

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 SECURITIES DIVISION

4 IN THE MATTER OF DETERMINING) Order Number S-02-394-04-TO02
5 Whether there has been a violation of the)
6 Securities Act of Washington by:) STATEMENT OF CHARGES, SUMMARY
7 Etalon Card Inc., Etalon Holdings,) ORDER TO CEASE AND DESIST, AND
8 Clarine Rodhel Schilling aka Rody) NOTICE OF INTENT TO IMPOSE FINES
9 Schilling, and their agents and) AND RECOVER COSTS
employees,)
Respondents.)

10 THE STATE OF WASHINGTON TO: Clarine Schilling

11 **STATEMENT OF CHARGES**

12 Please take notice that the Securities Administrator of the State of Washington has
13 reason to believe that the Respondent, Clarine Rodhel “Rody” Schilling, has violated the
14 Securities Act of Washington and that her violations justify the entry of an order of the
15 Securities Administrator under RCW 21.20.390 against her to cease and desist from such
16 violations. The Securities Administrator finds that delay in ordering the Respondent to cease
17 and desist from such violations would be hazardous to the investors and to the public and that a
18 Summary Order to Cease and Desist should be entered immediately. The Securities
19 Administrator finds as follows:

20 **TENTATIVE FINDINGS OF FACT**

21 **BACKGROUND**

22
23 1. On September 8, 2003, the Securities Administrator entered Order Number S-02-
24 394-03-TO01 against Etalon Card Inc. (“Etalon”), a Nevada corporation primarily located in
25 San Jose, California; Jonatan Schmidt (“Schmidt”), president of Etalon; Charles Miller

1 (“Miller”), sales agent for Etalon; Dusty Moss (“Moss”), sales agent for Etalon; and Beverly
2 Ann Stebbins (“Stebbins”), sales agent for Etalon. The Securities Administrator alleged that
3 these parties offered or sold Etalon stock in violation of the registration and the antifraud
4 provisions of the Securities Act of Washington.

5
6 RESPONDENTS

7 2. Etalon Card Inc., also doing business as Etalon Holdings (collectively referred to
8 herein as “Etalon”), is a Nevada corporation with a primary office located in San Jose,
9 California. Etalon is not registered to do business as a foreign corporation in Washington.

10 3. Clarine Rodhel “Rody” Schilling (“Schilling”) is a resident of Goldendale,
11 Washington, and acted as a sales agent for Etalon at times relevant to this matter.

12 NATURE OF THE OFFERING

13 4. Beginning in approximately May of 2001, Moss, Miller, Stebbins, and Canadian
14 businessman Ted Bender (“Bender”) met with Schilling regarding Etalon. Moss, Miller, and/or
15 Bender told Schilling that Etalon needed financing to acquire NoDak, a North Dakota banking
16 trust company. She was told that investors could earn 25% interest on 90-day loans and would
17 have the ability to acquire shares in Etalon in the future, prior to any public offering.

18 5. Along with Stebbins, Moss, Miller, and/or Bender, Schilling then participated in
19 investment solicitations in Washington of at least 11 Washington residents and at least 2
20 residents of other states. Schilling scheduled some meetings and she attended meetings and/or
21 held telephone calls with these prospective investors. Prospective investors were offered loans
22 carrying 25% interest over a term of between two weeks and three months, as well as the ability
23 to acquire shares in Etalon in the future at a per share price of between \$6.25 and \$6.50,
24
25

1 purportedly the then-current price. Prospective investors were not given prospectuses, financial
2 statements, or other documents evidencing the investments and their terms and conditions.

3 6. After their meetings with Schilling and other Etalon agents, all 13 prospective
4 investors decided to invest. The combined total of their investments exceeded \$800,000.

5 MISREPRESENTATIONS AND OMISSIONS

6 7. Schilling did not, nor did any of the other Etalon agents, provide the investors an
7 adequate description of the investment. Investors were not given documents showing the terms
8 for exercising their option to acquire Etalon stock in the future.

9 8. Schilling and/or the other Etalon agents represented that Etalon was acquiring
10 NoDak, but Schilling did not, nor did any of the other Etalon agents, disclose that NoDak was in
11 a conservatorship pending dissolution and liquidation by the State of North Dakota.

