

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING ) Order No.: S-13-1268-15-SC01  
Whether there has been a violation of the )  
Securities Act of Washington by: ) STATEMENT OF CHARGES AND NOTICE OF INTENT  
 ) TO ENTER ORDER TO CEASE AND DESIST, TO  
Comp Cost Solutions Cooperative Marketing ) IMPOSE FINES AND TO CHARGE COSTS  
Company, LLC; Richard Kruckeberg; Willem )  
Drost; and Barry Thomas, )  
 )  
Respondents. )

**THE STATE OF WASHINGTON TO:           Comp Cost Solutions Cooperative Marketing Company, LLC;  
Richard Kruckeberg;  
Willem Drost; and  
Barry Thomas**

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondents Comp Cost Solutions Cooperative Marketing Company, LLC, Richard Kruckeberg, Willem Drost, and Barry Thomas have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator against each to cease and desist from such violations and to charge costs under RCW 21.20.390, and to impose fines under RCW 21.20.395. The Securities Administrator finds as follow:

**TENTATIVE FINDINGS OF FACT**

**I.**

Respondents

1.       Comp Cost Solutions Cooperative Marketing Company, LLC (“Comp Cost”) is an Illinois manager-managed limited liability company that was formed in April 2008. Its principal place of business is at 100 Professional Plaza, Mattoon, Illinois 61938. Comp Cost develops, markets and licenses an online workplace wellness tool, called the MSD Source Guide, designed to help employers reduce their worker’s compensation costs.

2.       Richard Kruckeberg (“Kruckeberg”) is a resident of Illinois and is the founder and managing member of Comp Cost. Kruckeberg managed Comp Cost’s finances, and has the authority to accept and reject new investments. He also signed all of the unit certificates that Comp Cost issued to investors.

3.       Willem Drost (“Drost”) is believed to be a resident of California and was the CEO, President and managing member of Comp Cost from beginning in late 2008 to about June 2014.

1 4. Barry Thomas (“Thomas”) is believed to be a resident of Nevada and, through his company RPB,  
2 LLC, was a consultant for Comp Cost. Thomas has a CRD number of 2164747.

3 **II.**

4 Nature of the Offering

5 5. From 2008 to 2013, Comp Cost offered and sold promissory notes and Class A, B and C LLC  
6 membership units to at least 30 investors throughout the United States, including to at least six investors in  
7 Washington. All of the investors were passive investors. Comp Cost raised at least \$1,185,000 in cash from these  
8 investments, with at least \$955,000 from the sale of LLC membership units. Comp Cost raised about \$297,000 from  
9 the Washington investors. In soliciting these investments, Respondents provided many investors, including at least  
10 three from Washington, with a private placement memorandum (“PPM”) that contained material misrepresentations  
11 and omissions. Comp Cost also solicited existing investors to increase their investments through the use of email  
12 updates that also contained material misrepresentations.

13 6. Comp Cost develops an online tool, called the MSD Source Guide, that it markets as an effective tool  
14 to help employers identify workplace issues that, if addressed, could ultimately decrease the employer’s worker’s  
15 compensation costs. The MSD Source Guide does so by allowing employees to answer questions about their physical  
16 wellness and working environment. It then evaluates the employee’s answers and suggests exercises and other  
17 methods for improving the employee’s wellness. Employers can then aggregate all of the data from their participating  
18 employees’ responses and use that information to identify potential areas that could lead to reportable worker’s  
19 compensation incidents. Kruckeberg, a physical therapist by trade, invented the MSD Source Guide.

20 7. From its incorporation in April 2008 to about December 2010, Comp Cost issued Class A units to at  
21 least five individuals as compensation for services that they provided to Comp Cost, and to investors who purchased  
22 promissory notes. From May 2009 to about April 2011, while Comp Cost was issuing Class A units, Respondents  
23 also sold Class B units to investors. Beginning no later than July 2011 until about October 2013, Respondents sold  
24 Class C units to investors.

25 8. During the period that they offered and sold LLC units, Respondents also raised at least \$230,000 by  
selling promissory notes to at least four investors, including a Washington investor. Comp Cost issued notes that  
matured in six months to a year, and paid quarterly interest ranging from 10% to 12% per annum. Comp Cost also  
gave the noteholders a small amount of Class A, B or C units as part of their investment. One noteholder was repaid  
on time. No other noteholder has been repaid. As of July 2015, Comp Cost is in default on over \$265,000 in principal  
and interest to the remaining noteholders.

