

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 8793A / April 24, 2007

SECURITIES EXCHANGE ACT OF 1934
Release No. 55662A / April 24, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12622

In the Matter of

Tier One, Inc.

and

Bernard D. Carella,

Respondents.

**CORRECTED ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, MAKING
FINDINGS, AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER PURSUANT TO SECTION 8A OF
THE SECURITIES ACT OF 1933, AND
SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934**

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”), and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Tier One, Inc. (“Tier One”) and Bernard D. Carella (“Carella”) (collectively “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these

proceedings, which are admitted, Respondents consent to the entry of this Corrected Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offer, the Commission finds¹ that:

Summary

This matter concerns violations of the registration provisions of the Securities Act, and the broker-dealer registration provisions of the Exchange Act, by Tier One and Carella, Tier One’s president and sole stockholder, in connection with their general solicitation and sale of limited partnership interests in an oil and gas venture, Abilene Oil & Gas LP (“Abilene LP”). The limited partnership offering raised a total \$1.14 million from 52 investors in ten states and Canada, and was the subject of an emergency injunctive proceeding by the Commission.² Respondents acted as securities broker-dealers, without registering as such, and raised a total of \$342,000 from the unregistered, non-exempt sale of 19 Abilene LP limited partnership interests to ten investors in five states. For their sales efforts, Respondents received gross commissions of \$85,500.

Respondents

1. Tier One is a New York corporation that Carella formed on June 13, 2003, and its sole place of business is Haverstraw, New York. Carella is Tier One’s president and sole stockholder.
2. Carella, 55, is a resident of Haverstraw, New York.

Other Relevant Entities

3. Sunray Oil Company, Inc. (“Sunray”) is an Oklahoma corporation with offices in Addison, Texas. Sunray is the general partner of Abilene LP.
4. Abilene LP is a limited partnership registered with the State of Texas on May 31, 2006.

¹ The findings herein are made pursuant to Respondents’ Offer and are not binding on any other person or entity in this or any other proceeding.

² See *SEC v. Sunray Oil Company, Inc., et. al.*, Civ. Act. No.3:06-CV-1097 (U.S. Dist. Ct. Northern District of Texas, Dallas Division/June 21, 2006) (SEC Lit. Rel. No. 19737 /June 23, 2006). The Commission’s complaint alleges that Abilene LP, Sunray, and Larry Stiles, Sunray’s president, violated the registration provisions of the Securities Act and the anti-fraud provisions of the Securities Act and the Exchange Act, and seeks preliminary and permanent injunctive relief, disgorgement plus pre-judgment interest and civil penalties.

The Abilene LP Offering

5. From January 2005 to March 2006, Sunray conducted an offering in which it sold 60 limited partnership units in the Abilene LP offering and raised \$1.14 million from 52 investors residing in 10 states and Canada. Sunray's offering of the Abilene LP interests was not registered with the Commission.

6. From May to August 2005, Tier One offered and sold limited partnership interests in the Abilene LP offering, pursuant to an agreement with Sunray, for a gross commission of 25% of funds raised. Although Respondents received transaction-based compensation for the sale of securities, they were not registered with the Commission or any state as a broker-dealer or its registered representative.

7. Sunray and Respondents engaged in a general solicitation in connection with the Abilene LP offering. Sunray generated the names of prospective investors through its website and an Internet media campaign. Sunray then gave Tier One the names of prospects who responded to these public solicitations. Thereafter, Tier One solicited the prospects by telephone, and mailed them the offering documents, an accreditation questionnaire and a subscription agreement that Sunray provided to Tier One. If Tier One convinced a prospect to invest, that investor would complete the questionnaire and subscription agreement and mail them directly to Sunray, along with that investor's investment. Sunray would then pay Tier One its commission.

8. Sunray claimed that the Abilene LP offering was exempt from registration under Regulation D, Rule 506 of the Securities Act, and that no unaccredited investor would be allowed to invest. In fact, the Abilene LP offering was sold to at least 16 unaccredited investors. At least three of the purchasers investing through Tier One did not meet the asset or income thresholds to be considered accredited. Those investors did not receive the financial statements and other disclosures required when a Rule 506 offering is sold to unaccredited investors.

9. Respondents sold 19 limited partnership interests in the Abilene LP offering for \$324,000 to ten investors in California, Florida, Illinois, Indiana and New Mexico, receiving gross commissions of \$85,500.

Violations

10. As a result of the conduct described above, Respondents willfully violated Sections 5(a) and 5(c) of the Securities Act, which prohibit the offer and sale of securities through the mails or in interstate commerce, unless a registration statement is filed or in effect as to such securities.

11. Section 3(a)(4) of the Exchange Act defines a broker generally as any person engaged in the business of effecting transactions in securities for the account of others. Subject to limited exemptions, Section 15(a)(1) of the Exchange Act makes it unlawful for any broker or dealer "to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other

than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered" in accordance with Section 15(b) of the Exchange Act. As a result of the conduct described above, Respondents willfully violated Section 15(a)(1) of the Exchange Act by effecting transactions in, or inducing or attempting to induce the purchase or sale of, Abilene LP limited partnership interests for the account of others, thereby acting as a broker, without having been registered with the Commission as such.

Disgorgement and Civil Money Penalties

12. Respondents have submitted sworn Statements of Financial Condition, dated October 1, 2006, and other evidence and have asserted their inability to pay disgorgement plus prejudgment interest or a civil money penalty.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offer.

Accordingly, pursuant to Section 8A of the Securities Act, and Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondents Tier One and Carella shall cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

B. Respondent Carella be, and hereby is barred from association with any broker or dealer, with a right to apply for association after one (1) year to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by the Respondent Carella will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent Carella, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondents Tier One and Carella shall jointly and severally pay disgorgement of \$85,500 plus prejudgment interest, but that payment of such disgorgement and prejudgment interest is waived, and no penalty is imposed upon Carella, based upon Respondents' sworn representations in their Statements of Financial Condition, dated October 1, 2006, and other documents submitted to the Commission.

E. The Division of Enforcement (“Division”) may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondents provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of disgorgement and pre-judgment interest from Tier One and/or Carella, and/or civil money penalties from Carella. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondents was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondents may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of disgorgement and interest, and/or a civil money penalty, should not be ordered; (3) contest the amount of disgorgement and interest to be ordered, or the imposition of the maximum penalty allowable under law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Nancy M. Morris
Secretary