisburg, Pennsylvania 17101
Email: RA-BNCHIEFCOUNSEL@pa.gov

Once you file your Answer, you will be notified of pertinent information such as the name of the presiding officer designated by the Commission to hear this matter and, if a hearing is scheduled, the date, time, and location of the hearing. You have the right to be represented by an attorney.

The hearing and all other procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1.-35.251.

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ORDER TO SHOW CAUSE

You, Aqua Innovations, Ltd. ("Respondent Aqua"), and Peter DeMarco ("Respondent DeMarco"), (collectively, "Respondents"), are notified that the Department of Banking and Securities ("Department"), through the Bureau of Securities Compliance and Examinations ("Bureau"), hereby **ORDERS YOU TO SHOW CAUSE** why the Banking and Securities Commission ("Commission") should not impose the sanctions and remedies described below. Specifically, this proceeding is instituted pursuant to 1 Pa. Code § 35.14 to determine:

- (1) whether the allegations set forth below are true; and
- (2) if these allegations are true, whether there has been a violation of the Pennsylvania Securities Act of 1972 ("1972 Act") or of the regulations promulgated thereunder; and
- (3) if so, whether the sanctions and remedies proposed by the Bureau should be imposed by the Commission.

The Bureau alleges the following facts and violations of law for the purpose of tentatively framing the issues for consideration by the Commission. The Commission may consider this

matter directly, or may designate a hearing officer to issue a recommended decision prior to the Commission issuing a final order.

STATEMENT OF THE PARTICULARS AND MATTERS
INTO WHICH THE BUREAU IS INQUIRING
PARTIES

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the 1972 Act.

2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. The Bureau operates from the Department's main office located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

4. Respondent Aqua was, at all times material herein, an Ohio limited liability company with an address at 6488 Fiesta Drive, Columbus, Ohio 43235.

5. Respondent DeMarco was, at all times material herein, an individual with an address at Redacted, and the executive officer of Respondent Aqua.

FACTUAL ALLEGATIONS

6. Respondent Aqua was purportedly in the business of developing a hydration gel product.

7. On January 4, 2013, Respondent Aqua filed a Notice of Exempt Offering of Securities (Form D) pursuant to Regulation D, Rule 506, with the U. S. Securities and Exchange Commission.

8. On January 7, 2013, Respondent Aqua filed a Notice of Exempt Offering of Securities (Form D), pursuant to Section 211 (b) of the 1972 Act, 70 P.S. §1-211(b).

9. Beginning in or about June 2014, the Respondents offered units for sale in Respondent Aqua to investors throughout the United States. The Subscription Agreement allowed investors to purchase units of membership in Respondent Aqua for \$20,000 per unit (“Aqua Units”).

10. From in or about June 2014, the Respondents offered and sold one-quarter of an Aqua Unit to at least one (1) Pennsylvania investor (“Investor”) for \$5,000.

11. As the executive officer of Respondent Aqua, Respondent DeMarco acted as an “affiliate” of Respondent Aqua within the meaning of Section 102(b) of the 1972 Act, 70 P.S. § 1-102(b), and, as such, caused Respondent Aqua to commit the herein stated acts which violated the 1972 Act.

12. The Aqua Units described above are “securities” within the meaning of Section 102(t) of the 1972 Act, 70 P.S. § 1-102(t).

13. Respondent Aqua is the “issuer” of the Aqua Units described above within the meaning of Section 102(l) of the 1972 Act, 70 P.S. § 1-102(l).

14. The records of the Department disclose that the Aqua Units are: (a) not registered under Section 201 of the 1972 Act, 70 P.S. § 1-201; (b) not exempt from registration under Section 202 of the 1972 Act, 70 P.S. § 1-202; (c) not federally covered securities under Section 211 of the 1972 Act, 70 P.S. § 1-211; and (d) that the offer relating to the Aqua Units was not exempt under Section 203 of the 1972 Act, 70 P.S. § 1-203.

15. Respondents failed to provide at least one (1) Investor with financial statements regarding Respondent Aqua, which disclosure would have been material for a reasonable investor to make an informed investment decision. To the extent that Respondent Aqua did not have

disclosure documents, Respondent Aqua failed to disclose their nonexistence, which would have been material for a reasonable investor to make an informed investment decision.

16. Respondent Aqua failed to disclose the following information concerning Respondent Aqua to at least one Investor:

- a. The financial condition of Respondent Aqua;
- b. The financial risk of the Aqua Units;
- c. The identity and relevant background of the corporate officers of Respondent Aqua; and
- d. Respondent Aqua's operating history.

