

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES
P.O. BOX 110807
JUNEAU, ALASKA -99811-0807

In the Matter of:) ALASKA ORDER 06-02 S
)
Index Analysis Pool, LP,)
) Final Order to Cease and Desist and for the
) Payment of a Fine
Index Analysis Services)
George Heffernan, aka George W. Marshall,)
General Partner and Fund Manager,)
Respondents)

This is your OFFICIAL NOTICE of the issuance by the Alaska Administrator of Securities of a FINAL ORDER TO CEASE AND DESIST AND FOR THE PAYMENT OF A FINE pursuant to AS 45.55.920 of the Alaska Securities Act.

The staff of the Alaska Division of Banking and Securities ("Division") has presented evidence sufficient for the Administrator to find that:

RESPONDENTS

1. Respondent Index Analysis Pool, LP (IAP) maintains a last known address at 9654 North Kings Highway, #225, Myrtle Beach, South Carolina 29572.

2. Respondent George Heffernan (Heffernan) is the General Partner and Fund Manager of IAP. Heffernan maintains a last known address at 9654 North Kings Highway, #225, Myrtle Beach, South Carolina 29572.

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STATEMENT OF FACTS

3. During the summer of 2003, Heffernan solicited DH an Alaska resident by email regarding a hedge fund he was forming.

4. During July 2004 Heffernan notified DH by email advising that the fund was ready for investors. As the Fund Manager, Heffernan offered the Fund with a minimum investment of \$10,000 per unit.

5. There is no record of an exemption from registration for IAP in Alaska.

6. Heffernan is not registered with the Division of Banking and Securities as a broker dealer, agent, or investment advisor.

7. Heffernan's email contained a limited partnership agreement with IAP, along with a solicitation letter in which Heffernan made the following statements:

(a) "It is mathematically impossible for the Index Analysis Hedge Trading Method to lose."

(b) "The No Loss Hedge Trading Method produces an average of 62 points per wk."¹¹

(c) "Worst case results are projected to be 25 points per week on the no loss."

(d) "Based on the average case results the projected return on \$350,000 in the fund will be \$.317,200 per year [90.6% return per year]."¹¹

(e) "The minimum projected result is a 25% return on investment each year. The maximum is unlimited. However, a reasonable goal will be to double the investment capital each year."¹¹

1 8. Heffernan made similar profit statements in a thirty-seven page "confidential private
2 offering memorandum, that he mailed to DH in Alaska during July, 2004. These profit statements
3 includes the following:

4 (a) "In the summer of 2002 Heffernan developed a No Loss Method."¹¹

5 (b) "The Index Analysis Trading Method does not have a draw down. Draw
6 down occurs when you take losses ..."

7 9. The "confidential private offering memorandum" provided a notice to Alaska
8 residents that the securities offered had been reviewed by the Administrator, per 3 AAC 08.500 –
9 AAC 08.506.

10 10. There is no record of any IAP offering being reviewed by the Alaska Administrator
11 of Securities.

12 CONCLUSION OFLAW

13 11. A hedge fund of the type offered by IAP is a security under AS 45.55.990(32)
14 which states, "... services performed in the risk capital of a venture with the expectation of some
15 benefit to the investor where the investor has no direct control over the investment ..."

16 12. Respondents are violating AS 45.55.070 of the Alaska Securities Act by offering
17 securities for sale in Alaska at a time when securities are not registered with the Division.

18 13. Respondents are violating AS 45.55.030(a) by offering securities for sale in Alaska
19 without being registered with the Division as raker-dealers, agents, or investment advisors.

20 14. Respondents engaged in fraud in connection with the offer for sale of securities in
21 violation of AS 45.55.010.

22 15. Respondents have made an offer containing statements that are materially
23 misleading or otherwise likely to deceive the public in violation of AS 45.55.010.

24 16. Respondents' conduct, acts and practices threaten immediate and irreparable public
25 harm..

PROCEDURAL BACKGROUND

17. On July 27, 2005, the Division issued a temporary order to cease and desist against respondents that also imposed a fine against respondents. The temporary order was served on respondents on July 30, 2005.

18. On August 11, 2005, respondents filed a request for a hearing with the Division.

19. On August 23, 2005, respondents' request for a hearing was referred to the Alaska Office of Administrative Hearings ("OAH").

20. Pursuant to a motion to dismiss filed by the Division, the OAH issued an order dismissing respondents' request for a hearing with prejudice on January 27, 2006, with a typographical correction of February 3, 2006.

21. By notice dated January 27, 2005, the OAR allowed the parties an opportunity to respond to the order of dismissal as required by AS 44.64.060(e), before the order would become final. No responses were filed. The Division adopts the order of dismissal as its final decision and its temporary order of July 27 2005, hereby becomes final according to AS AS 45.55.920(d).

The foregoing constitutes the grounds for issuance of this FINAL ORDER TO CEASE AND DESIST AND FOR THE PAYMENT OF A FINE pursuant to AS 45.55.920.

ORDER

It is therefore ORDERED that respondents immediately CEASE AND DESIST from the offering for sale of any securities in Alaska until the security is registered with the Administrator.

It is further ORDERED that respondents immediately CEASE AND DESIST from acting as broker-dealers, agents and investment advisors in Alaska until respondents are registered with the Alaska Administrator or are acting pursuant to an exemption from registration under the Alaska Securities Act.

It is further ORDERED that respondents immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any securities in Alaska.

1 It is further ORDERED that respondents immediately CEASE AND DESIST from offering
2 securities in Alaska through an offer containing a statement that is materially misleading or
3 otherwise likely to deceive the public.

4 It is further ORDERED that respondents pay a fine to the Division, in the amount of
5 \$25,000, for violation of the Alaska Securities Act.

6 NOTICE

7 Pursuant to AS 45.55.940(a), a person aggrieved by this final order to the Administrator
8 may obtain a review of this order in the superior court by filing, in accordance with the Rules of
9 Appellate Procedure, a notice of appeal. Under Appellate Rule 601(a)(2), the notice of appeal
10 must be filed within 30 days from the date this final order is mailed or otherwise distributed to
11 respondents.

12 SO ORDERED this 9th of March, 2006.

13 /s/ Mark Davis
14 Mark Davis
Administrator of Securities

15 Contact Person:
16 Quinten Warren
17 Securities Investigator
18 907-269-8140
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