

**COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF THE COMMONWEALTH
SECURITIES DIVISION
ONE ASHBURTON PLACE, ROOM 1701
BOSTON, MASSACHUSETTS 02108**

IN THE MATTER OF:)	
)	
NONOTUCK INVESTMENT GROUP, LLC,)	
and MICHAEL JOSEPH VITO,)	Docket No. E-2020-0021
)	
RESPONDENTS.)	
)	

CONSENT ORDER

I. PRELIMINARY STATEMENT

This Consent Order (the “Order”) is entered into by the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts (the “Division”) with Nonotuck Investment Group, LLC and Michael Joseph Vito (together, “Respondents”) with respect to the above-captioned investigation by the Enforcement Section of the Division (the “Enforcement Section”) into whether Respondents engaged in acts or practices that violated the Massachusetts Uniform Securities Act, Mass. Gen. Laws c. 110A (the “Act”), and the regulations promulgated thereunder at 950 Code Mass. Regs. 10.01-14.413 (the “Regulations”). This Order is necessary and appropriate in the public interest for the protection of investors and is consistent with the purposes fairly intended by the policies and provisions of the Act.

On July 22, 2022, Respondents submitted an Offer of Settlement (the “Offer”) to the Division that was fair, reasonable, and in the public interest. Respondents admit the facts set forth in Sections III to VI below, neither admit nor deny the violations of law set

forth in Section VII below, and consent to the entry of this Order by the Division, consistent with the Offer, thereby settling the above-captioned matter with prejudice.

II. JURISDICTION

1. The Division has jurisdiction over matters relating to securities pursuant to the Act, codified at Massachusetts General Laws Chapter 110A.
2. This Order is entered in accordance with the Act and with Section 10.10 of the Regulations.
3. The acts and practices that were the subject of the Enforcement Section's investigation occurred in Massachusetts within the meaning of Section 414 of the Act.

III. RELEVANT TIME PERIOD

4. Except as otherwise expressly stated, the conduct described herein occurred during the period of September 18, 2008 to May 31, 2011 (the "Relevant Time Period").

IV. RESPONDENTS

5. Nonotuck Investment Group, LLC ("Nonotuck") is a limited liability company organized in Massachusetts on September 18, 2008. It has a principal place of business in Florence, Massachusetts.
6. Michael Joseph Vito ("Vito") is an individual resident of Massachusetts. He is a co-founder, and currently the sole manager, of Nonotuck.

V. OTHER RELEVANT PERSONS

7. Lisa L. Fusco ("Fusco") is an individual who resided in Massachusetts during the Relevant Time Period. She is the other co-founder of Nonotuck and was a manager thereof during the Relevant Time Period.

8. Michael Vito & Associates, Inc. (“Vito & Associates”) was a Massachusetts corporation organized by Vito on June 21, 2005. It had a principal place of business in Florence, Massachusetts. It was a consulting firm specializing in government relations, public affairs, and business development. It was voluntarily dissolved on January 3, 2022.

9. Scuderi Group, Inc. (“Scuderi Inc.”) is a Delaware corporation organized on January 30, 2013. It has a principal place of business in West Springfield, Massachusetts. It is a research and development company primarily focused on combustion engines.

10. The Scuderi Group, LLC (“Scuderi LLC”) was a Massachusetts limited liability company organized on April 19, 2002. On January 31, 2013, it merged into Scuderi Inc. It had a principal place of business in West Springfield, Massachusetts. Like its successor entity, Scuderi LLC was a research and development company primarily focused on combustion engines.

11. Salvatore Carmelo Scuderi (“Salvatore”) is an individual resident of Massachusetts. He was a manager of Scuderi LLC and is currently the President of Scuderi Inc.

12. Ruth J. Scuderi (“Ruth”) is an individual resident of Massachusetts. She is a relative of Salvatore and was Director of Investor Relations for Scuderi LLC.