17. To date, Respondent Aqua has been unable to fulfill its financial obligations to at least one (1) Investor, and Respondent Aqua has consequently defaulted on payments to at least one (1) Investor.

COUNTS

Violation of Section 201 of the 1972 Act, 70 P.S. § 1-201

1 Count

18. Paragraphs 1 through 17 are incorporated herein by reference as if set forth in their entirety.

19. By engaging in the acts and conduct set forth in paragraphs 6 through 14 above, Respondent Aqua and Respondent DeMarco offered and sold Aqua Units to Pennsylvania residents in willful violation of Section 201 of the 1972 Act, 70 P.S. § 1-201.

Violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401

1 Count

20. Paragraphs 1 through 19 are incorporated herein by reference as if set forth in their entirety.

21. By engaging in the acts and conduct set forth in paragraphs 6 through 16 above, Respondent Aqua and Respondent DeMarco, in connection with the offer and sale of Aqua Units, omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, in willful violation of Section 401(b) of the 1972 Act, 70 P.S. § 1-401(b).

Violation of Section 401(c) of the 1972 Act, 70 P.S. § 1-401(c)

1 Count

22. Paragraphs 1 through 21 are incorporated herein by reference as if set forth in their entirety.

23. By engaging in the acts and conduct set forth in paragraphs 6 through 17 above, Respondent Aqua and Respondent DeMarco, in connection with the offer and sale of Aqua Units, engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person, in willful violation of Section 401(c) of the 1972 Act, 70 P.S. § 1-401(c).

SANCTIONS AND REMEDIES

WHEREAS, the Bureau respectfully requests the penalties and relief pursuant to its authority under the 1972 Act:

1. That an order be issued pursuant to Section 305 of the 1972 Act, 70 P.S. § 1-305, that the registration of the Respondents be suspended, revoked, or conditioned, or that the Respondents be censured.

2. That an order be issued pursuant to Section 512 of the 1972 Act, 70 P.S. § 1-512, which bars, conditionally or unconditionally, and either permanently or for such period of time as may be determined, the Respondents:

a. Representing an issuer offering or selling securities in this State;

- b. Acting as a promoter, officer, director or partner of an issuer (or an individual occupying a similar status or performing similar functions) offering or selling securities in this State or of a person who controls or is controlled by such issuer;
- c. Being registered as a broker-dealer, agent, investment adviser or investment adviser representative under Section 301 of the 1972 Act;
- d. Being an affiliate of any person registered under Section 301 of the 1972 Act; or
- e. Relying upon an exemption from registration contained in Section 202, 203 or 302 of the 1972 Act.

3. That the Respondents be ordered to affect a rescission offer pursuant to Section 513 of the 1972 Act, 70 P.S. § 1-513.

4. That the Respondents be ordered to return to purchasers of securities in this Commonwealth, in cash, the amount of compensation received for effecting those securities transactions pursuant to Section 514 of the 1972 Act, 70 P.S. § 1-514.

5. That the Respondents be ordered to pay the costs of the investigation pursuant to Section 602.1(b) of the 1972 Act, 70 P.S. § 1-602.1(b).

6. That the Respondents be ordered to pay an administrative assessment of up to \$100,000.00 for each act or omission constituting a willful violation of the 1972 Act, pursuant to Section 602.1(c) of the 1972 Act, 70 P.S. §1-602.1(c).

IT IS SO ORDERED.



FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BUREAU OF SECURITIES COMPLIANCE AND
EXAMINATIONS

Redacted

Eric Pistilli
Deputy Secretary of Securities

Dated: 04/04/2022

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DEPARTMENT OF BANKING AND SECURITIES

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BANKING AND SECURITIES

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DEPARTMENT OF BANKING AND
SECURITIES, BUREAU OF SECURITIES
COMPLIANCE AND EXAMINATIONS

Docket No.: 22 0013 (SEC-OSC)

v.

AQUA INNOVATIONS, LTD.
PETER DEMARCO

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order to Show Cause upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST-CLASS

Aqua Innovations, LTD.
6488 Fiesta Drive
Columbus, Ohio 43235

Peter Demarco

Dated this 5th day of April, 2022

Redacted

~~_____
Eileen Smith
Legal Office Administrator
Office of Chief Counsel
Commonwealth of Pennsylvania
Department of Banking and Securities
Market Square Plaza
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471~~