

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
DIVISION OF BANKING AND SECURITIES  
550 WEST SEVENTH AVENUE, SUITE 1850  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 269-8140

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

In the matter of:

MCKINLEY CAPITAL NON-US  
SMALL CAP GROWTH FUND

Respondent.

ORDER NO: 15-568-S

ORDER IMPOSING A CIVIL PENALTY  
AND CONSENT TO ORDER

The Director of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities (“Administrator”), has conducted an investigation into certain business activities of McKinley Capital Non-US Small Cap Growth Fund (“Respondent”), and has determined that Respondent violated certain provisions of the Alaska Securities Act, Alaska Statute (AS) 45.55, by offering and selling securities in Alaska without the securities first being registered with the Administrator, federally covered in compliance with Alaska law, or exempt from registration.

Respondent agrees that the Administrator has jurisdiction over Respondent and these matters pursuant to the Alaska Securities Act.

Respondent wishes to resolve and settle this matter with the Administrator. As evidenced by the authorized signature on this Order, Respondent consents to the entry of this Order imposing a civil penalty based on the Conclusions of Law and Order. Respondent waives its right to hearing under AS 45.55.920(d).

**I. FACTS**

1. Under AS 45.55.075 and 3 AAC 08.506, issuers of federal covered securities under 15 U.S.C. 77r(b)(4)(D) (Securities Act of 1933), that make sales of such securities in Alaska

1 must submit a notice filing with the Administrator comprised of the SEC form D, a consent  
2 to service of process signed by the issuer, and a filing fee of \$600 for one year or \$1100 for  
3 two years. The notice filing must be filed with the Administrator no later than 15 days from  
4 the first sale of the federal covered security in Alaska.

5 2. On March 31, 2015, Respondent filed the SEC form D with the Administrator along  
6 with \$1,100 in filing fees. On the SEC form D, Respondent indicated that it was issuing  
7 pooled investment fund interests as part of the offering. In an attached letter, Respondent  
8 stated that the date of first sale of securities in Alaska occurred on October 1, 2013.

9 3. Between October 1, 2013 and June 9, 2014, Respondent made four sales totaling  
10 \$3,440,000 in Alaska.

11 4. Respondent has fully cooperated with the Administrator in this matter.

## 12 II. CONCLUSIONS OF LAW

13 1. The securities offered and sold by Respondent were federal covered securities under  
14 15 U.S.C. 77r(b)(4)(D) (Securities Act of 1933) and subject to the filing requirements of AS  
15 45.55.075.

16 2. Respondent violated AS 45.55.075 by selling federal covered securities in the State of  
17 Alaska without notice filing a SEC form D within 15 days of the first sale.

18 3. Respondent is subject to a civil penalty under AS 45.55.920(c) for violating AS  
19 45.55.075.

## 20 III. ORDER

21 Pursuant to AS 45.55.920, and on the basis of the Findings of Fact, Conclusions of  
22 Law and Respondent's consent to the entry of this Order, the Administrator ORDERS  
23 Respondent to:

24 1. Pay civil penalty in the amount of five thousand dollars (\$5,000).



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1 compliance with the terms of this Order, the Alaska Securities Act (AS 45.55) and associated  
2 regulations (3 AAC 08).

3 Respondent understands that this Order is a publicly disclosable document.

4  
5 May 13, 2015  
6 Date

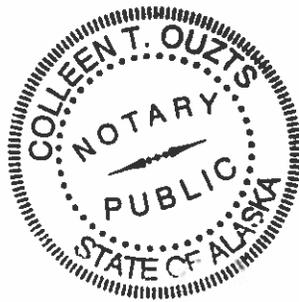
/s/ J.L. McCarrey III  
7 McKinley Capital Non-US Small Cap  
8 Growth Fund

9 Name J.L. McCarrey III

10 Title Counsel

11 SUBSCRIBED AND SWORN TO before me this 13 day of May, 2015 at  
12 Anchorage, Alaska.

13 /s/ Colleen T. Ouzts  
14 Notary Public in and for Alaska



15 Colleen T. Ouzts  
16 Notary Printed Name  
17 My commission expires: September 7, 2017

18 Approved as to form and content:

19 May 13, 2015  
20 Date

/s/ J.L. McCarrey III  
21 Attorney for McKinley Capital Non-US  
22 Small Cap Growth Fund

23 Contact Person:  
24 David Newman  
Securities Examiner  
(907) 269-7678