VI. STATEMENT OF FACTS

A. Nonotuck’s Business Model

13. Prior to founding Nonotuck, Vito provided business consulting services to Scuderi LLC through Vito & Associates.

14. In or around September 2008, Salvatore approached Vito and proposed that Vito establish a company to serve as an investment vehicle for Scuderi LLC.

15. Vito, along with Fusco, acted at Salvatore's direction in founding Nonotuck with legal assistance of an attorney recommended by Salvatore.
16. Although Vito and Fusco were both managers of Nonotuck, Vito has always performed the work necessary in order to keep the company operational.
17. Fusco ultimately resigned as a manager of Nonotuck.
18. As a manager of Nonotuck during the Relevant Time Period, Vito possessed legal authority to transact business and sign certain contracts on its behalf.
19. At one point after the Relevant Time Period, Vito's authority as manager lapsed, but he was reappointed to his position in June 2022 and serves as Nonotuck's sole manager as of the date of this Offer.
20. During the Relevant Time Period, Scuderi LLC solicited private placement investors by hosting presentations and seminars in Massachusetts.
21. During the Relevant Time Period, Scuderi LLC also solicited investors by hosting webinars.
22. Representatives of Scuderi LLC would direct certain potential investors to Nonotuck.
23. Scuderi LLC offered a reduced minimum investment amount to anyone who invested through Nonotuck.
24. Nonotuck required a minimum investment of \$10,000, plus a two percent (2%) administrative fee that Vito put toward paying the company's operating expenses.
25. Nonotuck required each investor to sign either a copy of a document entitled, "Operating Agreement of Nonotuck Investment Group, LLC" (the "Operating Agreement") or a purchase agreement, and submit a check payable to Nonotuck.

26. The Operating Agreement was drafted by an attorney whom Salvatore and other representatives of Scuderi LLC recommended to Nonotuck.
27. On multiple occasions, Salvatore and other representatives of Scuderi LLC represented to Vito that Nonotuck was not required to register any offers or sales of securities.
28. After depositing an investor's check in Nonotuck's bank account, Vito would use the funds (minus the administrative fee) to effectuate the purchase of membership units in Scuderi LLC by Nonotuck.
29. The Operating Agreement refers to Nonotuck investors as "Members."
30. When Scuderi LLC merged into Scuderi Inc., Nonotuck's membership units in Scuderi LLC were converted into shares of Scuderi Inc.
31. Nonotuck continues to be the owner of all shares of Scuderi Inc. that Nonotuck purchased using Members' funds.
32. Section 5.1 of the Operating Agreement expressly states that Nonotuck was initially created to invest in Scuderi LLC.
33. In a June 3, 2009 e-mail to one Member, Vito wrote that Nonotuck's "sole purpose is to purchase stock offered by the Scuderi Group."
34. During the Relevant Time Period, Vito would respond to inquiries from Members regarding Nonotuck's investment in Scuderi LLC.
35. During the Relevant Time Period, Vito would also at times put Members in contact with representatives of Scuderi LLC, such as Ruth.
36. During the Relevant Time Period, Vito circulated Scuderi LLC investor updates, which Ruth wrote, to Members.

37. Scuderi Inc. has yet to make an initial public offering.

B. Respondents Offered and Sold Unregistered Securities in Massachusetts.

38. During the Relevant Time Period, Nonotuck, by and through Vito in his capacity as manager thereof, offered and sold “Units” in Nonotuck on at least seventy-one (71) occasions.

39. Vito and Fusco are also Members of Nonotuck who purchased Units during the Relevant Time Period.

40. Article I of the Operating Agreement defines “Units” as meaning “measures of ownership in [Nonotuck].”

41. Section 5.1 of the Operating Agreement states that there is a one-to-one equivalency between a Unit and a share in Scuderi LLC. Thus, a new Member who furnished \$11,200 to Vito to purchase 2,000 shares of Scuderi LLC was technically providing an \$11,200 capital contribution to Nonotuck in exchange for 2,000 Units, with the understanding that Nonotuck would then use that capital to acquire and hold 2,000 membership units of Scuderi LLC.

