

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

4 IN THE MATTER OF DETERMINING
5 whether there has been a violation of the
6 Securities Act of the State of Washington by:

7 LIONHEARTED ENTERTAINMENT, INC.,
8 MARY ANN HEATHMAN, AND KIM A.
9 HEATHMAN,

10 Respondents.

Order Number S-05-201-06-FO01

ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND FINAL
ORDER TO CEASE AND DESIST

11 THE STATE OF WASHINGTON TO:

LionHearted Entertainment, Inc.
Mary Ann and Kim A. Heathman

12 On January 17, 2006, the Securities Administrator of the State of Washington issued Summary Order to
13 Cease and Desist, No. S-05-201-TO01, against Respondents LionHearted Entertainment, Inc., Mary Ann
14 Heathman, and Kim A. Heathman. The Summary Order alleged that the Respondents had violated the
15 Securities Act of Washington by offering and selling unregistered securities, by acting as unregistered
16 securities salespersons or broker-dealers, and by making material misrepresentations and omissions in the
17 offer and sale of promissory notes issued by LionHearted Entertainment, Inc.

18 The Summary Order, together with a Notice of Opportunity to Defend and Opportunity for Hearing, and
19 an Application for Adjudicative Hearing, were served on Kim A. Heathman on January 20; on LionHearted
20 Entertainment on January 24; and on Mary Ann Heathman on January 31, 2006. Respondents requested an
21 administrative hearing, but subsequently withdrew their request, waived their rights to a hearing, and in lieu
22 thereof, submitted a written statement for consideration by the Agency Director or Securities Administrator.

23 The statement requested that the Division consider certain mitigating facts. The Securities Administrator,
24 having considered the written statement and finding grounds for minor factual changes and a reduction in
25 certain sanctions, enters this Final Order in final disposition of this matter.

ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF 1
LAW, AND FINAL ORDER TO CEASE AND DESIST

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

1 The Securities Administrator makes the following findings of fact and conclusions of law:

2 **FINDINGS OF FACT**

3 *I. Respondents*

4 1. LionHearted Entertainment, Inc. (“LionHearted”) is an active for-profit Nevada corporation
5 authorized to do business September 23, 1998. LionHearted was formed to develop, produce, and
6 distribute major release motion pictures based on copyrighted material owned by a sister corporation,
7 LionHearted Publishing, Inc.

8 2. Mary Ann Heathman (“Mary Ann”) is the President and Chief Executive Officer of LionHearted.

9 3. Kim Alan Heathman (“Kim”) is the Secretary, Treasurer, Director, Chief Financial Officer, and
10 Chief Operations Officer of LionHearted.

11 *II. Nature of the Offering*

12 4. On or about February 1, 2001, two Washington residents (“the residents”) attended an Income
13 Builders International (“IBI”) conference in Los Angeles, California. The residents were looking for
14 investors in their own business, as well as for potential investment or income opportunities. While there,
15 the residents became acquainted with Kim and Mary Ann, who were at the IBI conference seeking
16 investors in LionHearted. The residents sat down with Kim for approximately two hours and listened to
17 his proposal for LionHearted.

18 5. Kim stated that LionHearted was formed to develop, produce, and distribute major release motion
19 pictures based on copyrighted material owned by a sister corporation, LionHearted Publishing, Inc.
20 LionHearted was selling high-yield 12-month promissory notes paying 10% simple interest per annum to
21 fund the creation of a film development company to be known as LionHearted Development.

22 6. Kim stated that LionHearted was looking for short-term investors with a minimum of \$15,000 to
23 invest. He described the investment opportunity as a “sweet deal” for anyone wanting a quick return on

1 his or her investment. Kim claimed that in addition to earning interest, investors would receive a
2 percentage of profits earned on any films.

3 7. Kim provided the residents with three documents describing the offering. The first, an unsigned
4 single-page letter dated February 15, 2001, provided a brief description of the offering and potential
5 returns to investors. LionHearted promised that “Note Holders” would receive the return of their principal
6 from a subsequent sale of limited partnership interests, plus “up to a five (5) times return of their principal
7 from movie revenues.”

8 8. The second document, a four-page letter dated February 15, 2001 and signed by Kim, described an
9 offering in LionHearted’s high-yield Corporate Promissory Notes. The letter offered participating
10 investors “five times (500%) return on the principal value of their Notes.” The offering was supposedly
11 limited to accredited or qualified investors. The notes paid 10% simple interest and matured in 12 months,
12 “or upon the full funding of the development company, whichever occurs first.” The document claimed
13 that the development company would be fully funded within five months.

