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8 **STATE OF WASHINGTON**
9 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
10 **SECURITIES DIVISION**

11 **IN THE MATTER OF DETERMINING**
12 **Whether there has been a violation of the**
13 **Securities Act of Washington by:**

14 Professional Traders Fund, LLC; Marc
15 Swickle; Howard Berger; DirectNet
16 LLC; David Babich,

17 Respondents.

Order No. S-03-146-07-AG-01

STIPULATION AND ORDER
OF DISMISSAL AS TO
PROFESSIONAL TRADERS
FUND, LLC, MARK SWICKLE,
AND HOWARD BERGER

18 **I. STIPULATION**

19 On February 27, 2006, the Securities Administrator of the State of Washington issued
20 Statement of Charges and Notice of Intent to Enter Order to Cease and Desist and Notice of
21 Intent to Recover Costs Order Number S-03-146-05-SC01, hereinafter referred to as
22 “Statement of Charges.” Respondents Professional Traders Fund, LLC, Marc Swickle, and
23 Howard Berger each separately and timely requested an adjudicative proceeding.

24 The dispute regarding the Statement of Charges was adjudicated before Administrative
25 Law Judge Adam Torem of the Washington State Office of Administrative Hearings. On May
26 10, 2007, Judge Torem issued an Initial Order which rejected the arguments of DFI and
recommended a dismissal of all charges against Professional Traders Fund, LLC, Marc
Swickle, and Howard Berger as a matter of law.

1 Pursuant to RCW 34.05.464 and WAC 10-08-211, either party to the adjudicative
2 proceeding had the right to file a Petition for Review with the Director of the Department of
3 Financial Institutions within twenty (20) days of the date of service of the Initial Order.
4 Neither party has filed a Petition for Review.

5 Respondents Professional Traders Fund, LLC, Marc Swickle, and Howard Berger, and
6 the Department of Financial Institutions, Securities Division, by and through their attorneys of
7 record, hereby waive their right to file a Petition for Review of the Initial Order and to judicial
8 review of this matter pursuant to RCW 21.20.440 and Chapter 34.05 RCW, and stipulate to the
9 following Order.

10 Date: 7/19/07

SULLIVAN & WORCESTER, LLP

11
12 /s/ _____
13 ANDREW SOLOMON, NYSBA # 2758597
14 Attorney for Respondents, Professional
15 Traders Fund, LLC, Mark Swickle, and
Howard Berger

16 Date: 7/19/07

RIDDELL WILLIAMS P.S

17
18 /s/ _____
19 KEN LEDERMAN, WSBA # 26515
20 Attorney for Respondents, Professional
Traders Fund, LLC, Mark Swickle, and
Howard Berger

21 Date: 7/23/07

ROBERT M. MCKENNA
22 Attorney General

23
24 /s/ _____
25 CHAD C. STANDIFER, WSBA # 29724
26 Assistant Attorney General
Attorneys for Department of Financial Institutions

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II. ORDER

IT IS HEREBY ORDERED, that the above-captioned proceeding and all charges arising therefrom are hereby dismissed with prejudice with respect to Respondents Professional Traders Fund, LLC, Mark Swickle, and Howard Berger.

Dated and Entered this 24th day of July, 2007.



MICHAEL E. STEVENSON
Securities Administrator

Presented by:

ROBERT M. MCKENNA
Attorney General

/s/

CHAD C. STANDIFER, WSBA # 29724
Assistant Attorney General
Attorneys for Department of Financial Institutions

Approved as to form; Notice of
Presentation Waived.

SULLIVAN & WORCESTER, LLP

/s/

ANDREW SOLOMON, NYSBA # 2758597
Attorney for Respondents, Professional
Traders Fund, LLC, Mark Swickle, and
Howard Berger

RIDDELL WILLIAMS P.S

/s/

KEN LEDERMAN, WSBA # 26515
Attorney for Respondents, Professional
Traders Fund, LLC, Mark Swickle, and
Howard Berger