42. Through twenty-nine (29) out of the seventy-one (71) aforementioned sales, Vito raised approximately \$484,603.20 in capital for Nonotuck, not including the two percent (2%) administrative fee.

43. Nonotuck, through Vito, paid to Scuderi LLC the entire amount of capital raised from the aforementioned seventy-one (71) sales, less the two percent (2%) administrative fee, for the purchase of membership units in Scuderi LLC.

44. Vito was physically present in Massachusetts when he made each of the aforementioned seventy-one (71) offers of sale.

45. According to the Operating Agreement, Units afford Members voting rights over matters related to company administration and governance, such as the hiring and firing of managers.

46. According to the Operating Agreement, Units are transferable, subject to certain conditions.

47. Nonotuck has never registered an offer or sale of any security with the Division.

48. Nonotuck has never filed a consent to service of process with the Division.

VII. VIOLATIONS OF LAW

Count I - Mass. Gen. Laws c. 110A, § 301

49. Section 301 of the Act provides:

It is unlawful for any person to offer or sell any security in the [C]ommonwealth unless:—

- (1) the security is registered under this [Act];
- (2) the security or transaction is exempted under [S]ection 402 [of this Act]; or
- (3) the security is a federal covered security.

Mass. Gen. Laws c. 110A, § 301.

50. Respondents' acts and practices, as described above, constitute violations of Section 301 of the Act.

Count II - Mass. Gen. Laws c. 110A, § 414(g)

51. Section 414 of the Act provides:

[E]very issuer which proposes to offer a security in the [C]ommonwealth through any person acting on an agency basis in the common-law sense shall file with the [S]ecretary, in such form as he by rule prescribes, an irrevocable consent appointing the [S]ecretary or his successor in office to be his attorney to receive service of any lawful process in any non-criminal suit, action, or proceeding against him or his successor, executor, or administrator which arises under this [Act] or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent.

Id. § 414(g).

52. Nonotuck's acts and practices, as described above, constitute a violation of Section 414(g) of the Act.

VIII. ORDER

IT IS HEREBY ORDERED:

- A. Respondents shall permanently cease and desist from violations of the Act.
- B. Respondents are censured.
- C. Vito is permanently barred in Massachusetts from registering as, associating with, or acting as (i) a broker-dealer; (ii) a broker-dealer agent; (iii) an investment adviser; (iv) an investment adviser representative; (v) a Securities and Exchange Commission registered investment adviser; (vi) an investment adviser exempted from registration; (vii) a person relying on an exclusion from the definition of "broker-dealer" or "investment adviser" in any capacity; (viii) an issuer; (ix) an issuer-agent; or (x) a partner, an officer, a director, or a control person of any of the foregoing, except as necessary to continue to act in an administrative capacity for Nonotuck until the time of his resignation pursuant to Section VIII(E) below.
- D. Vito shall offer restitution to each Member, except Fusco, subject to the following terms and conditions:
 - i. For the purposes of Section VIII(D)(ii)-(xi) below, a married couple shall be treated as a single Member.
 - ii. The maximum aggregate amount of restitution that Vito shall be obligated to pay under the terms of this Order shall be \$500,000 (USD).

iii. For each Member, except Vito and Fusco, a fraction (a “Membership Fraction”) shall be calculated using the following formula:

$$\text{Membership Fraction} = \frac{\text{Number of Units Owned by Member}}{\text{Aggregate Number of Units Owned by All Members}}$$

iv. For each Member, except Vito and Fusco, a pro rata share of the total restitution amount (a “Pro Rata Share”) shall be calculated using the following formula:

$$\text{Pro Rata Share} = \text{Membership Fraction} \times \$500,000$$

v. Within fourteen (14) days after the entry of this Order, Vito shall submit to the Enforcement Section:

- a. A draft restitution offer template; and
- b. A list of all Members and their respective Pro Rata Shares.