9. Drost, Kruckeberg and Thomas primarily sold the investments, and solicited their family and friends  
to invest. However, when they sold Class B and C units, they asked Comp Cost’s existing investors to refer interested  
investors to them. Respondents sold investments to at least 10 investors who were introduced to the company through

1 existing investors. Comp Cost paid some existing investors commission, in the form of cash or additional LLC units  
2 for each new investor they brought in.

3 10. In selling the LLC units and promissory notes, Respondents distributed a PPM that was dated  
4 November 27, 2009 to many investors prior to their investment, including to at least three Washington investors.  
5 Comp Cost never updated the PPM, yet Respondents continued distributing the November 2009 PPM to potential  
6 investors until at least October 2013. Comp Cost drafted the PPM only for an offering of Class B units, but  
7 Respondents distributed the PPM to potential investors regardless of what class of units they eventually invested in.

8 *Material Misrepresentations and Omissions Regarding Revenue Sources and Company Value*

9 11. In the November 2009 PPM that Respondents distributed to investors, Comp Cost identified several  
10 contracts that it had signed with various customers that provided, or would soon provide, a revenue source. Comp  
11 Cost identified these contracts in a section entitled “Key Sources of Investor Value.”

12 12. For example, Comp Cost represented in the PPM that it had signed a license agreement with an entity  
13 called Direct Access Labs, Inc., aka Lifestrive (“DAL/Lifestrive”) that gave Comp Cost potential access to customers  
14 through Allstate. Under the license agreement, Comp Cost would be paid \$4 for every user who signed up to use the  
15 MSD Source Guide. Comp Cost estimated that this agreement would bring in “expected revenues of up to \$1.2  
16 million by second quarter 2010” without providing a basis for how it arrived at that estimate.

17 13. In addition to the DAL/Lifestrive contract, Comp Cost stated in the PPM that it had secured a General  
18 Services Administration (GSA) “contracting vehicle” that allowed it to “secure revenues from federal business,  
19 expected perhaps as early as 2010.” Comp Cost further stated in the PPM that it had “sales beginning in October 2009  
20 from [a] private license” to a hospital association in Colorado.

21 14. In emails to at least one Washington investor, Drost and Thomas made representations that gave the  
22 investor the impression that the DAL/Lifestrive contract was a certainty and would be bringing in revenue. In one  
23 email, Thomas told the investor that Comp Cost’s MSD Source Guide was being implemented in a wellness program  
24 that Lifestrive was going to deploy within Allstate in just a few months. Thomas also forwarded an email to the  
25 investor in which a Comp Cost executive stated that Allstate had asked Comp Cost for information that it could  
provide in its own literature. Due in part to Drost and Thomas’ reassurances that the contract would enable Comp  
Cost to repay him, the Washington investor invested in a \$140,000 promissory note in May 2010.

15. Respondents failed to disclose to at least this Washington investor that DAL/Lifestrive had never  
finalized any agreement with Allstate and thus could not provide Comp Cost with access to potential customers.  
Respondents also failed to disclose that the hospital association in Colorado never licensed or purchased Comp Cost’s  
MSD Source Guide or any other product, and that the GSA contract had never been finalized. Respondents did not  
disclose that, as a result, Comp Cost never received any revenue from any of these agreements. When these

1 agreements did not materialize, Comp Cost did not update the PPM and Respondents continued distributing the  
2 original PPM to potential investors.

3 16. In the PPM, Comp Cost represented that it had an internal valuation of \$8 million based partly on the  
4 DAL/Lifestrive contract. Comp Cost stated that the valuation was due in part to the existence of an “aggressive  
5 timeline...enabling Lifestrive and [Comp Cost] to generate expected revenues of up to \$1.2m by the second quarter  
6 2010.” Because Comp Cost and DAL/Lifestrive did not have any contracts that would enable Comp Cost to generate  
7 this revenue, Comp Cost’s valuation of \$8 million was misleading. Comp Cost never updated the PPM with a revised  
8 valuation when the DAL/Lifestrive fell through.

9 17. The majority of Comp Cost’s income from January 2009 to October 2013, when Respondents sold  
10 almost all of the investments, came from funds that they raised from investors. Comp Cost received little to no revenue  
11 from selling the MSD Source Guide or any other product during this time. Because of this, Comp Cost came to depend  
12 heavily on raising investments to stay afloat. With the Class B offering, for which it drafted the PPM, Comp Cost  
13 hoped to raise \$1,040,000. Respondents eventually raised only about \$700,000 by selling Class B units. Comp Cost  
14 never disclosed the risk of undercapitalization in the PPM.

