

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE  
BUREAU OF SECURITIES REGULATION  
CONCORD, NEW HAMPSHIRE

\_\_\_\_\_) )  
) )  
) ) No. COM.2011-0026-0029  
Aegis Capital, LLC ) )  
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) )  
Respondent ) )  
\_\_\_\_\_)

**CONSENT ORDER**

For purposes of settling the above-referenced matter and in lieu of further administrative proceedings, Aegis Capital, LLC (hereinafter referred to as "Aegis" or the "Firm"), has submitted an offer of settlement, which the State of New Hampshire, Department of State, Bureau of Securities Regulation (hereinafter referred to as "the Bureau") has determined to accept. Accordingly, without admitting or denying the allegations and solely for the purposes of resolving this matter, the Respondent does hereby consent to the following findings, conclusions, undertakings and sanctions:

**ALLEGATIONS OF FACTS**

1. Aegis is an SEC-registered advisory firm based in Charlotte, North Carolina. Its CRD number is 125376 and its SEC file number is 801-63063. In October 2009, the Firm acquired the assets of Hunter Advisor LLC ("HA"), a state-licensed investment advisory business that was located in Portsmouth, New Hampshire. Holly Hunter ("Hunter") was the owner and principal of HA until October 2009.
2. In conjunction with the sale of HA assets to Aegis, Hunter signed a Consulting Agreement with the Firm to transition HA clients to Aegis. The Consulting Agreement required Hunter to maintain a relationship with a licensed broker-dealer.
3. From about December 2009 through March 2010, certain Aegis employees interacted with HA clients at the Aegis offices located in Portsmouth. Those employees evaluated HA client portfolios and recommended that HA clients invest monies in certain products, including a series of investment funds managed by an Aegis affiliate.

4. One such investment fund was the Aegis Diversified Real Estate Fund, LLC ("ADREF"). In 2008, the ADREF invested funds in one commercial building located in southern Florida.
5. From January 2010 through March 2010, five HA client households consisting of seven investors that had transitioned to Aegis purchased various amounts of the ADREF totaling two hundred and thirty thousand dollars. By that time, the ADREF had lost considerable value due to the collapse of the real estate market in southern Florida. In 2011, the investment was valued at zero dollars.
6. At the time of the above-described offers, sales and recommendations: (1) Aegis was not licensed as an investment advisor or broker-dealer in New Hampshire and did not have any relationship with a licensed broker-dealer in New Hampshire; (2) certain Aegis employees were not licensed as broker-dealer agents or investment advisor agents in New Hampshire; and (3) Aegis was not notice filed in New Hampshire as an SEC-registered investment advisor. At the time of the ADREF sales, ADREF was not a registered, exempt or notice filed security filed with the State of New Hampshire. Aegis failed to supervise reasonably the offer, purchase and sale of the ADREF investments.
7. Aegis has since ceased doing business in the State of New Hampshire and is in the process of being dissolved.

#### STATEMENTS OF LAW

1. Aegis is an "investment advisor" and "broker-dealer" within the meaning of RSA 421-B:2.
2. Certain Aegis employees are "investment advisor representatives" and "broker-dealer agents" within the meaning of RSA 421-B:2.
3. The ADREF membership interests are "securities" within the meaning of RSA 421-B:2.
4. The sale of the ADREF membership interests from the Portsmouth Aegis office constitutes an "offer" and "sale" in New Hampshire within the meaning of RSA 421-B:2.
5. Certain Aegis employees acted as unlicensed investment adviser representatives and broker-dealer agents with respect to the sale of the ADREF membership interests pursuant to RSA 421-B:6.
6. Aegis failed to supervise reasonably certain of its employees pursuant to RSA 421-B:10, I(a) and (b)(10).
7. Pursuant to RSA 421-B:11, it is unlawful for any person to offer or sell any

security in this state unless it is registered under this chapter, the security or transaction is exempted under RSA 421-B:17, or it is a federally covered security notice filed in New Hampshire. Aegis participated in the offer and sale of unregistered securities in New Hampshire.