vi. Within seven (7) days of receiving notice from the Enforcement Section that the draft restitution offer template is not unacceptable, Vito shall send a restitution offer to each Member except Fusco.

vii. The Enforcement Section shall not arbitrarily or capriciously deem any draft restitution offer template to be unacceptable.

viii. Within the seven (7) day deadline set forth under Section VIII(D)(vi) above, Vito shall provide to the Enforcement Section a single PDF file containing a scanned copy of the respective restitution offers sent to each Member, as well as a notarized affidavit authenticating those documents and attesting that they were in fact sent as addressed.

ix. Each Member shall have thirty (30) days from the date on which Vito sends the restitution offer to accept the terms thereof.

x. For each Member who communicates acceptance of the offer, Vito shall pay restitution thereto in accordance with the following deadlines:

a. Within thirty-five (35) days after the date on which Vito sends the restitution offer to the Member, Vito shall pay to the Member an amount equal to fifty percent (50%) of the Member's Pro Rata Share.

b. Within two (2) years after the date on which Vito makes payment to a Member pursuant to Section VIII(D)(x)(a) above, Vito shall pay to the Member an amount equal to fifty percent (50%) of the Member's Pro Rata Share.

c. Within seven (7) days of each restitution payment that Vito makes pursuant to Section VIII(D)(x)(a)-(b) above, Vito shall provide proof of payment to the Enforcement Section.

xi. Neither Vito nor Fusco shall be entitled to receive any amount of restitution under the terms of this Order.

E. Within thirty-five (35) days after the date on which Vito completes his performance obligations under Section VIII(D)(vi) above, Vito shall resign as manager of Nonotuck and submit all necessary paperwork to the Massachusetts Corporations Division in order to reflect this change. Vito shall promptly notify the Enforcement Section once he has submitted said paperwork.

F. Vito shall pay an administrative fine in the amount of \$75,000 (USD), subject to the following terms and conditions:

1. Payment shall be:

- a. Made by United States Postal Service postal money order, certified check, bank cashier's check, bank money order, or wire transfer;
 - b. Made payable to the Commonwealth of Massachusetts;
 - c. Mailed to One Ashburton Place, Room 1701, Boston, Massachusetts 02108, or wired per Division instructions;
 - d. Submitted under cover letter or other documentation that identifies the party making the payment and that lists the docket number of the investigation (Docket No. E-2020-0021); and
 - e. Made after providing the Enforcement Section with notice twenty-four (24) hours prior.
- ii. The Division shall not to seek to collect the administrative fine imposed herein so long as Vito remains in compliance with his obligations under Section VIII(D) above. Once Vito has provided restitution to each applicable Member and provided proof thereof pursuant to Section VIII(D) above, the Division shall waive the entire administrative fine.
- G. Vito shall not claim, assert, or apply for a tax deduction or tax credit with regard to any local, state, or federal tax for any amount that he shall pay pursuant to this Order.
- H. If either of Respondents is the subject of a voluntary or involuntary bankruptcy petition under Title 11 of the United States Code within three hundred sixty-five (365) days after the entry of this Order, that Respondent shall provide written notice to the Enforcement Section within five (5) days after the date of the petition.
- I. Any fine, penalty, and/or money that Vito shall pay in accordance with this Order is intended by him and the Division to be a contemporaneous exchange for new value given

to him pursuant to 11 U.S.C. § 547(c)(1)(A) and is, in fact, a substantially contemporaneous exchange pursuant to 11 U.S.C. § 547(c)(1)(B).

J. If either or both of Respondents should fail to comply with any of the terms of this Order, the Enforcement Section may institute an action to have the settlement agreement and this Order declared null and void.

K. For good cause shown, the Enforcement Section may extend any of the procedural dates set forth above.

**WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH**



Diane Young-Spitzer, Esq.
Director & General Counsel
Securities Division
Office of the Secretary of the Commonwealth
John W. McCormack Building, 17th Floor
One Ashburton Place
Boston, MA 02108

Dated: August 2, 2022