

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

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IN THE MATTER OF:)
KENAI NATIVES ASSOCIATION, INC.)
Respondent.)

ORDER NO. 15-1197-S
ORDER TO CEASE AND DESIST,
IMPOSING PREFILING
REQUIREMENT,
ASSESSING 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 activities of Kenai Natives Association, Inc. (“KNA”) and has determined that KNA violated certain provisions of the Alaska Securities Act, Alaska Statute (AS) 45.55.

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

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

I. FACTS

1. KNA is a corporation organized pursuant to the Alaska Native Claims Settlement Act (“ANCSA”), 43 U.S.C. 1601 et seq., and maintains its headquarters at 215 Fidalgo Avenue, Suite 204B, Kenai, Alaska, 99611.

1 2. Pursuant to AS 45.55.139, ANCSA corporations with 500 or more shareholders
2 and total assets exceeding \$1,000,000 must file with the Administrator all annual reports,
3 proxies, consents or authorizations, proxy statements, or other proxy solicitations distributed
4 and made available by any person to 30 or more Alaska resident shareholders concurrently
5 with distribution of those materials to shareholders.

6 3. KNA has certified to the Administrator that it has more than 500 shareholders and
7 total assets exceeding \$1,000,000.

8 4. Pursuant to 3 AAC 08.315(a)(1), KNA's proxy solicitations are prohibited from
9 containing material misrepresentations; a misrepresentation includes a statement that, at the
10 time and under the circumstances in which it is made is false or misleading with respect to a
11 material fact.

12 5. On April 30, 2015, KNA sent proxy solicitation materials to its shareholders for the
13 39th Annual Meeting of Shareholders ("Annual Meeting") scheduled for May 30, 2015. The
14 materials included its notice of the Annual Meeting, proxy, proxy statement, balance sheet,
15 statement of incomes, and early bird prize flyer; KNA did not file a copy of these materials
16 with the Administrator at the same time they were sent to shareholders.

17 6. On May 29, 2015, the Administrator received KNA's notice of its
18 Annual Meeting, proxy statement, balance sheet, and statement of income for its Annual
19 Meeting scheduled for May 30, 2015. It did not receive the proxy and early bird prize flyer that
20 had been previously sent to shareholders.

21 7. On May 30, 2015, KNA held its Annual Meeting, but adjourned the meeting due to
22 lack of a quorum and rescheduled it for June 30, 2015.

23 8. On or about June 8, 2015, KNA sent a notice of the June 30, 2015 Annual Meeting
24 and a proxy to shareholders. No proxy solicitation materials were filed with the Administrator

1 for the June 30, 2015 Annual Meeting.

2 9. The proxy sent to shareholders for the June 30, 2015 Annual Meeting contained the
3 original meeting date of May 30, 2015 instead of the rescheduled meeting date of June 30,
4 2015. The proxy also stated that the two directors up for election would be elected to three-
5 year terms ending in 2017, even though the election was held in 2015.

6 10. KNA admitted to the Administrator that the phrase “for three-year terms” on the
7 proxy for the June 30, 2015 Annual Meeting should have been omitted.

8 11. KNA has fully cooperated with the Administrator in its investigation into this matter.

9 **II. CONCLUSIONS OF LAW**

10 1. KNA is subject to the filing requirements of AS 45.55.139.

11 2. KNA violated AS 45.55.139 by failing to file all proxy materials and failing to
12 file the proxy materials for the May 30, 2015 Annual Meeting concurrently with the
13 distribution of those materials to shareholders.

14 3. KNA violated AS 45.55.139 by failing to file proxy materials for the
15 rescheduled June 30, 2015 Annual Meeting.

16 4. KNA violated 3 AAC 08.315(a)(1) by printing false or misleading statements by
17 leaving the incorrect May 30, 2015 meeting date on the proxy solicitation used for the June 30,
18 2015 Annual Meeting and stating that the election of two directors was for three-year terms
19 ending in 2017 when the phrase “for three year terms” should have been omitted.

20 5. KNA is subject to a civil penalty pursuant to AS 45.55.920(c) because it violated
21 AS 45.55.139 and violated 3 AAC 08.315(a).

22 **III. ORDER**

23 Pursuant to AS 45.55.920, and on the basis of the Findings of Fact, Conclusions of
24 Law, the Administrator hereby ORDERS KNA to:

1 1. CEASE AND DESIST from making false or misleading statements with respect
2 to material facts in its proxy solicitation materials.

3 2. File with the Division, for a period of three (3) years from the date of this
4 Order, all of its annual reports and proxy solicitation materials required to be filed under AS
5 45.55.139 at least ten (10) working days prior to dissemination to the shareholders.

6 3. Comply with all provisions of the Alaska Securities Act, including associated
7 regulations.

8 4. Pay a civil penalty in the amount of one thousand dollars (\$1,000) with five hundred
9 dollars (\$500) suspended for a period of three (3) years. If KNA fails to comply with any
10 term or condition of this Consent Order, or if it commits any violation of the Alaska
11 Securities Act, the suspended portion of the civil penalty will be immediately due.

12 **IT IS SO ORDERED.**

13 Chris Hladick, Commissioner
14 Department of Commerce, Community and
15 Economic Development

16 DATED: November 2, 2015

17 /s/ Kevin Anselm
18 BY: Kevin Anselm, Director
19 Division of Banking and Securities

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23 **Consent to Entry of Order**

24 I, Diana L Zirul, state that I am the Vice President of Kenai
Natives Association, Inc. (“KNA”); that I am authorized to act on its behalf; that I have read

1 the foregoing Order and that I know and fully understand the Order contents; that KNA
2 acknowledges violation of the Alaska Securities Act; that KNA has been advised of the right
3 to a hearing; that KNA voluntarily and without any force or duress, consents to the entry of
4 this Order; that KNA expressly waives any right to a hearing in this matter; that KNA
5 understands that the Administrator reserves the right to take further actions to enforce this
6 Order or to take appropriate action upon discovery of other violations of the Alaska Securities
7 Act, and that KNA will fully comply with the terms and conditions stated herein.

8 KNA understands that this Order is a publicly disclosable document.

9
10 DATED: 10/29/2015 /s/ Diana L Zirul
Kenai Natives Association, Inc.

11 Name: Diana L. Zirul
12 Title: Vice President, KNA, Inc.

13 SUBSCRIBED AND SWORN TO before me this 29 day of October, 2015 at
14 Kenai, Alaska.

15 /s/ Julie Wheeler
16 Notary Public in and for Alaska
17 Julie Wheeler
18 Notary Printed Name
19 My commission expires: 7/9/17

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21 Contact Person:
22 Ann Penniston
23 Securities Examiner
24 (907) 269-2090