

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

4 ) **ORDER NO. 16-108-S**

5 IN THE MATTER OF: )

6 FELIX HESS )

7 **NOTICE OF FINAL CEASE AND DESIST**  
8 **ORDER ASSESSING CIVIL PENALTIES**

9 Respondent. )  
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14 )

15 The Director of the Department of Commerce, Community, and Economic  
16 Development, Division of Banking and Securities (“Administrator”), has conducted an  
17 investigation into certain activities of Felix Hess (“Respondent”), and has determined that  
18 Respondent violated certain provisions of the Alaska Securities Act, Alaska Statute (AS)  
19 45.55 *et seq.*

20 **I. BACKGROUND**

21 On June 9, 2016, the Administrator sent a Temporary Cease and Desist Order  
22 Effective Immediately, Assessing Civil Penalties, with Notice of Hearing Rights and Notice  
23 of Final Cease and Desist Order to Respondent. Respondent received the order on June 10,  
24 2016. To date, Respondent has not requested a hearing.

20 **II. FINDINGS OF FACT**

- 21 1. Respondent is a shareholder of Azachorok, Inc. (“AI”).
- 22 2. AI is organized pursuant to the Alaska Native Claims Settlement Act  
23 (“ANCSA”), 43 U.S.C. 1601 *et seq.*
- 24 3. AI has certified to the Administrator that it has more than 500 shareholders

1 and total assets exceeding \$1,000,000.

2 4. On or about April 16, 2016, Respondent distributed two documents to AI  
3 shareholders, one entitled “Memorandum,” (attached as Exhibit 1), the other entitled “Matters  
4 of Concern that need [A]ttention,” (attached as Exhibit 2).

5 5. In those documents, Respondent claimed that the board or officers of AI:  
6 “[i]mproper[ly] utiliz[ed] an attorney without board authorization”; “[r]eleas[ed] sensitive  
7 corporate information without the knowledge and approval of the elected board of directors”;  
8 “[r]eleased the past General Manager”; remov[ed], [without authorization], corporate  
9 information [ . . . ] [to the] Anchorage office”; “remov[ed] [ . . . ] all corporate computers  
10 from [AI’s] office [ . . . ] without board approval”; “amended corporate by-laws without  
11 presenting them to shareholders for approval”; “remov[ed] [ . . . ] director [H.W.]; and  
12 “initiated a spoiler candidate [to run in AI’s upcoming election],” among other statements.

13 6. Board authorization is not required for board members or officers wishing to  
14 consult with outside legal counsel; nor is it required for the release or removal of corporate  
15 information or property.

16 7. AI’s bylaws provide methods for amendment that do not require shareholder  
17 approval.

18 8. The past General Manager as well as director H.W. resigned from their positions,  
19 and were not released or removed by the board or any of its officers.

20 **I. CONCLUSIONS OF LAW**

21 1. The letters sent by Respondent are proxy solicitations because they are reasonably  
22 calculated to result in the procurement, withholding, or revocation of a proxy.

23 2. Respondent is subject to the filing requirements of AS 45.55.139 because he is a  
24 shareholder of AI and AI is subject to the filing requirements.



1 days from the date this Final Order is mailed or otherwise distributed to Respondent.

2 This Order is a publicly disclosable document.

3 **IT IS SO ORDERED.**

4 Chris Hladick, Commissioner  
5 Department of Commerce, Community and  
6 Economic Development

7 DATED: July 7, 2016

/s/ Kevin Anselm  
8 BY: Kevin Anselm, Director  
9 Division of Banking and Securities  
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