

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**  
**May 5, 2006**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12288**

**In the Matter of**

**David Henry Disraeli and Lifeplan  
Associates, Inc.,**

**Respondents.**

**ORDER INSTITUTING ADMINISTRATIVE  
AND CEASE-AND-DESIST PROCEEDINGS  
PURSUANT TO SECTION 8A OF THE  
SECURITIES ACT OF 1933, SECTIONS  
15(b)(6) and 21C OF THE SECURITIES  
EXCHANGE ACT OF 1934, AND SECTIONS  
203(e), 203(f) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940**

**I.**

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act"), Sections 15(b)(6) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), and Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against David Henry Disraeli ("Disraeli"), and pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act against Lifeplan Associates, Inc. ("Lifeplan") (collectively "Respondents").

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. Respondents**

**1. David Henry Disraeli**, 42, of Austin, Texas, is registered with the Commission as an investment adviser (File No. 801-62429), under the primary business name "David Henry Disraeli DBA Lifeplan Associates (sic)."<sup>1</sup> Disraeli presently provides discretionary investment advisory services, with approximately \$5 million in assets under management, to 19 clients, 18 of whom reside in Texas. Disraeli has worked in the securities

---

<sup>1</sup> Lifeplan Associates is the sole proprietorship under which Disraeli does business.

industry, as an investment adviser or a registered representative of a broker-dealer, since 1988. He holds Series 6, 7, 22, 24 and 63 licenses from the NASD. Disraeli was registered with the SEC as an investment adviser from November 1993 until his voluntary withdrawal in June 1997, after it became apparent he would no longer qualify for Commission registration as an investment adviser under the National Securities Market Improvement Act of 1996, which added Section 203A to the Advisers Act. In or about March 1999, Disraeli registered as an investment adviser with the Texas State Securities Board (“TSSB”), and in or about December 2000, Disraeli allowed his TSSB registration to lapse. In late 2003, Disraeli registered with the Commission for a second time as an investment adviser.

2. **Lifeplan Associates, Inc.** is a Texas corporation, based in Austin, Texas, which Disraeli incorporated on or about September 30, 2003. Disraeli holds 80 percent of its outstanding stock, and approximately 11 of his advisory clients hold the remaining 20 percent. Disraeli is Lifeplan’s sole officer, director and employee. Lifeplan was registered briefly with the Commission as an investment adviser from on or about October 13, 2003 to on or about November 13, 2003.

**B. Disraeli’s Investment Adviser Registration with the Commission**

1. On or about April 2, 2003, Disraeli consented on a neither-admit-nor-deny basis to the entry of a cease-and-desist order by the TSSB. *See In the Matter of David Henry Disraeli d/b/a Disraeli and Associates*, TSSB Order No. CDO-1504 (April 2, 2003). The order found, among other things, that Disraeli had made misleading statements indicating that he was registered with the Texas Securities Commissioner as an investment adviser, that Disraeli had failed to disclose a federal tax lien, and that Disraeli had offered for sale unregistered securities issued for the development of a retirement community. The order required Disraeli to cease and desist from offering the unregistered retirement community securities, conducting fraudulent offerings and rendering services as an investment adviser without registering as such.

2. During the investigation leading to the April 2003 TSSB order, Disraeli had resigned from the broker-dealer employing him. On or about August 13, 2003, Disraeli applied to re-register with the TSSB as a registered representative of a broker-dealer. The TSSB opposed his application, and on or about September 3, 2003, Disraeli requested a hearing on his application.

3. In or about October 2003, Disraeli filed a Form ADV with the Commission by which he registered Lifeplan as an investment adviser. Although Section 203A of the Advisers Act prohibits investment advisers with less than \$25 million under management from registering with the Commission, Lifeplan’s Form ADV claimed it met the exemption under Advisers Act Rule 203A-2(d), which allows a newly-formed investment adviser to register if it reasonably expects to qualify for Commission registration within 120 days.

4. Since Disraeli was the advisory representative of Lifeplan, which had advisory clients in Texas, Disraeli was required under Texas law to register with the TSSB as an advisory representative. Therefore, on or about October 21, 2003, Disraeli submitted his advisory

representative application to the TSSB, which notified Disraeli on or about November 12, 2003 that it would oppose the application.

**5.** On or about November 13, 2003, Disraeli amended Lifeplan's Form ADV to substitute Disraeli, operating as a sole proprietorship, as the registered adviser. In the amended Form ADV filing, Disraeli claimed that he was a newly-formed adviser expecting to qualify for Commission registration within 120 days. By registering personally with the Commission, Disraeli avoided registering with the TSSB as either an adviser or advisory representative.