15 *Material Misrepresentations and Omissions Regarding Patent and License Agreement*

16 18. In the PPM that Respondents distributed to investors, Comp Cost misrepresented that it owned the  
17 patent or provisional patent related to the MSD Source Guide. For example, in the section entitled, “Risk Factors and  
18 Other Factors to be Considered,” Comp Cost stated, “The Company’s IT technology is patent pending....” In reality,  
19 Kruckeberg was the inventor of the MSD Source Guide technology and was at all times the owner of the provisional  
20 and final patents related to it.

21 19. Comp Cost instead entered into a License Agreement with Kruckeberg on April 4, 2008 that licensed  
22 the use of the MSD Source Guide for five years. Under the License Agreement, Comp Cost was required to pay  
23 Kruckeberg a license fee of \$75,000 and give Kruckeberg a 75% ownership stake in the company. The License  
24 Agreement granted Comp Cost the right to sublicense the technology but “only to the Comp Cost Solutions  
25 Cooperative,” an unknown entity that the agreement did not otherwise identify. It was not until December 2011 when  
Kruckeberg and Comp Cost entered into another License Agreement that modified this provision to allow Comp Cost  
to sublicense the technology to third parties approved by Kruckeberg.

26 20. Comp Cost did not disclose in the PPM, and Respondents failed to otherwise disclose to at least one  
27 Washington investor, that Comp Cost never owned any final or provisional patents related to the MSD Source  
28 Guide, the risks associated with Comp Cost not actually owning the final or provisional patents, the terms of the  
29 License Agreement that Comp Cost had entered into with Kruckeberg, and that Comp Cost may not have had the  
30 authority to enter into license agreements regarding the technology covered by the provisional or final patents,

1 including the DAL/Lifestrive agreement discussed in Paragraphs 11 to 15, above.

2 *Material Misrepresentations and Omissions Regarding Salary and Consulting Agreements*

3 21. Comp Cost entered into multiple employment and consulting agreements with several of its key  
4 personnel, salespersons and contractors that it did not disclose in the PPM, and that Respondents failed to otherwise  
5 disclose to at least one Washington investor, including:

6 a. In December 2008, Comp Cost entered into an employment agreement with Respondent  
7 Drost for the position of President. Comp Cost agreed to pay Drost a salary of \$20,000 per month if  
8 Comp Cost obtained a bank line of credit, and 10% of any sales revenue that Drost brought in. Comp  
9 Cost eventually obtained a bank line of credit. From about March 2009 to about April 2014, Comp  
10 Cost paid Drost nearly \$415,000 in salary. Because Comp Cost could only make payments when it  
11 had funds available, it was inconsistent in paying Drost.

12 b. In November 2009, Comp Cost entered into a Commission and Consulting Fee Agreement  
13 with RPB, LLC (“RPB”). Respondent Thomas was a partner in RPB. Under the agreement, RPC  
14 agreed to provide services to Comp Cost that included “developing organizational structure,  
15 facilitating operating capital financing, [and] acquiring new business...” For these services, Comp  
16 Cost agreed to pay RPC the higher of \$12,000 per month or a commission of 10% of the monthly  
17 sales revenue brought in by RPB. From about March 2009 to about August 2010, Comp Cost paid  
18 RPB over \$83,000.

19 c. In December 2008, Comp Cost entered into a revised employment agreement with Patrick  
20 Grant, through Grant’s company, Grant Enterprises of America, to be its Chief Marketing Officer.  
21 Comp Cost agreed to pay Grant a salary of \$15,000 per month upon obtaining the bank line of credit  
22 and 5% of sales revenue, which increased to 15% for business brought in by Grant. From about  
23 March 2008 to about March 2011, Comp Cost paid Grant over \$235,000.

24 d. In October 2009, Comp Cost entered into a Consulting Agreement with RLP, LLP  
25 Enterprises, LLC (“RLP LLP”). RLP LLP is owned in part by Richard Perryman. Perryman was  
also part owner of DAL/Lifestrive. Comp Cost agreed to pay RLP LLP a monthly consulting fee of  
\$20,000 for market research, business development, and IT and marketing services related to the  
MSD Source Guide. From January to June 2010, Comp Cost paid RLP LLP \$83,000.

22 22. In addition to not disclosing these agreements, Respondents never disclosed to a Washington investor  
23 that Comp Cost would be using \$75,000 of his \$140,000 investment to pay salaries and fees that were past due to  
24 Drost, RPB, Kruckeberg, Grant and RLP LLP. Before his investment, Drost and Thomas told this investor that his  
25 funds would generally be used to help launch the MSD Source Guide program. This investor also relied on the PPM

1 regarding the use of his investment funds. In the PPM, Comp Cost listed several general ways that it intended to use  
2 investor funds, but did not specifically disclose that it would use investor funds to pay salary and consulting fees that  
3 were past due.

