

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES
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STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES

In the matter of:) ORDER NO: 11-1258-S
)
Flatiron Capital Partners, LLC;) ORDER TO CEASE AND DESIST,
Flatiron Systems, LLC;) IMPOSING A CIVIL PENALTY AND
Spyglass Equity Systems, Inc.;) CONSENT TO ORDER FOR RESPONDENT
Landmark Asset Management, Inc.;) DAVID HOWARD II
David Howard II;)
and)
Martin Rybak)
)
Respondents.)
_____)

The Director of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities (the Administrator), has conducted an investigation into business activities of respondents Flatiron Capital Partners, LLC (Flatiron Capital), Flatiron Systems, LLC (Flatiron Systems), Spyglass Equity Systems, Inc. (Spyglass), Landmark Asset Management, LLC (Landmark), David Howard II (Howard), and Martin Rybak (Rybak) (collectively Respondents), and has determined that Respondents violated certain provisions of AS 45.55 et seq. (the Alaska Securities Act).

Respondent Howard agrees that the Administrator has jurisdiction over him and this matter pursuant to the Alaska Securities Act.

Respondent Howard wishes to resolve and settle this matter with the Administrator. As evidenced by the authorized signatures on this Order, Respondent Howard consents to the entry of this Order to cease and desist and pay a civil penalty based on the Conclusions of Law and Order. Although Respondent Howard previously exercised his right to a hearing, Respondent Howard now waives his right to a hearing before the Office of Administrative

1 Hearings.

2 I. FACTS

3 1. At all times relevant to this order, Spyglass was a California corporation with
4 its principal place of business at 5250 West Century Blvd., Suite 620, Los Angeles,
5 California 90045.

6 2. At all times relevant to this order, Flatiron Systems was a Florida limited
7 liability company located at 6777 Heritage Grande Unit 208, Boynton Beach, Florida 33437.

8 3. At all times relevant to this order, Flatiron Capital was a Delaware limited
9 liability company located at The Company Corporation, 2711 Centerville Road, Suite 400,
10 Wilmington, Delaware 19808.

11 4. At all times relevant to this order, Howard was the principal, managing
12 member and control person of Flatiron Systems and Flatiron Capital.

13 5. At all times relevant to this order, Landmark was a New York limited liability
14 company located at 91 5th Ave. 6th floor, New York, New York 10003.

15 6. At all times relevant to this order, Rybak was the managing director of
16 Landmark. Rybak was also the manager of Flatiron Capital.

17 7. At all times relevant to this order, Flatiron Capital, Flatiron Systems,
18 Spyglass, and Landmark were not licensed to act as broker-dealers or investment advisers in
19 Alaska or any other jurisdiction in the United States.

20 8. At all times relevant to this order, neither Howard nor Rybak were registered
21 as investment advisers, investment adviser representatives or broker-dealer agents in Alaska
22 or any other jurisdiction in the United States.

23 9. According to Flatiron Capital's operating agreement, the stated purpose of the
24 company was to engage in securities trading. Rybak and Howard signed the operating

1 agreement as managers of Flatiron Capital on September 17, 2007.

2 10. In November 2007, CG, an Alaska resident, received an unsolicited phone call
3 from Spyglass asking CG to invest in its "Sequence Trading System." The representative
4 touted fifty percent (50%) or better returns to its clients using a proprietary stock trading
5 system and assured CG that he would likely double his money within a year.

6 11. Before investing, CG spoke with Howard, member manager of Flatiron
7 Systems and Flatiron Capital, and the developer of the Sequence Trading System.

8 12. To participate in the program, GC was required to pay five thousand eight
9 hundred seventy-five dollars (\$5,875) as an "access fee" to Spyglass and then open a
10 brokerage account. CG was told verbally that the access fee would be fully refundable after
11 six (6) months. The sales agreement CG signed with Spyglass stated that the access fee
12 would be refundable only if the system failed to generate a net profit after one hundred
13 eighty (180) days.

