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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: 11-1258-2-S
)
) FINAL CEASE AND DESIST ORDER
Flatiron Capital Partners, LLC;) AS TO
Flatiron Systems, LLC;) FLATIRON CAPITAL PARTNERS, LLC;
Spyglass Equity Systems, Inc.;) FLATIRON SYSTEMS, LLC;
Landmark Asset Management, Inc.;) SPYGLASS EQUITY SYSTEMS, LLC;
David Howard II; and) LANDMARK ASSET MANAGEMENT, INC.;
Martin Rybak) 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), Spyclass Equity Systems, Inc. (Spyglass), Landmark Asset Management, LLC (Landmark), David Howard II (Howard), and Martin Rybak (Rybak) and has determined that respondents violated certain provisions of AS 45.55 et seq. (the Alaska Securities Act). The Administrator finds it to be in the public interest to issue this cease and desist order.

I. BACKGROUND

On May 13, 2014, the Administrator sent a Temporary Cease and Desist Order Effective Immediately, With Notice of Hearing Rights and Notice of Final Cease and Desist Order (“Temporary Cease and Desist Order”) by both regular and certified mail, return receipt requested, to Flatiron Capital Partners, LLC at c/o the Company Corporation, 2711

1 Centerville Rd. Ste 400, Wilmington DE, 19808; Flatiron Systems, LLC at c/o David
2 Howard II, Agent, 6777 Heritage Grande, 208, Boynton Beach, FL 33437; Spyglass Equity
3 Systems, Inc. at c/o Legalzoom.com, Inc., 100 West Broadway Suite 100, Glendale, CA
4 91210; Landmark Asset Management, Inc., c/o National Registered Agents, Inc., 875
5 Avenue of the Americas, Suite 501, New York, NY 10001; David Howard II, Register No.
6 82392-083, FCI Ray Brook, Federal Correctional Institution, P.O. Box 900, Ray Brook, NY
7 12977; and Martin Rybak at 1356 E. 84th St., Brooklyn, NY 11236. The addresses for the
8 corporate entities are listed as the agents' address of record in the state where each entity is
9 registered.

10 On May 19, 2014, W.L. at the Company Corporation, received and signed for Flatiron
11 Capital Partners and on May 20, 2014, sent the Administrator notice that it was unable to
12 forward the Temporary Cease and Desist Order because it had an undeliverable address for
13 Flatiron Capital Partners.

14 Both of the copies of the Temporary Cease and Desist Order sent to Flatiron Systems c/o
15 David Howard, Registered Agent, were returned by the U.S. Postal Service as unable to
16 forward.

17 On May 20, 2014, A. at Legalzoom, Inc., received and signed for Spyglass Equity
18 Systems as having received the Temporary Cease and Desist Order.

19 Both of the copies of the Temporary Cease and Desist Order sent to Landmark Asset
20 Management sent to National Registered Agents were returned by the U.S. Postal Service as
21 unable to forward.

22 Both of the copies of the Temporary Cease and Desist Order sent to Martin Rybak were
23 returned by the U.S. Postal Service as unable to forward.

24 On May 19, 2014, M.D. received and signed for the Temporary Cease and Desist Order

1 for David Howard II. On May 27, 2014, David Howard II submitted a timely request for
2 hearing to the Administrator. On January 16, 2015, Howard entered into Consent Order 11-
3 1258-S with the Administrator, and is excluded from the terms of this Final Cease and Desist
4 Order. None of the other Respondents requested a hearing within 15 days.

5 II. FACTS

6 1. At all times relevant to this order, Spyglass was a California corporation with its
7 principal place of business at 5250 West Century Blvd., Suite 620, Los Angeles, California
8 90045.

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

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

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

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

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

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

23 8. At all times relevant to this order, neither Howard nor Rybak were registered as
24 investment advisers, investment adviser representatives or broker-dealer agents in Alaska or

1 any other jurisdiction in the United States. Rybak was registered as a broker-dealer agent
2 with FINRA beginning in 2000 (CRD #4129421), but his registration was suspended on
3 February 13, 2008 for failure to comply with an arbitration award. Rybak was never licensed
4 as a broker-dealer agent in Alaska.

