

1 STATE OF ALASKA  
2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
3 DIVISION OF BANKING, SECURITIES, AND CORPORATIONS  
4 P.O. BOX 110807  
5 JUNEAU, ALASKA 99811-0807

6 In the Matter of: )  
7 Lotus Management )  
8 Global Strategies Ltd )  
9 Bud Riley )  
10 Loren Poole )  
11 Cheryl A. Boos )  
12 Respondents )

ALASKA ORDER # 03-10 S

13 **FINAL ORDER**

14 **FACTUAL ALLEGATIONS**

15 1. The Division of Banking, Securities, and Corporations (division), is respons-  
16 ible for administering the Alaska Securities Act (Act) at AS 45.55 and regulations adopted  
17 under the Act at 3 AAC 08.

18 2. Lotus Management (Lotus) operates as a sole proprietorship and is reportedly  
19 affiliated with Global Strategies Ltd. Lotus is purportedly an investment advisory service  
20 with offices located at 1110 S. Alma School Road, Suite #5-240, Mesa, Arizona 85210 and  
21 at 550 W. Baseline Road, Ste #102-240, Mesa, Arizona 85210. The telephone numbers  
22 given for Lotus, 651-776-1847 and 651-776-1965, have the area code and prefix of being  
23 located in St. Paul, Minnesota. Bud Riley (Riley) is listed as the main sales person and  
24 Loren Poole (Poole) as his assistant.

25 3. In October 2001, the division received a complaint from Alaska resident DS.  
The complaint prompted an investigation that raised issues of failure to register or exempt  
the security, sales by an unregistered agent, failure to provide appropriate offering  
materials, and other alleged defects.

1           4. In February 2000, Riley contacted DS by telephone about investing in various  
2 programs through Lotus. On March 1, 2000, DS invested \$4,990 in a program offered by  
3 Lotus that had a 3-month term and promised a profit of 33%. The total due to DS at the  
4 end of the term of the program, principal and interest, was to be \$6,636. DS sent his initial  
5 investment via FedEx on March 1, 2000 in the form of a cashier's check to the address  
6 located on Alma School Road in Mesa, AZ as instructed by Riley,

7           5. On June 1, 2000, at the end of the 90-day program, DS instead of with-  
8 drawing any funds in the program, had them transferred into another project offered by  
9 Lotus known as the "Gilbralter" [sic] Project. DS added an additional \$3,364 to make his  
10 total investment as of that date \$10,000. The "Gilbralter" Project had a term of 12 months  
11 with a profit of 80% (\$8,000) that was to be paid every 4 months for a total profit of  
12 \$24,000. On June 1, 2000, DS sent this additional investment, also in the form of a  
13 cashier's check via FedEx, to the address on Baseline Road in Mesa, AZ, as instructed by  
14 Riley.

15           6. In June and July 2000, DS telephoned Riley and Poole and was advised that  
16 more investors were needed for the project and they wanted DS to help them find more. In  
17 September of 2000, DS telephoned Poole and requested that his investment be refunded.  
18 Poole told DS that a 12-month contract had been signed and that DS would not be able to  
19 get a refund until after June 6, 2001.

20           7. Since June 6, 2001, DS has attempted on several occasions to contact either  
21 Riley or Poole but has had no success. DS left messages on the answering machine at the  
22 provided telephone numbers, but none of the calls has been returned.

23           8. As of the date of this order, DS has not received any interest or return of  
24 principal from the investment.

25           9. DS asserts that at no time were a complete set of offering materials proffered,

1 either prior to or after the sale. Forms for the investments, however, were received.

2           10. As a result of the investigation, the division was able to determine that the  
3 funds invested by DS were deposited into the bank account of Lotus Management in Mesa  
4 Arizona, which is owned by and solely under the control of Cheryl A. Boos (Boos). The  
5 account was opened on November 4, 1999 by Boos under the name of Cheryl A. Boos,  
6 d/b/a Lotus Management. According to documentation filed with the Bank of America,  
7 Boos had sole control over the dissemination of any and all funds deposited into that  
8 account. The investigation further revealed the following addresses for Boos: 1) P.O. Box  
9 40221, Mesa, AZ 85274; 2) 829 N. Poplar Court, Chandler, AZ 85226; and, 3) 900 W.  
10 Grove Parkway, Tempe, AZ 85283.

