



**COMMISSIONER OF SECURITIES  
STATE OF GEORGIA**

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**In the matter of**

**THE UNDETECTABLES  
MOVIE, LLC, AND DAVID  
E. FLAKE**

**Case Number: ENSC-170663**

**Respondents.**

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**ORDER TO CEASE AND DESIST ALL VIOLATIONS OF GEORGIA SECURITIES ACT AND  
IMPOSITION OF CIVIL PENALTY**

This matters comes before the Commissioner of Securities for the State of Georgia (“Commissioner”) pursuant to the authority granted in O.C.G.A. § 10-5-70, *et seq.* of the Georgia Uniform Securities Act of 2008, as amended (“Act”). Whereas, the Commissioner undertook an investigation into the acts and practices of THE UNDETECTABLES MOVIE, LLC (“Undetectables”) and DAVID E. FLAKE (“Flake”) (collectively “Respondents”).

Based on the investigation, the Commissioner has found grounds to conclude that Respondents may have engaged in acts or practices constituting violations of the Act. The commissioner has determined it is in the public interest to issue this Order.

Based upon information obtained during the investigation, the Commissioner finds as follows:

**I. FINDINGS OF FACT**

1. Undetectables is an active domestic limited liability company registered with the Georgia Office of the Secretary of State’s Corporations Division. Undetectables was incorporated on December 1, 2016. Undetectables’ principal office address is listed as 1220 Rosecrans Street, Suite 920, San Diego, California, 92106. Undetectables’ registered agent is listed as Legalinc Corporate Services, Inc. The registered agent’s address is 1870 The Exchange, Suite 100 #44 Atlanta, Georgia 30339.

2. Flake is approximately 63 years old and is the founder and owner of Undetectables. His last known address is 1220 Rosecrans Street, Suite 920, San Diego, California, 92106. Flake was the sole organizer of Undetectables and had complete control of the organization.

3. Undetectables never registered any issued securities with the Commissioner.

4. Flake is not and has never registered with the Commissioner in any capacity to sell securities in the State of Georgia.

5. Respondents conduct business under the name Undetectables and are featured on the IMDb website, have trailers on YouTube, and have a dedicated YouTube Channel (the “Websites”). The Websites are easily accessible and visible to residents of the State of Georgia with internet access. Respondents use the Websites to advertise Undetectables to potential investors through the purchase of shares of membership stock in the production.

6. In connection with Undetectables, Flake prepared promotional offerings, either personally, or by directing his representatives to do so, that were provided to investors. The promotional materials represented that Undetectables was a successful movie production, with a projected release date during the summer of 2017. The materials included a detailed movie synopsis, shooting location and budget, and interested famous actors claimed to be “now reading script.” The materials also stated that the movie was part of a “The Five Blockbuster” series with the first movie in the series set for release in 2017 with annual releases to follow through 2021. In the materials, Flake claimed that the movie had a budget of thirty-five to seventy million dollars (\$35 - \$70 million), and that it would have a worldwide release. Through the promotional materials and communications with investors, Flake also claimed that Undetectables had a “partnership agreement” with the production company Stargate Studios. The promotional materials stated that the company “will give the film a \$60M look under \$4M,” and contained a projected gross income for the movie of four hundred forty-nine million three hundred thousand dollars (\$449.3M) worldwide. Flake distributed the promotional materials to investors to convince them the movie was a legitimate enterprise. In fact, Respondents never intended to produce a movie, nor did they have any agreement or commitment with Stargate Studios to produce the movie.

7. Flake provided investors with a “Membership Stock and Purchase Agreement” (the “Agreement”) in which he sold stock, or “Membership Shares,” in Undetectables to investors. The Agreement states that it “entitles [the] holder to a proportionate profit share in licensing, video games, and Video on Demand revenue.” Flake raised at least fifty-one thousand two hundred dollars (\$51,200.00) from at least nine (9) investors. Flake gave those investors certificates representing the shares purchased, which stated that the shares represented by the certificate were not registered shares.

8. Flake controlled and operated the Chase bank account, in which he either deposited the funds received from investors, or in which he directed the investors to make wires directly. Flake misappropriated investors’ money by purchasing artwork and services outside the scope of the Agreement.

9. In connection with the offering of Undetectable securities, Flake fabricated a “partnership agreement” with Stargate Studios. He used the agreement to entice investors and to legitimize the

production. In email communications between Flake and investors, Flake made material misrepresentations about Undetectables. Flake provided investors with a counterfeit agreement with Stargate Studios alleging Stargate's affiliation with the movie production. Flake also misrepresented and falsified bank account statements to show investors he had a balance of over two million seven hundred thousand dollars (\$2.7M) in a Chase Bank account for Undetectables, to convince the investors that the production was financially viable.

