In The Matter Of: **THE NORTH CAROLINA SECURITIES DIVISION,** Petitioner, **vs.** **LINEBERRY & COMPANY, INC.** and **DAVID W. LINEBERRY,** Respondents.	)	**FINAL ORDER** **FILE NO. 07-009-IG**

WHEREAS, DAVID W. LINEBERRY (hereinafter, "Lineberry") is a natural person who resides in Durham County, North Carolina, and maintains a business office at 3211 Shannon Road, #150, Durham, North Carolina, 27707; and

WHEREAS, LINEBERRY & COMPANY, INC. (hereinafter, "LineCo") is a corporation organized and existing under the laws of North Carolina that maintains its principal offices at 3211 Shannon Road, #150, Durham, North Carolina, 27707; and

WHEREAS, the Secretary of State of the State of North Carolina (the "Secretary of State"), as Administrator of the North Carolina Securities Act (North Carolina General Statutes, Chapter 78A), the Securities Division of the Department of the Secretary of State (the "Securities Division"), and the Respondents have negotiated this Final Order; and

WHEREAS, the Respondents elect to permanently waive any right to judicial review or a hearing and appeal under Chapter 78A (the North Carolina Securities Act) or Chapter 150B of the North Carolina General Statutes (the Administrative Procedure Act) with respect to this Final Order; and

NOW, THEREFORE, the Securities Administrator, acting through her duly appointed Deputy Securities Administrator, pursuant to and under all authority granted by the North Carolina Securities Act, and with the consent of the Respondents, does hereby enter into this Final Order in settlement of the Administrative Petition and Summary Order to Cease and Desist issued and entered on March 23, 2007 against the Respondents.

I.
JURISDICTION AND CONSENT

Respondents admit the jurisdiction of the Securities Division, and stipulate to the Findings of Fact and Conclusions of Law contained in this Final Order, and consent to the entry of this Final Order by the Deputy Securities Administrator.

II.
FINDINGS OF FACT

The Securities Administrator, acting by and through her duly appointed Deputy Securities Administrator, makes the following findings of fact regarding a securities investigation into certain activities undertaken by the Respondents:

1. Respondent LineCo is a corporation organized and existing under the laws of North Carolina which maintains its principal offices at 3211 Shannon Road, #150, Durham, North Carolina 27707.

2. Respondent Lineberry is a natural person residing in Durham County, North Carolina and serves as the President of Respondent LineCo.

3. Commencing on or about March 5th, 2007 and continuing through March 23, 2007, Respondents LineCo and Lineberry caused to run in the News and Observer, a "newspaper of general circulation" in Wake and Durham counties in North Carolina as defined by N.C.G.S. § 1-597, an advertisement soliciting members of the public to "Invest Locally" with "L & Company."

4. The advertisement for "L & Company": (i) sought investors to "accommodate growth;" (ii) offered "a fixed annual interest rate plus additional benefits;" and (iii) promoted returns on "minimum investments" as follows: (a) $10,000 will receive 8%, (b) $15,000 will receive 9%, and $20,000 will receive 10%. The advertisement also stated that "Interest will be paid annually. Terms are for 2 or more years."

5. In March 8, 2007 an investigator employed by Petitioner, without identifying himself as to such employment, made a telephone contact with Respondent Lineberry at the telephone number contained in the advertisement. Respondent Lineberry explained that the advertised investment consisted of a promissory note issued by Respondent LineCo and collateralized by the inventory and equipment of Respondent LineCo, a retail jewelry merchant. On the same day Respondent Lineberry forwarded the Division investigator by electronic email digital photographs of some of the jewelry designs and products available to the public for purchase from Respondent LineCo. Upon further inquiry by the investigator, Respondent Lineberry, on March 14, 2007, also forwarded by electronic mail a blank digital copy of a proposed promissory note to be executed by Respondent LineCo to evidence a loan of funds by an investor.