11           11. During the investigation, the division attempted to contact Riley and Poole at  
12 the telephone numbers that had been used by DS. Several messages were left on the  
13 answering machine at those numbers and as of the date of this order no one has returned  
14 those messages. The division also sent a letter to Lotus Management at its last known  
15 address of 550 W. Baseline Road, Mesa, AZ. The letter was returned marked "Return to  
16 Sender Not at this Address."

17           12. The Act at AS 45.55.030 requires persons transacting business in Alaska as  
18 a broker-dealer or agent be registered or exempted from registration under the Act.

19           13. The division reviewed records maintained at the division and with the Central  
20 Registration Depository (CRD) and did not find any Alaskan registration as a broker-dealer  
21 or agent of the issuer for Riley, Poole, or Boos.

22           14. The division reviewed its files and did not find any Alaska registration or  
23 exemption for the issuer's securities.

24           15. After numerous attempts, Respondent Cheryl Boos was served by certified  
25 mail on May 30, 2003. To date, she has not responded in any way and has failed to

1 request a hearing within the 15-day period as specified in AS 45.55.920(d), therefore this  
2 final order is warranted.

3 **FINDINGS**

4 16. The definition of a security at AS 45.55.990(32) includes, among other  
5 things, "participation in any profit-sharing agreement; limited liability company interest  
6 under AS 10.50," and an investment contract. The Alaskan investor made a capital  
7 contribution to Lotus to participate in the programs/projects recommended by Riley and  
8 Poole. The U.S. Supreme Court in *Securities & Exchg. Comm'n v. W.J. Howey Co.*, 328  
9 U.S. 293, 299, 66S.Ct. 1100, 1103 (1946), enunciated the definition of investment contract  
10 as "a contract, transaction, or scheme whereby a person invests money in a common  
11 enterprise and is led to expect profit solely from the efforts of the promoter or a third party."  
12 The division finds that this case involved an investment contract.

13 17. The division finds that Riley, Poole, and Boos violated AS 45.55.030 by  
14 transacting business in Alaska as broker-dealers or agents without registration.

15 18. The division finds that all of the Respondents violated AS 45.55.070 by  
16 selling securities that were not registered, exempted, or federal covered securities.

17 19. The division finds that by holding themselves out as investment advisers, the  
18 Respondents indicate they are familiar with securities laws and, therefore, they acted with  
19 knowledge.

20 **LAW**

21 See Appendix "A" attached and incorporated by reference for a recitation of the  
22 statutes and regulations cited in this Order.

23 **ORDER AND NOTICE**

24 20. Under AS 45.55.920(a)(1), the Administrator finds that the Respondents  
25 engaged in violations of the Alaska Securities Act as specified above and further finds it is

1 In the public interest to issue this Order.

2 21. Under AS 45.55.920(a)(1)(A), the Respondents are ordered to cease and  
3 desist from the acts cited above and from any future acts that would violate the Alaska  
4 Securities Act.

5 22. Under AS 45.55.920(b), each of the Respondents is liable to pay a fine of  
6 \$25,000.00 for multiple, knowing violations of AS 45.55.030.

7 23. Under AS 45.55.920(b), each of the Respondents is liable to pay a fine of  
8 \$25,000.00 for multiple, knowing violations of AS 45.55.070.

9 24. Under AS 45.55.920(d), this is the final order of the Administrator in  
10 accordance with AS 45.55.920(d).

11 Issued at Juneau the 27 day of June, 2003 .

12  
13 /s/ Mark R. Davis  
14 Mark R. Davis  
Administrator of Securities

15 Contact Person:

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Senior Securities Examiner  
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