4 *Material Misrepresentations and Omissions Regarding Debt*

5 23. Beginning in May 2008, a month after it was incorporated, to about October 2012, Comp Cost issued  
6 promissory notes to Kruckeberg for, among other things, cash he contributed to Comp Cost to capitalize the company  
7 and to meet expenses such as payroll. The notes were either short-term notes or payable on demand, and carried  
8 interest rates of 10 to 12% per annum. Overall, Comp Cost issued over thirty notes to Kruckeberg totaling at least  
9 \$630,000, which are all currently outstanding. As Comp Cost continued to incur this debt, it never updated the PPM  
10 to include information about this debt that it owed to Kruckeberg. Respondents also failed to disclose information  
11 about this debt to at least one Washington investor

12 *Material Misrepresentations Regarding Private Equity Financing*

13 24. In 2011, when Respondents were selling promissory notes and B and C units to investors, Drost  
14 began telling potential and actual investors that Comp Cost was seeking private equity funding and that at least one  
15 private equity firm was poised to make a large investment in the company. Drost, and later Kruckeberg, emailed  
16 investors and told them that a California firm called Gramercy Private Equity (“Gramercy”) was going to invest up to  
17 \$4 million in Comp Cost, and that the funding was imminent. In early 2012, Drost emailed the investors that the  
18 Gramercy investment was expected to close by the end of February 2012. After the Gramercy investment failed to  
19 close at that time, Drost emailed the investors to inform them of several delays over the next couple of years and  
20 continued to represent that the funding would eventually come through. Kruckeberg and Thomas were copied on  
21 most, if not all, of Drost’s emails to investors.

22 25. In the email updates, Drost often included a solicitation for current investors to purchase Class C units  
23 at \$20,000 per unit to provide bridge funding for the company until the Gramercy deal could close. At one point, in  
24 late 2011, Drost discounted the C units to \$10,000 per share. Drost also offered investors the opportunity to purchase  
25 convertible promissory notes that matured in a year and paid 10% interest per annum. Drost asked current investors  
to refer people within their networks who may be interested in investing. He offered finder’s fees of 10 to 15% of the  
investment amount.

26 26. Several existing and new investors invested in Comp Cost during the period that Respondents sent the  
investor update emails discussing the Gramercy investment. From June 2011 through February 2012, the original  
closing date for the investment, at least nine investors invested at least \$145,000, including at least two Washington  
investors who invested at least \$110,000 in Class B and C units.

1 27. Respondents did not disclose in the emails to investors that Comp Cost and Gramercy had never  
2 executed any agreements, such as a purchase agreement, that bound Gramercy to invest in Comp Cost. Respondents  
3 did not disclose that the only documents ever signed by Comp Cost and Gramercy related to any potential investment  
4 were term sheets signed in January 2012 and October 2013, which only memorialized the terms of any potential  
5 investment and were non-binding on both parties. To date, Gramercy has never invested in Comp Cost.

6 28. Respondents also failed to disclose in the emails to investors the basis for the price of Class C units;  
7 Comp Cost's intended use of the investments funds; that Comp Cost had very little cash, at times under \$1,000, in its  
8 bank accounts; that it had been unable to meet its debt obligations to Kruckeberg and the other noteholders; and the  
9 risks of the investment should the Gramercy funding not occur.

### 10 III.

#### 11 Registration Status

12 29. Comp Cost represented in the PPM that the Class B units that it was offering were exempt from  
13 registration based on Rule 504 of Regulation D. However, Rule 504 limits the offering amount to \$1 million and  
14 Comp Cost sought to raise \$1,040,000 with the offering. Comp Cost also engaged in general solicitation when it  
15 opened up the investment to friends and family of existing investors. Comp Cost did not state in the PPM that it did  
16 not file a Form D with the SEC or file a notice of exemption with the Securities Division. Comp Cost failed to  
17 disclose in the PPM that Rule 504 and other Regulation D exemptions may not have been available to exempt the  
18 offering from registration, and that Comp Cost may have violated securities laws as a result. Comp Cost also failed to  
19 address the registration status of Comp Cost's offering of Class A and C units.

20 30. Comp Cost Solutions Cooperative Marketing Company, LLC is not currently registered to sell  
21 securities in Washington and has not previously been registered to do so.

22 31. Richard Kruckeberg is not currently registered to sell securities as a securities salesperson or broker-  
23 dealer in Washington and has not previously been registered to do so.