5 9. According to Flatiron Capital's operating agreement, the stated purpose of the
6 company was to engage in securities trading. Rybak and Howard signed the operating
7 agreement as managers of Flatiron Capital on September 17, 2007.

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

12 11. Before investing, CG spoke with Howard, member manager of Flatiron Systems and
13 Flatiron Capital, and the developer of the Sequence Trading System. Howard assured CG
14 that he could expect returns of three to ten percent monthly and that his investment had little
15 risk of losing money.

16 12. To participate in the program, GC was required to pay \$5,875 as an "access fee" to
17 Spyglass and then open a brokerage account. CG was told verbally that the access fee would
18 be fully refundable after six months. The sales agreement CG signed with Spyglass stated
19 that the access fee would be refundable only if the system failed to generate a net profit after
20 180 days.

21 13. CG signed an operating agreement with Flatiron Systems on December 5, 2007 and
22 immediately invested \$10,000 in his brokerage account in addition to the access fee. The
23 \$10,000 investment supposedly purchased CG membership interests in Flatiron Systems
24 and/or Flatiron Capital. Flatiron Capital began trading, purportedly using the Sequence

1 Trading System, in January 2008.

2 14. After three months, CG's account statements reflected a loss of approximately \$900.
3 CG requested a refund, but was told that he could not obtain a refund until his money had
4 been invested for six months. CG did not receive any account statements after April 2008.

5 15. When CG asked respondents to return his money, Howard suggested that CG reinvest
6 his money into a new trading system called "Pathfinder Trading System." CG did not invest
7 any money in the "Pathfinder" system.

8 16. On March 25, 2008, June 18, 2008 and June 30, 2008, CG requested refunds of his
9 access fee and his \$10,000 principal investment. In October 2008, Flatiron refunded \$2,400
10 of CG's access fee, despite prior assurances that the fee was totally refundable after six
11 months. CG never received the remainder of his access fee.

12 17. In mid-2008, Rybak contacted CG and asked him to invest \$10,000 in Landmark
13 Asset Management, LLC, which Rybak described as the "managed account fund for Flatiron
14 Capital Partners." CG did not invest any money with Landmark.

15 18. On November 5, 2008, CG contacted Rybak directly and requested that he close his
16 account. CG did not get a refund through Rybak, but Rybak continued to contact CG
17 through mid-2009 asking CG to invest additional funds with him.

18 19. The membership interests in Flatiron Capital and/or Flatiron Systems were not
19 registered with the Administrator, federally covered in compliance with Alaska law, or
20 exempt from registration.

21 20. CG filed a complaint with the State of Alaska, Division of Banking and Securities in
22 May 2009.

23 21. On March 28, 2011, the State of California, Department of Corporations issued a
24 desist and refrain order against Spyglass, Flatiron Capital, Flatiron Systems, and Howard for

1 engaging in the offer and sale of unregistered securities and for acting as broker-dealers
2 and/or broker-dealer agents and/or investment advisers without appropriate certification in
3 violation of California securities laws.

4 22. On July 27, 2012, Respondents Spyglass, Flatiron Capital, Flatiron Systems, Howard
5 and other related individuals consented to an order imposed by the Securities and Exchange
6 Commission (SEC). Pursuant to the order, Respondents were required to disgorge
7 \$1,264,799 in profits gained as a result of conduct that constituted numerous violations of the
8 Securities Exchange Act of 1934, the Investment Advisers Act, and associated rules
9 promulgated under those acts.