14 13. CG signed an operating agreement with Flatiron Systems on December 5,
15 2007 and immediately invested ten thousand dollars (\$10,000) in his brokerage account in
16 addition to the access fee. The ten thousand dollars (\$10,000) investment supposedly
17 purchased CG membership interests in Flatiron Systems and/or Flatiron Capital. Flatiron
18 Capital began trading, purportedly using the Sequence Trading System, in January 2008.

19 14. After three (3) months, CG's account statements reflected a loss of
20 approximately nine hundred dollars (\$900). CG requested a refund, but was told that he
21 could not obtain a refund until his money had been invested for six (6) months. CG did not
22 receive any account statements after April 2008.

23 15. When CG asked Respondent Howard to return his money, Howard suggested
24 that CG reinvest his money into a new trading system called "Pathfinder Trading System."

1 CG did not invest any money in the "Pathfinder" system.

2 16. On March 25, 2008, June 18, 2008 and June 30, 2008, CG requested refunds
3 of his access fee and his ten thousand dollars (\$10,000) principal investment. In October
4 2008, Flatiron refunded two thousand four hundred dollars (\$2,400) of CG's access fee,
5 despite prior assurances that the fee was totally refundable after six (6) months. CG never
6 received the remainder of his access fee.

7 17. The membership interests in Flatiron Capital and/or Flatiron Systems were not
8 registered with the Administrator, federally covered in compliance with Alaska law, or
9 exempt from registration.

10 18. CG filed a complaint with the State of Alaska, Division of Banking and
11 Securities in May 2009.

12 19. On March 28, 2011, the State of California, Department of Corporations
13 issued a desist and refrain order against Spyglass, Flatiron Capital, Flatiron Systems, and
14 Howard for engaging in the offer and sale of unregistered securities and for acting as broker-
15 dealers and/or broker-dealer agents and/or investment advisers without appropriate
16 certification in violation of California securities laws.

17 20. On July 27, 2012, Respondents Spyglass, Flatiron Capital, Flatiron Systems
18 received an order imposed by the Securities and Exchange Commission (SEC). Pursuant to
19 the order, Respondents were required to disgorge one million two hundred sixty-four
20 thousand seven hundred ninety-nine dollars (\$1,264,799) in profits gained as a result of
21 conduct that constituted numerous violations of the Securities Exchange Act of 1934, the
22 Investment Advisers Act, and associated rules promulgated under those acts.

23 21. On May 23, 2013, Howard pled guilty to one (1) count of mail fraud in
24 violation of 18 U.S.C. 1341 in the United States District Court for the Eastern District of

1 Virginia. The statement of facts signed and agreed to by Howard found, in part, the
2 following:

- 3 • From in or about March 2008 through in or about April 2009, the defendant,
4 David Eugene Howard II, knowingly devised and intended to devise a scheme
5 to defraud investors within the Eastern District of Virginia and elsewhere.
- 6 • Howard acted by means of materially false and fraudulent representations and
7 pretenses, that is by soliciting funds from investors for a purported investment
8 vehicle by distributing or otherwise causing the distribution of false and
9 misleading letters, operating agreements, account statements, and other
10 materials in order to cause investors to send via U.S. Mail or wire money to
11 his company, Flatiron Systems, LLC ("Flatiron Systems"), so that he could
12 misappropriate and convert the invested funds to his own benefit and to the
13 benefit of others.
- 14 • Over the course of his scheme, Howard directly misappropriated
15 approximately three hundred seventy-three thousand dollars (\$373,000) from
16 the approximately one million eight hundred thousand dollars (\$1.8 million)
17 which he fraudulently induced investors to transfer to Flatiron.

18 22. Howard was ordered to serve forty-eight (48) months in prison and pay three
19 hundred seventy-three thousand dollars (\$373,000) in restitution to investors. Investor CG
20 was awarded one thousand nine hundred seventy-eight dollars and thirty-five cents
21 (\$1,978.35) per the restitution order.