**6.** When Disraeli filed the November Form ADV with the Commission, he had only 14 clients (all residing in Texas) and approximately \$4.5 million in assets under management. Disraeli had provided advisory services to these clients for several years. Therefore, at the time he filed the Form ADV Disraeli was not a newly-formed investment adviser. Further, Disraeli did not meet the general \$25 million threshold for Commission registration, and had no reasonable basis for expecting to meet that threshold within 120 days.

**7.** On or about February 11, 2004, Disraeli entered into a written undertaking with the TSSB. The undertaking, which resolved the proceedings arising from the TSSB's opposition to his applications to register as a representative of a broker-dealer and a representative of an investment adviser, required Disraeli to withdraw all applications pending before the TSSB, to refrain from re-applying for registration for 18 months, and to refrain from acting as a broker-dealer's registered representative or providing advisory services, until registered or exempt from registration.

**8.** On or about February 13, 2004, Disraeli filed an amended Form ADV with the Commission, to claim that he met the Rule 203A-2(e) multi-state adviser exemption, which permits Commission registration by advisers who are required by the laws of 30 or more states to register as an adviser in those respective states. Disraeli claimed he qualified for the same exemption in each of the amendments to his Form ADV filed on or about July 1, 2004, March 31, 2005 and November 9, 2005.

**9.** Contrary to Disraeli's statements in his Commission filings, Disraeli was not required to register as an adviser in 30 or more states, and thus, was not qualified for the multi-state exemption. At the time of his Commission filings referenced in paragraph B.8., Disraeli's only office was in Texas and all but one of his clients resided in Texas.

### **C. The Lifeplan Offering**

1. From in or about September 2003 to in or about December 2003, and also in or about December 2004 and in or about March 2005, (“the relevant period”) Disraeli offered and sold 220,000 shares of Lifeplan common stock to approximately 11 of his investment advisory clients. The offering, at \$0.50 per share, raised a total of \$105,000.

2. During the relevant period, Disraeli solicited his clients by means of material misrepresentations and omissions. Disraeli initially offered and sold Lifeplan stock with a summary memorandum (the “Summary Memorandum”) and then, beginning in mid-to-late 2003, through a full private offering memorandum (the “Final Memorandum”). Both documents outlined essentially the same business plan—that Lifeplan would apply the offering proceeds to the operation of various wealth management services and ventures, including the operation of the advisory business and the creation of a limited partnership that would purchase and collect distressed consumer debt.

3. While the two memoranda differed in some respects, they contained the same essential terms. Both memoranda stated that a maximum of \$100,000 would be raised with a \$50,000 minimum and that Lifeplan would apply the offering proceeds to administrative and start up expenses and working capital. The Final Memorandum further specified that Lifeplan would hold and segregate the offering proceeds, for return to investors, until reaching a \$50,000 minimum. The Final Memorandum also specified that, assuming \$100,000 was raised, Lifeplan would apply \$42,000 to various administrative and start up expenses, and approximately \$58,000 to working capital.

4. Both memoranda represented that Disraeli would not receive a salary from Lifeplan. The memoranda further stated that Disraeli’s compensation would be calculated based on net profit, split pro-rata, between Disraeli and the other Lifeplan shareholders, according to their ownership of Lifeplan. The Summary Memorandum further stated that the profits would be calculated and paid quarterly.

5. Lifeplan and Disraeli’s bank records reflect that Disraeli misappropriated as much as \$60,000 of investor funds for personal and non-business related expenditures contrary to the representations in the offering memoranda. For example, on or about October 9, 2003, after raising only \$30,000 of the stated minimum \$50,000, Disraeli transferred \$12,000 from the Lifeplan account to his personal bank account to cover the purchase of a \$9,300 cashier’s check payable to the IRS toward the release of a personal tax lien. Thereafter, between on or about October 9 and December 31, 2003, Disraeli spent at least \$50,700 of investor funds for various personal items, debts and expenses, including rent on his personal residence, groceries, medical fees, entertainment, charitable donations and dining. No investor funds were used for the purchase and collection of distressed consumer debt and Lifeplan never launched any of the ventures contemplated by the offering memoranda.

6. As of December 31, 2003, \$90,000 of investor funds had been deposited and expended from Lifeplan's bank account, including \$83,500 transferred directly to Disraeli's personal bank account.

7. During the relevant period, Disraeli did not disclose the use of investor funds as described in paragraphs C.5. and C.6., above.