12 9. Schilling did not, nor did any of the other Etalon agents, provide investors with a
13 prospectus or otherwise adequately disclose material information, such as (A) the risk factors
14 associated with the investment, including general and specific risks; (B) how the investment
15 proceeds would be used, including the amounts used for salary, other expenses, or appropriated
16 for personal uses; (C) financial information, such as financial statements, for Etalon and/or
17 NoDak; or (D) other material facts, such as the prior business experience of the Etalon
18 principals.
19
20

21 REGISTRATION STATUS

22 10. Etalon is not currently registered to sell its securities in the state of Washington and
23 has not previously been so registered.

24 11. Schilling is not currently registered as a securities salesperson or broker-dealer in
25 the state of Washington and has not previously been so registered.

1 EMERGENCY AND PUBLIC INTEREST

2 12. The Securities Administrator finds that the continued offering of notes, evidences of
3 indebtedness, stock, investment contracts, and other securities in the manner described in these
4 Tentative Findings of Fact presents a threat to the investing public and that a summary order to
5 cease and desist is in the public interest and necessary for the protection of the investing public.
6

7 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:

8 **CONCLUSIONS OF LAW**

9 1. The conduct described in the Tentative Findings of Fact constitutes the offer or sale of
10 a security as defined in RCW 21.20.005(10) and (12).

11 2. The conduct described in the Tentative Findings of Fact is in violation of RCW
12 21.20.010 because Schilling, in connection with the offer or sale of a security, made untrue
13 statements of material fact or omitted to state material facts necessary in order to make the
14 statements made, in the light of the circumstances under which they are made, not misleading,
15 including but not limited to statements or omissions regarding (A) the description of the
16 investment; (B) the acquisition of NoDak; (C) the risk factors regarding the investment; (D) the
17 use of investment proceeds; (E) financial information for Etalon and/or NoDak; and (F) other
18 material facts, such as the prior business experience of the Etalon principals.
19

20 3. The conduct described in the Tentative Findings of Fact is in violation of RCW
21 21.20.140 because Schilling offered or sold securities for which there was no registration on file
22 with the Securities Administrator.

23 4. The conduct described in the Tentative Findings of Fact is in violation of RCW
24 21.20.040 because Schilling offered or sold securities while not registered as a securities
25 salesperson or broker-dealer in the State of Washington.

1 **SUMMARY ORDER**

2 Based on the foregoing:

3 NOW, THEREFORE, IT IS HEREBY SUMMARILY ORDERED that Clarine Rodhel
4 Schilling and her agents and employees each cease and desist from violation of RCW
5 21.20.010, the anti-fraud section of the Securities Act of Washington.

6 It is further SUMMARILY ORDERED that Clarine Rodhel Schilling and her agents and
7 employees each cease and desist from offering or selling securities in any manner in violation of
8 RCW 21.20.140, the section of the Securities Act of Washington requiring registration.

9 It is further SUMMARILY ORDERED that Clarine Rodhel Schilling cease and desist
10 from violation of RCW 21.20.040, the section of the Securities Act that requires registration of
11 securities salespersons and broker-dealers.
12

13
14 **NOTICE OF INTENT TO IMPOSE FINES AND RECOVER COSTS**

15 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities
16 Administrator, pursuant to RCW 21.20.390 and RCW 21.20.395, intends to order that Schilling
17 be liable for and pay a fine in the amount of \$22,000 and reimburse the Securities Division
18 \$3,000 in costs.
19

20 **AUTHORITY AND PROCEDURE**

21 This Order is entered pursuant to the provisions of RCW 21.20.390 and is subject to the
22 provisions of chapter 34.05 RCW. The respondent, Clarine Schilling, may make a written
23 request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
24 OPPORTUNITY FOR HEARING accompanying this order.
25

1 If the respondent does not request a hearing, the Securities Administrator intends to
2 adopt the above Tentative Findings of Fact and Conclusions of Law as final, to make the
3 summary order to cease and desist permanent, and to impose a \$22,000 fine against and recover
4 \$3,000 in costs from the respondent.
5

6 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.
7

8 Dated this 11 day of May, 2004
9

10 

11 MICHAEL STEVENSON
12 Securities Administrator

13 Approved by:

14 

15 _____
16 Suzanne Sarason
17 Chief of Enforcement

13 Presented by:

14 

15 _____
16 Andrew Ledbetter
17 Financial Legal Examiner