22 III. CONCLUSIONS OF LAW

23 1. Respondent Howard violated AS 45.55.030(a) by transacting business in the
24 State of Alaska as a broker dealer or broker dealer agent without being registered under the

1 Alaska Securities Act or subject to any exemptions from registration.

2 2. Respondent Howard violated AS 45.55.030(c) by transacting business in the
3 State of Alaska as an investment adviser without being registered under the Alaska Securities
4 Act or subject to any exemptions from registration.

5 3. Respondent Howard violated AS 45.55.070 because the securities being offered
6 and sold in the State of Alaska were not registered with the Administrator, federally covered in
7 compliance with Alaska law, or exempt from registration.

8 4. Respondent Howard, through the sale of the Sequence Trading System,
9 employed a device, scheme or artifice to defraud a resident of the State of Alaska in violation
10 of AS 45.55.010.

11 **IV. ORDER**

12 1. Respondent Howard is ordered to cease and desist from further conduct
13 violating the Alaska Securities Act pursuant to AS 45.55.920(a)(1)(A).

14 2. Respondent Howard is also ordered to pay twenty-five thousand dollars
15 (\$25,000) as a civil penalty under AS 45.55.920(b) because Respondent knowingly and
16 intentionally offered and sold securities in the State of Alaska that were not registered with
17 the Administrator, federally covered in compliance with Alaska law, or exempt from
18 registration, and knowingly and intentionally employed a device, scheme or artifice to
19 defraud a resident of the State of Alaska. Payment shall be made to the State of Alaska,
20 Division of Banking and Securities according to the following schedule:

21 a. Respondent Howard agrees to pay two hundred dollars (\$200) a month by the
22 last business day of each month.

23 b. Respondent Howard agrees to begin such monthly payments in June 2016.

24 3. Respondent Howard agrees to provide a physical address and mailing address

1 to the State of Alaska, Division of Banking Securities, no later than May 1, 2016.

2 4. The Department may execute judgment for failure to comply with the
3 payment schedule.

4 5. This Order only pertains to Respondent Howard. As such, this Order only
5 resolves all pending matters currently known to the Division related to David Howard II.
6 This Order does not resolving pending matters currently known to the Division related to
7 Flatiron Capital Partners, LLC, Flatiron Systems, LLC, Spyglass Equity Systems, Inc.,
8 Landmark Asset Management, Inc., and Martin Rybak.

9
10 **IT IS SO ORDERED.**

11 Fred Parady Acting
12 ~~SUSAN BELL~~, Commissioner
13 Department of Commerce, Community
14 and Economic Development

14 January 16, 2015

15 Date

/s/ Kevin Anselm

Kevin Anselm, Director
Division of Banking and Securities

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DIVISION OF BANKING AND SECURITIES
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Consent to Entry of Order
David Howard II

I, David Howard II, state that I have read the foregoing Order and that I know and fully understand the Order's contents; that I acknowledge violation of the Alaska Securities Act; that I have been advised of the right to a hearing; that I voluntarily and without any force or duress, consent to the entry of this Order, expressly waiving any right to a hearing in this matter; that I understand that the Administrator reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the Alaska Securities Act, and that I will fully comply with the terms and conditions stated herein.

I further assure the Administrator that I will only effect securities transactions in Alaska in full compliance with the terms of this Order, the Alaska Securities Act (AS 45.55) and associated regulations (AAC 03.008). I understand that this Consent Order is a public document.

01/05/2015

Date

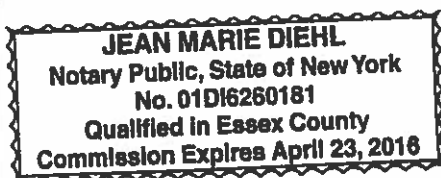
/s/ David Howard II

David Howard II

Name Dave Howard II

Title

SUBSCRIBED AND SWORN TO before me this 5th day of January, 2015 at Raybrook, NY.



/s/ Jean Marie Diehl

Notary Public in and for

Notary Printed Name

My commission expires: 4/23/2016