6. Respondent Lineberry stated to the Division investigator that the funds loaned by investors to Respondent LineCo were intended to be used in said Respondent's business operations, including the expansion of jewelry lines manufactured by Respondent LineCo, which will be marketed by others under royalty agreements with LineCo.

7. Respondent Lineberry also stated that, while the minimum term for a LineCo note was two years, certain other LineCo notes may have extended maturity dates and carry principal amounts of either $10,000.00 or $15,000.00. LineCo also offered investors the option to roll interest into principal on the note's anniversary date in order to obtain compound interest for the balance of terms of the note.

8. The notes that Respondent LineCo offered in the advertisement were securities, as that term is defined by N.C.G.S. §78A-2(11).

9. Respondent LineCo and Lineberry made offers to sell Respondent LineCo's securities to members of the public in North Carolina through means of public solicitation, as above described.

10. The notes of Respondent LineCo described above were not registered under the provisions of the North Carolina Securities Act prior to the offer in North Carolina. Neither Respondent LineCo nor Lineberry made any claim for exemption or exclusion from the registration provisions of the North Carolina Securities Act prior to offering said securities to the public of North Carolina.

11. The Respondents did not register as dealers or salesmen of securities with the Securities Division of the Department of the Secretary of State prior to the engaging in the offer of securities of Respondent LineCo to the public of North Carolina.

12. It is in the public interest of the citizens of North Carolina and for the protection of investors that Respondents be prohibited from violating the provisions of the Securities Act in connection with selling or making offers to sell securities, buying or soliciting offers to buy securities, and transacting business as a dealer and/or salesman.

III.
CONCLUSIONS OF LAW

1. The Securities Administrator has jurisdiction over the subject matter of this proceeding and over the person of the Respondents.

2. The North Carolina Securities Division finds the Respondents have engaged in conduct that violates the North Carolina Securities Act, specifically N.C.G.S. §§78A-24 and 78A-36(a).

3. The Securities Administrator finds that the entry of this Final Order is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the North Carolina Securities Act.

IV.
ORDER

NOW, THEREFORE, with the consent and agreement of the Respondents, it is **HEREBY ORDERED AND AGREED** that Respondents **DAVID W. LINEBERRY** and **LINEBERRY & COMPANY, INC.** shall immediately and permanently cease and desist from:

a. offering for sale, soliciting offers to purchase, or selling, in or from North Carolina, securities in the form of notes issued by Respondent Lineberry & Company, Inc. or any other security of any issuer, howsoever denominated, in violation of N.C.G.S. §78A-24 of the North Carolina Securities Act;

b. transacting business in this State as a dealer or salesman in violation of N.C.G.S. §78A-36(a) of the North Carolina Securities Act;

c. in connection with the offer, sale or purchase of any security, making any untrue statement of a material fact or omitting to state material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading;

d. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and

e. violating any section of the North Carolina Securities Act and any rule or regulation promulgated under said Act.

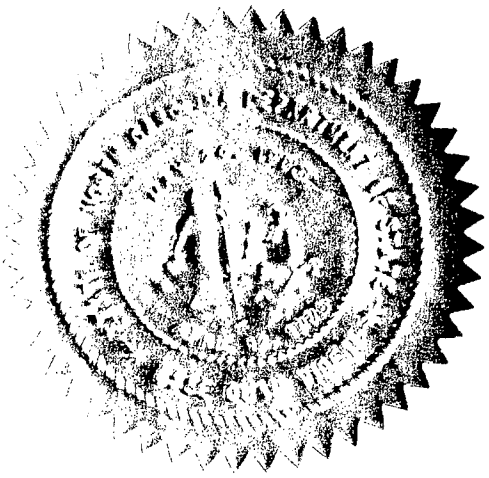
Respondents, by execution of this Final Order, waive any right to a hearing or judicial review thereof and all parties agree the entry and issuance of this Final Order is in full and complete settlement of the Administrative Petition and Summary Order to Cease and Desist issued and entered on March 23, 2007 against the Respondents. Respondents affirmatively state that they have freely agreed to the signing of this Final Order, and that no threats, promises or offers of any kind, other than as stated in this document, have been made by the Securities Administrator, Deputy Securities Administrator, any member of the staff of the Securities Division, or any agent or employee of the Department of the Secretary of State in connection with the signing of this Final Order.

