

STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT

\_\_\_\_\_) )  
IN THE MATTER OF: TAKE-A-BREAK SYSTEMS, INC.) ) FILE NO. 0100080  
\_\_\_\_\_) )

**ORDER OF CENSURE AND FINE**

TO THE RESPONDENT: Take-A-Break Systems, Inc.  
13941 Fairhaven Road  
Thompson, Illinois 61285

c/o Timothy B. Zollinger, Esq.  
Ward, Murray, Pace & Johnson, P.C.  
200 East Fifth Street  
P.O. BOX 400  
Sterling, Illinois 61081

WHEREAS, the above captioned matter came to be heard on October 3, 2001 pursuant to an Amended Notice of Hearing dated September 21, 2001 and the record of the matter under the Illinois Securities Law of 1953 (815 ILCS 5) ("the Act") has been reviewed by the Secretary of State or his duly authorized representative;

WHEREAS, the rulings of the Hearing Officer on the admission of evidence and all motions are deemed to be proper and are hereby concurred with by the Secretary of State;

WHEREAS, the proposed Findings of Fact and Conclusions of Law and Recommendation of the Hearing Officer, Richard M. Cohen, in the above captioned matter have been read and examined;

WHEREAS, the Findings of Fact of the Hearing Officer are accepted and are hereby adopted as the Findings of Fact of the Secretary of State as follows:

1. The Department gave proper notice of this hearing to Respondent.
2. The Department has personal jurisdiction over Respondent under Section 5-65 of the Act pursuant to the Department's proper service of the Notice of Hearing and amendments thereto.
3. Respondent appeared at the hearing, personally and through counsel.

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4. Exhibits have been offered and received from the Department, admitted into evidence, and a proper record of all proceedings has been made and preserved as required.
5. There are no outstanding petitions, motions, or objections in the proceeding.
6. Take-A-Break Systems, Inc. (the "Respondent"), an Illinois corporation, maintains its principal office at 13941 Fairhaven Road, Thompson, Illinois 61285.
7. In the early part of 2001, Respondent sent to at least one Illinois resident promotional literature which they requested in response to advertising, including but not limited to an order form (hereinafter referred to as "Info Package", Exhibit H), and thereafter several follow up telephone calls.
8. In Info Package set forth the equipment, warranties, locations, insurance, training programs, and costs of the various investments—vending machine packages starting in excess of \$500.00—plus optional professional locator/location service to prospective purchasers.
9. The Info Package displayed, in pertinent part, the following:

DISCLOSURES REQUIRED BY ILLINOIS LAW

- d) THE STATE OF ILLINOIS HAS NOT REVIEWED AND DOES NOT APPROVE, RECOMMEND, ENDORSE OR SPONSOR ANY BUSINESS OPPORTUNITY. THE INFORMATION CONTAINED IN THIS DISCLOSURE HAS NOT BEEN VERIFIED BY THIS STATE. IF YOU HAVE ANY QUESTIONS ABOUT THIS INVESTMENT, SEE AN ATTORNEY BEFORE YOU SIGN A CONTRACT OR AGREEMENT.
10. The statement described in paragraph nine is not misleading and would not operate as fraud or deceit upon any a prospective purchaser in that it does not imply that Take-A-Break is registered pursuant to the Act.

WHEREAS, the proposed Conclusions of Law are correct and are adopted by the Secretary of State as follows:

1. The Department has jurisdiction over the subject matter hereof pursuant to the Act.
2. Sec.5-5.10.of the Act, in part, provides:

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(a) "Business Opportunity" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, wherein it is agreed that the seller shall provide to the purchaser any product, equipment, supplies or services enabling the purchaser to start a business when the purchaser is required to make a payment to the seller or a person recommended by the seller and the seller represents directly or indirectly, orally or in writing, that:

(1) The seller or a person recommended by the seller will provide or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases or other similar devices, on premises neither owned nor leased by the purchaser or seller;

..or

(6) The seller will provide a marketing plan.

3. The vending machine packages described in the Info Pkg. constitutes a business opportunity as the term is defined in Section 5-5.10 of the Act.
4. The activities described above constitute an attempt to dispose of a business opportunity and an offer as that term is defined under Section 5-5.20 of the Act.
5. Section 5-25 of the Act provides, inter alia, that it is unlawful for any person to offer any business opportunity in this State unless the business opportunity is registered under the Act or is exempt under Section 5-10 of the Act.
6. At all relevant times, Respondent failed to register the business opportunity described above as required pursuant to Section 5-25 of the Act.
7. By virtue of the foregoing, Respondent violated Section 5-25 of the Act.
8. Sec.5-95 of the Act in part provides:
  - (1) It is unlawful for any person, in connection with the offer or sale of any business opportunity in this State or any offer or sale pursuant to the exemptions granted under subdivisions 5-10(a), (c), (d), or (h), directly or indirectly...
  - (2) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in

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the light of the circumstances under which they are made, not misleading; or

- (3) To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.
9. By virtue of the foregoing, Respondent did not violate Section 5-95 of the Act.

NOW THEREFORE IT IS HEREBY ORDERED that, pursuant to the foregoing Findings of Fact and Conclusions of Law, and the Recommendation of the Hearing Officer, and pursuant to the authority provided under Section 11.E (2) of the Act, Respondent TAKE A BREAK SYSTEMS, INC., is:

1. CENSURED, and
2. FINED \$1000.

Dated: This 14<sup>th</sup> day of January, 2003.

  
Jesse White  
Secretary of State  
State of Illinois

Notice: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Act. Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of this Order, shall be guilty of a Class 4 felony.

This is a final order subject to administrative review pursuant to the Administrative Review Law (735 ILCS 5/3-101 et seq.) and the Rules and Regulations of the Act (14 Ill. Adm. Code, Ch.1, Sec. 130.1123). Any action for judicial review must be commenced within thirty-five (35) days from the date a copy of this Order is served upon the party seeking review.

Attorney for the Secretary of State:  
Samuel Freiman  
Illinois Securities Department  
69 West Washington Suite 1220  
Chicago, Illinois 60602  
(312) 793-3384