8. Disraeli had discretionary authority and he received more than \$500 in fees more than six months in advance. During the relevant period, Disraeli never disclosed to his clients his precarious financial condition as evidenced by, among other things, his federal tax liens, his inability to pay rent on his personal residence for several months, and his indebtedness to Lifeplan resulting from his misappropriations, all of which were reasonably likely to impair his ability to meet his contractual commitments to his clients to implement and manage the Lifeplan business plan.

9. During the Commission's January 2005 examination of Disraeli's advisory business, Disraeli produced a personal promissory note to Lifeplan, undated as to execution, for \$84,300, plus 8 percent annual interest to accrue from November 10, 2003, payable in a single balloon payment of \$106,193 on November 9, 2006. The purported loan to Disraeli was not disclosed in the Lifeplan offering memoranda.

#### **D. Disraeli's Lack of Record-Keeping and Form ADV Delivery**

1. Disraeli failed to keep books and records, such as journals, ledgers and financial statements, for his advisory business.

2. Disraeli only gave Form ADV Part II disclosures to his advisory clients in November 2003. At no point thereafter did Disraeli deliver (or offer to deliver) updated ADV Part II disclosures to his clients, annually or otherwise.

#### **E. Violations**

1. As a result of the conduct described above, Disraeli willfully violated, and Lifeplan committed violations of, Section 17(a) of the Securities Act, which prohibits fraudulent conduct in the offer or sale of securities, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

2. As a result of the conduct described above, Disraeli willfully violated Sections 206(1), 206(2) and 206(4) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Rule 206(4)-4(a)(1) thereunder. Rule 206(4)-4(a)(1) makes it a fraudulent, deceptive, or manipulative act, practice, or course of business, for an adviser registered with the Commission to fail to disclose to any client all material facts with respect to a financial condition reasonably likely to impair the ability of the adviser to meet contractual commitments, if the adviser has discretionary authority or custody over such client's funds or securities, or requires prepayment of advisory fees of more than \$500 from such client, six months or more in advance.

**3.** As a result of the conduct described above, Disraeli willfully violated Section 203A of the Advisers Act, which provides that no investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business shall register under Section 203, unless the adviser has not less than \$25 million in assets under management or is an adviser to a registered investment company.

**4.** As a result of the conduct described above, Disraeli willfully violated Section 204 of the Advisers Act, which requires registered investment advisers to make, keep, furnish and disseminate reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors, and Rules 204-2(a)(1), 204-2(a)(2), 204-2(a)(6), 204-3(a) and 204-3(c)(1) promulgated thereunder. Rule 204-2(a)(1) requires an investment adviser registered with the Commission to make and keep a true, accurate and current journal or journals, including cash receipts and disbursements, records, and any other records of original entry forming the basis of entries in any ledger. Rule 204-2(a)(2) requires an investment adviser registered with the Commission to make and keep true, accurate and current general and auxiliary ledgers (or other comparable records) reflecting assets, liability, reserve, capital, income and expense accounts. Rule 204-2(a)(6) requires an investment adviser registered with the Commission to make and keep true, accurate and current trial balances, financial statements, and internal audit work papers relating to the business of such investment adviser. Rule 204-3(a) generally requires a Commission-registered investment adviser to furnish each client with a written disclosure statement that is either Part II of Form ADV or contains at least the information required therein. Rule 204-3(c)(1) states that an investment adviser annually shall, without charge, deliver or offer in writing to deliver upon written request to each of its advisory clients the information required in Part II of Form ADV.

**5.** As a result of the conduct described above, Disraeli willfully violated Section 207 of the Advisers Act, which makes it unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission or willfully to omit to state in any such application or report any material fact that is required to be stated therein.

### **III.**

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

**A.** Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

**B.** What, if any, remedial action is appropriate in the public interest against Respondent Disraeli pursuant to Section 15(b)(6) of the Exchange Act and Sections 203(e) and 203(f) of the Advisers Act including, but not limited to, civil money penalties;

**C.** Whether, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, and Section 203(k) of the Advisers Act, Respondent Disraeli should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Sections 203A, 204, 206(1), 206(2) 206(4), and 207 of the Advisers Act, and Rules 204-2(a)(1), 204-2(a)(2), 204-2(a)(6), 204-3(a), 204-3(c)(1) and 206(4)-4(a)(1) thereunder, and whether Respondent Disraeli should be ordered to pay disgorgement pursuant to Section 8A(e) of the Securities Act, Section 21C(e) of the Exchange Act and Section 203(k)(5) of the Advisers Act; and

**D.** Whether, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Lifeplan should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

#### **IV.**

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Nancy M. Morris  
Secretary