8. Pursuant to RSA 421-B:23, whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter, or any rule under this chapter, he shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. Aegis is subject to this section for violations of 421-B.
9. Pursuant to RSA 421-B:26,III, any person who, either knowingly or negligently, violates any provisions of this chapter may, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation or denial of any registration or license, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation. Aegis is subject to a suspension, revocation, or denial, and a fine for violations of RSA 421-B:6, 421-B:10 and 421-B:11.
10. Pursuant to RSA 421-B:26,III-a, every person who directly or indirectly controls a person liable under 421-B:26,III, may upon hearing, and in addition to any other penalty provided for by law, upon hearing, be subject to a fine and such suspension, revocation, or denial of any registration or license. Aegis is subject to this section.
11. Pursuant to RSA 421-B:26,V the Bureau can order restitution for violations of 421-B.

In view of the foregoing, the Respondent agrees to the following undertakings and sanctions:

1. Respondent agrees that that it has voluntarily consented to the entry of this Order and represents and avers that no employee or representative of the Bureau has made any promise, representation or threat to induce its execution.
2. Respondent agrees to waive its right to an administrative hearing and any appeal therein under this chapter.
3. Respondent agrees to cease and desist from committing violations under this chapter.
4. Respondent shall pay restitution upon execution of this Consent Order in the aggregate amount of \$40,000 to the seven investors on a pro rated basis based upon the amount of their investment. The restitution shall be made in installments, with \$10,000 paid upon execution of the Consent Order, plus a total of an additional \$30,000 paid in three equal quarterly installment payments each in the

amount of \$10,000 paid on or before March 31, 2014, June 30, 2014, and September 30, 2014, respectively. (A schedule of the payment amounts is attached hereto as Exhibit A.) The initial installment and the three quarterly installments shall be by certified check or money order delivered to the Investors. The names and addresses of the Investors will be provided to the Respondent's counsel to be held confidentially.

5. Respondent shall pay costs of the investigation to the State of New Hampshire in the amount of \$5,000 upon execution of this Consent Order. Payment shall be made out to the State of New Hampshire and be paid by certified check or money order. The payment shall be delivered to the Bureau by first class mail.
6. Respondent agrees that this Consent Order is entered into for purposes of resolving the matter as described herein. This Order shall not be construed to restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by Respondent which the Bureau has no knowledge at the time of the date of final entry of this order. Should the Respondent fail to abide by this Consent Order, the Bureau in its discretion may withdraw this Order and proceed to a legal proceeding on the merits of this matter or seek to enforce this Order in court and or bring a separate action for a violation of this Order. The Respondent will also cooperate in providing information and testimony for the Bureau in this matter.
7. The Respondent may not take any action or make or permit to be made any public statements, (a) denying, directly or indirectly, any allegation in this consent agreement or (b) create the impression that the consent agreement is without factual basis; provided that nothing in this provision affects the Respondent's testimonial rights and obligations or right to take any factual or legal positions in administrative proceedings or in litigation where the Bureau is not a party.

Based on the foregoing, the Bureau deems it appropriate and in the public interest to accept and enter into this Order. **THEREFORE, IT IS HEREBY ORDERED THAT:**

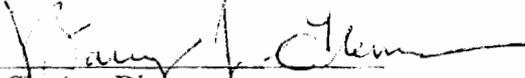
1. Respondent cease and desist from further violations of the act.
2. Respondent pay restitution in the amount of \$40,000 as stated above.
3. Respondent pay investigative costs in the amount of \$5,000 as stated above.
4. Respondent comply with the above-referenced undertakings.

Executed this 21 day of DECEMBER, 2013.

  
On behalf of Aegis Capital, LLC, or its successor(s)  
Please print name below:  
JOHN R. KASIAN

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Entered this 20<sup>th</sup> day of December 2013.

  
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Barry Gleason, Director

In The Matter of Aegis Capital, LLC  
COM2011-0026-0029  
EXHIBIT A

Per the Consent Order, the restitution shall be paid in the following amounts:

**Upon Execution of the Consent Order**

Investor # 1 - \$2,173.90

Investor #2 - \$2,173.90

Investor #3- \$2,173.90

Investor #4 - \$1,086.96

Investor #5 - \$1,086.96

Investor #6 - \$652.17

Investor #7 - \$652.17

State of NH - \$5,000.00

**Quarterly Installment Amounts Starting on 3/31/2014**

Investor #1 - \$2,173.91

Investor #2 - \$2,173.91

Investor #3 - \$2,210.14

Investor #4 - \$1,050.72

Investor #5 - \$1,086.95

Investor #6 - \$652.17

Investor #7 - \$652.17