10. Flake knew or should have known that the descriptions of Undetectables provided to investors were materially false and misleading, because he prepared Undetectables' offering materials, he either personally or constructively fabricated the agreement with Stargate Studios, and he fabricated the bank account balance provided to investors. When confronted about his misrepresentations by one (1) investor who demanded a refund for himself and for other investors on their behalf, Flake lied about sending refund checks to seven (7) investors, totaling twenty-six thousand two hundred dollars (\$26,200.00), provided photocopies of the checks he claimed to have sent, and signed letters confirming each refund. Flake never sent the checks and confirmation letters to the seven (7) investors nor did he provide any refunds.

11. Flake used the funds raised from investors for his own personal expenses and not for the production of Undetectables movie. Between April 2014 and May 2016, records from Undetectables' Chase Bank account show expenses on Netflix, Amazon, trips to Sea World, purchases at Target, and frequent cash withdrawals. This bank account was formed in the name of "The Undetectables Movie, LLC."

12. During the relevant time period, no registration statement with the Commissioner was in effect as to the Undetectables' securities, and the Respondents have not provided an exemption from registration for the issued securities.

13. Prior to Undetectables, Flake issued securities through Coral Reef, a company that purportedly produced television shows. The Securities and Exchange Commission ("SEC") issued an Order on March 17, 2015, demanding he "cease and desist from committing or causing any violations and any future violations [of the rules] promulgated under the Exchange Act." According to the SEC's Order, Flake fabricated documents and made materially false and misleading statements to offer and sell unregistered securities in Coral Reef. Flake represented that Coral Reef had licensed shows to television companies and that Coral Reef had commitments from cable television companies, when in fact Coral Reef never produced or licensed and shows and it had no such commitments.

14. Flake never disclosed the previous SEC Order to potential investors or investors in Undetectables.

## **II. CONCLUSIONS OF LAW**

15. Paragraphs 1 through 14 are incorporated by reference as though fully set forth herein.

16. The Commissioner has jurisdiction over this matter pursuant to the Act. *See* O.G.C.A. §§ 10-5-70 and 10-5-71.

17. Pursuant to O.C.G.A. § 10-5-73(a)(1) of the Act, if the Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or Rules, the Commissioner may “[i]ssue an order directing the person to cease and desist from engaging in the act, practice, or course of business, or to take other action necessary or appropriate.”

18. Pursuant to O.C.G.A. § 10-5-73(d), “the Commissioner may impose a civil penalty up to \$50,000.00 for a single violation or up to \$500,000.00 for more than one violation.”

19. The stock Respondents sold and issued to investors under the Agreement are, detailed in paragraph 7 above, are “securities” as defined by O.C.G.A. § 10-5-2(31).

20. Pursuant to O.C.G.A. § 10-5-20 “[i]t is unlawful for a person to offer or sell a security in this state unless: (1) the security is a federal covered security; (2) The security, transaction, or offer is exempted from registration under Code Sections 10-5-10 through 10-5-12; or (3) the security is registered under this chapter.” Respondents violated O.C.G.A. § 10-5-20 by offering and selling securities in Georgia that were not federally covered, exempted from registration pursuant to the Act, or registered with the Commissioner. Based on the violations, Respondents are subject to discipline under O.C.G.A. § 10-5-73.

21. Pursuant to O.C.G.A. § 10-5-50, “[i]t is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly: (1) [t]o employ a device, scheme, or artifice to defraud; (2) [t]o make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, nor misleading; or (3) [t]o engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.”

22. Respondents violated O.C.G.A. § 10-5-50 by: (1) making material misrepresentations about the viability of the Undetectables production, (2) making material misrepresentations about the financial health of the operations, (3) making material misrepresentations about strategic partnerships between Undetectables and third parties, and (4) failing to disclose the prior SEC Order against Flake. Based on the violations, Respondents are subject to discipline under O.C.G.A. § 10-5-73.

### **III. ORDER**

**WHEREFORE**, by the authority vested in me as the Commissioner of Securities for the State of Georgia, **IT IS HEREBY ORDERED**:

1. **THE UNDETECTABLES MOVIE, LLC** and **DAVID E. FLAKE** immediately **CEASE AND DESIST** all violations of the Georgia Uniform Securities Act of 2008, as amended.

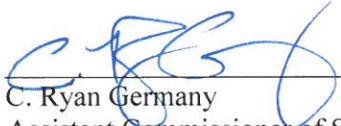
2. **THE UNDETECTABLES MOVIE, LLC** and **DAVID E. FLAKE**, jointly and severally, pay a civil penalty in the amount of fifty thousand dollars (\$50,000.00). Full payment of this monetary penalty is due within thirty (30) days of the entry of a Final Order by the Commissioner of Securities.

The entry of the Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons unrelated to Respondents and shall not be deemed to be a waiver or estoppel on the part of the Commissioner from proceeding in individual actions against any person who may have violated the Act or any transactions not specifically referred to herein or not known to the Commissioner at the time this Order was issued.

**SO ORDERED** this 17<sup>th</sup> day of April, 2018.

**SECRETARY OF STATE  
COMMISSIONER OF SECURITIES**

By: \_\_\_\_\_

  
C. Ryan Germany  
Assistant Commissioner of Securities