ORDER NO. 21-60-S

ORDER VOIDING PROXIES
AND
CONSENT TO ORDER

IN THE MATTER OF:

Darrell Toby Brown

Respondent.

ORDER NO. 21-60-S
ORDER VOIDING PROXIES
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 Darrell Toby Brown (“Respondent”), and has determined that Respondent violated certain provisions of the Alaska Native Claims Settlement Act Proxy Solicitation and Stock Act, Alaska Statute (AS) 45.55 et seq. (“ANCSA Corporations Proxy Solicitations Act”).

Respondent agrees that the Administrator has jurisdiction over Respondent and these matters pursuant to the ANCSA Corporations Proxy Solicitations 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 based on the Conclusions of Law and Order. Respondent waives her right to appeal under AS 45.55.920(d).

I. FINDINGS OF FACT

1. Respondent is a shareholder of Huna Totem Corporation (“Huna Totem”).

2. Huna Totem is organized pursuant to the Alaska Native Claims Settlement Act.
3. Huna Totem has certified to the Administrator that it has more than 500 shareholders and total assets exceeding $1,000,000.


5. Respondent’s proxy, entitled “Proxy: Darrell Toby Brown, Independent Candidate for the Board of Directors of Huna Totem Corporation,” (the “Marked Proxy”) contains a section listing the candidates for whom a proxyholder may cast a vote. The section contains a line with Respondent’s name. An “X” appears on a line to the left of Respondent’s name.

6. The Marked Proxy does not provide an instruction that the proxyholder may withhold authority to vote for a nominee by lining through or otherwise striking out the name of its nominee.

7. The Marked Proxy does not allow Huna Totem shareholders to award or withhold their share of votes to Respondent.

8. A proxy that provides for the election of directors must set out the names of the nominees for whom the proxy is solicited, and it must clearly provide either a box opposite the name of each nominee which may be marked to indicate that authority to vote for that nominee is withheld, an instruction that the shareholder may withhold authority to vote for a nominee by lining through or otherwise striking out the name of that person, or a “ballot” type of selection in which the shareholder is permitted to award votes to selected nominees of the shareholder’s choosing.

II. CONCLUSIONS OF LAW

1. Respondent is subject to the filing requirements of AS 45.55.139 because he is a shareholder of Huna Totem and Huna Totem is subject to the filing requirements.
2. Respondent violated 3 AAC 08.335(e) by distributing a proxy that contained an “X” marked next to his name and lacked an instruction that the shareholder may withhold authority to vote for a nominee by lining through or otherwise striking out the name of that person.

III. ORDER

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

1. Respondent to comply with all provisions of the ANCSA Corporations Proxy Solicitations Act, including associated regulations.

2. The Marked Proxies obtained by Respondent for Huna Totem’s annual Meeting scheduled for June 19, 2021 are void, but may be counted for quorum purposes.

This Order is a publicly disclosable document.

IT IS SO ORDERED.

Julie Anderson, Commissioner
Department of Commerce, Community and Economic Development

DATED: 6/17/21

/s/ F. James McConnell
BY: F. James McConnell, Director
Division of Banking and Securities
Consent to Entry of Order

I, Darrell Toby Brown, state that I have read the foregoing Order, that I am aware of the right to a hearing and appeal in this matter and have waived the same. I admit to the jurisdiction of the Department of Commerce, Community and Economic Development, Division of Banking and Securities (“Department”) and further consent to entry of this Order by the Department as settlement of the issues contained in this Order. I admit to violation of the ANCSA Corporations Proxy Solicitations Act.

I understand that the Department reserves the right to take further actions to enforce this order or to take appropriate action upon discovery of other violations of the ANCSA Corporations Proxy Solicitations Act, and that I will fully comply with the terms and conditions of this Order, the ANCSA Corporations Proxy Solicitations Act and associated regulations.

I enter into this Order voluntarily and understand this Order is a public document.

June 16, 2021

/s/ Darrel T. Brown

Date

SUBSCRIBED AND SWORN TO before me this 16 day of June, 2021 at
Juneau, Alaska

/s/ Iuliia Segal

Notary in and for

Iuliia Segal

Notary Printed Name

My commission expires: 01/24/24

Contact person:
Ann Sivulich
Financial Examiner
(907) 269-2090