10 23. On May 23, 2013, Howard pled guilty to one count of mail fraud in violation of 18
11 U.S.C. 1341 in the United States District Court for the Eastern District of Virginia. The
12 statement of facts signed and agreed to by Howard found, in part, the following:

- 13 • From in or about March 2008 through in or about April 2009, the defendant, David
14 Eugene Howard II, knowingly devised and intended to devise a scheme to defraud
15 investors within the Eastern District of Virginia and elsewhere.
- 16 • Howard acted by means of materially false and fraudulent representations and
17 pretenses, that is by soliciting funds from investors for a purported investment vehicle
18 by distributing or otherwise causing the distribution of false and misleading letters,
19 operating agreements, account statements, and other materials in order to cause
20 investors to send via U.S. Mail or wire money to his company, Flatiron Systems, LLC
21 (“Flatiron Systems”), so that he could misappropriate and convert the invested funds
22 to his own benefit and to the benefit of others.
- 23 • Over the course of his scheme, Howard directly misappropriated approximately
24 \$373,000 from the approximately \$1.8 million which he fraudulently induced

1 investors to transfer to Flatiron.

2 24. Howard was ordered to serve 48 months in prison and pay \$373,000 in restitution to
3 investors. Investor CG was awarded \$1,978.35 per the restitution order.

4 III. CONCLUSIONS OF LAW

5 1. Respondents violated AS 45.55.030(a) by transacting business in the State of Alaska
6 as broker dealers or broker dealer agents without being registered under the Alaska Securities
7 Act or subject to any exemptions from registration.

8 2. Respondents violated AS 45.55.030(c) by transacting business in the State of Alaska
9 as investment advisers without being registered under the Alaska Securities Act or subject to
10 any exemptions from registration.

11 3. Respondents violated AS 45.55.070 because the securities being offered and sold in the
12 State of Alaska were not registered with the Administrator, federally covered in compliance
13 with Alaska law, or exempt from registration.

14 4. Respondents made unsolicited calls to CG and encouraged him to make a decision
15 regarding an investment with Flatiron Capital partners without regard to his investment needs
16 and objectives, in violation of AS 45.55.028(7).

17 5. Respondents made false and exaggerated representations and predictions in the
18 solicitation of the securities sold through Flatiron, including statements that purchasing the
19 security would result in an assured and extensive increase in value and return on investment,
20 in violation of AS 45.55.028(8).

21 6. Respondents, through the sale of its Sequence Trading System, employed a device,
22 scheme or artifice to defraud a resident of the State of Alaska in violation of AS 45.55.010.

23 IV. ORDER AND NOTICE

24 1. Pursuant to AS 45.55.920, the Administrator finds that Respondents engaged in

1 multiple violations of the Alaska Securities Act as outlined above and further finds it is in the
2 public interest to issue this Order.

3 2. Respondents are ordered to cease and desist from further conduct violating the Alaska
4 Securities Act pursuant to AS 45.55.920(a)(1)(A).

5 3. Respondents are each ordered to pay \$25,000 as a civil penalty under AS
6 45.55.920(b), for a total of \$125,000, because each Respondent knowingly and intentionally
7 offered and sold securities in the State of Alaska that were not registered with the
8 Administrator, federally covered in compliance with Alaska law, or exempt from
9 registration, and knowingly and intentionally employed a device, scheme or artifice to
10 defraud a resident of the State of Alaska.

11 4. Respondents are jointly and severally liable for complying with the terms of this
12 order including the payment of the civil penalty.

13 5. Pursuant to AS 45.55.940(a), Respondents may obtain a review of this Final Order in
14 the superior court by filing, in accordance with the rules of Appellate Procedure, a notice of
15 appeal. Pursuant to Appellate Rule 602(a)(2), the notice of appeal must be filed within 30
16 days from the date this Final Order is mailed or otherwise distributed to Respondents.

17 This ORDER is a publicly disclosable document.

18 **IT IS SO ORDERED.**

19
20 Fred Parady, Acting Commissioner
21 Department of Commerce, Community and
22 Economic Development

23 January 23, 2015
24 Date

/s/ Kevin Anselm
Kevin Anselm, Director
Division of Banking and Securities