24 32. Willem Drost not currently registered to sell securities as a securities salesperson or broker-dealer in  
25 Washington and has not previously been registered to do so.

33. Barry Thomas is not currently registered to sell securities as a securities salesperson or broker-dealer  
in Washington and has not previously been registered to do so.

Based upon the above Findings of Fact, the following Conclusions of Law are made:

### CONCLUSIONS OF LAW

1. The offers and/or sales of the promissory notes and LLC membership units, as described above,  
constitute the offer and/or sale of a security as defined in RCW 21.20.005(14) and (17).

1 2. Comp Cost Solutions Cooperative Marketing Company, LLC; Richard Kruckeberg; Willem Drost;  
2 and Barry Thomas each violated RCW 21.20.140 because they offered and/or sold securities for which no registration  
3 is on file with the Securities Administrator.

4 3. Richard Kruckeberg violated RCW 21.20.040 by offering and/or selling said securities while not  
5 registered as a securities salesperson or broker-dealer in the state of Washington.

6 4. Willem Drost violated RCW 21.20.040 by offering and/or selling said securities while not registered  
7 as a securities salesperson or broker-dealer in the state of Washington.

8 5. Barry Thomas violated RCW 21.20.040 by offering and/or selling said securities while not registered  
9 as a securities salesperson or broker-dealer in the state of Washington.

10 6. Comp Cost Solutions Cooperative Marketing Company, LLC; Richard Kruckeberg; Willem Drost;  
11 and Barry Thomas each violated RCW 21.20.010, because, as set forth in the above Tentative Findings of Fact, they  
12 made untrue statements of material facts or omitted material facts necessary in order to make the statements made, in  
13 light of the circumstances under which they were made, not misleading.

14 **NOTICE OF INTENT TO ORDER RESPONDENTS TO CEASE AND DESIST**

15 Pursuant to RCW 21.20.390(1) and based upon the above Tentative Findings of Fact and Conclusions of Law,  
16 the Securities Administrator intends to order that:

17 1. Comp Cost Solutions Cooperative Marketing Company, LLC and its agents and employees; Richard  
18 Kruckeberg; Willem Drost; and Barry Thomas shall cease and desist from violating RCW 21.20.010;

19 2. Richard Kruckeberg, Willem Drost and Barry Thomas shall cease and desist from violating RCW  
20 21.20.040; and

21 3. Comp Cost Solutions Cooperative Marketing Company, LLC and its agents and employees; Richard  
22 Kruckeberg; Willem Drost; and Barry Thomas shall cease and desist from violating RCW 21.20.140.

23 **NOTICE OF INTENT TO IMPOSE A FINE**

24 Pursuant to RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions of Law,  
25 the Securities Administrator intends to order that:

1. Comp Cost Solutions Cooperative Marketing Company, LLC and Richard Kruckeberg shall be  
jointly and severally liable for and shall pay a fine of \$20,000;

2. Willem Drost shall be liable for and shall pay a fine of \$20,000; and

3. Barry Thomas shall be liable for and shall pay a fine of \$20,000.

//

//

**NOTICE OF INTENT TO CHARGE COSTS**

Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that:

1. Comp Cost Solutions Cooperative Marketing Company, LLC and Richard Kruckeberg shall be jointly and severally liable for and shall pay the costs, fees and other expenses incurred in the administrative investigation and hearing of this matter, in an amount not less than \$2,000;

2. Willem Drost shall be liable for and shall pay the costs, fees and other expenses incurred in the administrative investigation and hearing of this matter, in an amount not less than \$2,000; and

3. Barry Thomas shall be liable for and shall pay the costs, fees and other expenses incurred in the administrative investigation and hearing of this matter, in an amount not less than \$2,000; and

**AUTHORITY AND PROCEDURE**

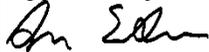
This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject to the provisions of Chapter 34.05 RCW. The Respondents, Comp Cost Solutions Cooperative Marketing Company, LLC, Willem Drost, Richard Kruckeberg and Barry Thomas, may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If a Respondent does not make a hearing request in the time allowed, the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and to enter a permanent order to cease and desist as to that Respondent, to impose any fines sought against that respondent, and to charge any costs sought against that Respondent.

Signed and Entered this 9th day of September 2015.



WILLIAM M. BEATTY  
Securities Administrator

Approved by:



SUZANNE SARASON  
Chief of Enforcement

Presented by:



HUONG LAM  
Financial Legal Examiner

1 Reviewed by:

2 

3 JACK MCCLELLAN  
4 Financial Legal Examiner Supervisor

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25