Respondents specifically acknowledge that no promises or representations have been made by the Securities Administrator, Deputy Securities Administrator, any member of the staff of the Securities Division, or any agent or employee of the Department of the Secretary of State with respect to the Respondent's ability to comply with the securities registration provisions of the North Carolina Securities Act.

This Final Order shall become final upon entry.

WITNESS MY HAND AND THE OFFICIAL SEAL of the North Carolina Department of the Secretary of State, this the 4th day of March 2008.

Time of entry: 9:59 A.M.



ELAINE F. MARSHALL
SECRETARY OF STATE OF NORTH CAROLINA and
SECURITIES ADMINISTRATOR, by

DAVID S. MASSEY
DEPUTY SECURITIES ADMINISTRATOR

CONSENT TO ENTRY OF FINAL ORDER BY DAVID W. LINEBERRY

1. **DAVID W. LINEBERRY** hereby acknowledges that he has been served with a copy of this Final Order, has read the foregoing Final Order, is aware of his right to a hearing and appeal in this matter, and has waived this right.

2. **DAVID W. LINEBERRY** admits the jurisdiction of the Securities Division, stipulates to the Findings of Fact and Conclusions of Law contained in this Final Order; and consents to entry of this Final Order by the Secretary of State.

3. **DAVID W. LINEBERRY** states that no promise of any kind or nature whatsoever was made to him to induce him to enter into this Final Order and that he has entered into this Final Order voluntarily.

4. **DAVID W. LINEBERRY** understands that the State of North Carolina may make such public announcement concerning this agreement and the subject matter thereof as the State of North Carolina may deem appropriate.

Dated this 27 day of February, 2008.

By: _____
DAVID W. LINEBERRY

JUDY S EVANS
NOTARY PUBLIC
DURHAM COUNTY
NORTH CAROLINA
My Commission Expires July 16, 2011

SUBSCRIBED AND SWORN TO before me this 27th day of February, 2008.

_____
Notary Public

My Commission expires: July 16, 2011

CONSENT TO ENTRY OF FINAL ORDER BY LINEBERRY & COMPANY, INC.

1. **LINEBERRY & COMPANY, INC.** hereby acknowledges that it has been served with a copy of this Final Order, has read the foregoing Final Order, is aware of its right to a hearing and appeal in this matter, and has waived this right.

2. **LINEBERRY & COMPANY, INC.** admits the jurisdiction of the Securities Division, stipulates to the Findings of Fact and Conclusions of Law contained in this Final Order; and consents to entry of this Final Order by the Secretary of State.

3. **LINEBERRY & COMPANY, INC.** states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Final Order and that it has entered into this Final Order voluntarily.

4. **LINEBERRY & COMPANY, INC.** understands that the State of North Carolina may make such public announcement concerning this agreement and the subject matter thereof as the State of North Carolina may deem appropriate.

David W. Liberry represents that he/she is President of **LINEBERRY & COMPANY, INC.** and that, as such, has been authorized by **LINEBERRY & COMPANY, INC.** to enter into this Order for and on behalf of **LINEBERRY & COMPANY, INC.**

Dated this 27 day of February, 2008.

By: David W Liberry

JUDY S EVANS
NOTARY PUBLIC
DURHAM COUNTY
NORTH CAROLINA
My Commission Expires July 16, 2011

Title: President

SUBSCRIBED AND SWORN TO before me this 27th day of February, 2008.

Judy S Evans
Notary Public

My Commission expires: July 16, 2011