14 9. The third document, a seven-page Corporate Promissory Note Offering Memorandum
15 (“Memorandum”), included a blank promissory note. According to the Memorandum, LionHearted was
16 raising \$300,000 from accredited or qualified investors. The funds raised were “ramp up” capital for
17 LionHearted to start its first multi-picture development company. The minimum investment was listed as
18 \$30,000, secured by corporate promissory notes issued by LionHearted. The notes paid 10% simple
19 interest, and were due at the earliest of twelve months or upon the full funding of LionHearted
20 Development. In addition, note holders were promised a pro-rated 10% of pre-tax profits until investors
21 received five times their original investment.

22 10. The Memorandum included a one-page table titled “Gap Funding, Cash Flow Projection.” Dated
23 February 1, 2001, the table projects full funding of the \$300,000 promissory note offering within four

1 months, and repayment of investors' entire principal, plus interest, by the end of July 2001. The table
2 projected that promissory note investors would be repaid from the proceeds of a \$5 million offering of
3 limited partnership interests. According to the table, LionHearted would raise the entire \$5 million in
4 limited partnership interests by the end of July 2001.

5 11. Though he did not inquire into the residents' financial condition or investment objectives, Kim
6 said that the investment was right for the residents. At the time, the residents were not accredited,
7 qualified, or sophisticated investors. Kim advised the residents that LionHearted would pay them a 5%
8 commission on any money from other investors they brought to LionHearted.

9 12. After returning to Washington, the residents decided against investing in LionHearted. However,
10 one of the residents shared the information with her mother, Mrs. B. She provided Mrs. B with copies of
11 the documents she had received from Kim, including the February 15, 2001 letters and Memorandum.
12 Mrs. B was interested in the offering, and contacted LionHearted for more information.

13 A. First Promissory Note

14 13. On or about March 15, 2001, LionHearted mailed a letter to Mrs. B. The letter, dated March 14,
15 2001 and signed by Mary Ann, described LionHearted's three-part strategy for raising funds:

- 16 a) Raise \$300,000 bridge capital from the sale of promissory notes to fund
17 LionHearted Development;
- 18 b) Raise \$5 million from the sale of limited partnership interests in LionHearted
19 Development to develop three movie projects to the point of filming; and
- 20 c) Secure movie production funding from entertainment banks.

21 14. The letter states that promissory note holders will be repaid from the \$5 million limited
22 partnership offering and will receive up to five times return of his or her investment from movie revenues.
23 Included with the letter was an original promissory note paying 10% simple interest plus a pro-rated 10%
of pre-tax profits until investors received five times their original investment.

1 15. On or about March 15, 2001, Mrs. B invested \$15,000 in the Corporate Promissory Note Offering
2 from LionHearted. At the time of her investment, Mrs. B was aged 74, recently divorced, and living in
3 Arizona on a fixed income provided by Social Security and one-half of her ex-husband's retirement. At
4 the time of her investment, Mrs. B was not an accredited, qualified, or sophisticated investor.

5 16. LionHearted paid the Washington residents \$750 in commissions for Mrs. B's investment.

6 17. On or about March 15, 2002, LionHearted defaulted on the promissory note issued to Mrs. B, and
7 despite the note becoming immediately due and payable, failed to make payment.

8 18. On or about August 31, 2002, LionHearted mailed a letter to Mrs. B. The letter, dated August 30,
9 2002 and signed by both Kim and Mary Ann, was addressed to "LionHearted Investors, Lenders, Cubs
10 and Supporters." The letter describes their continuing efforts to raise the \$300,000 bridge capital funding,
11 and the now \$6 million in limited partnership interests needed to develop three movie projects to the point
12 of filming. The letter did not address the default on the promissory note issued to Mrs. B, but does state
13 that promissory note investors will continue to receive 10% interest until their principal is repaid.

14 19. The letter also describes a "Team Agreement" that pays existing investors for introducing new
15 investors to LionHearted. For any money invested the introducing agent would receive a 5% commission.

16 20. The letter states that LionHearted had made a contact at an IBI conference that "might be our \$6
17 million." The Heathmans claimed, "[I]t looks and feels like we are just about to reach our pot of gold."

18 B. Second Promissory Note

19 21. On or about September 24, 2002, LionHearted mailed another letter to Mrs. B. The letter, dated
20 September 23, 2002 and signed by Kim, states that LionHearted had one person interested in funding the
21 balance of the \$300,000 promissory note program, and another person interested in funding the entire \$6
22 million limited partnership offering. Kim enclosed a replacement promissory note with the maturity date
23

1 extended from 12 to 24 months and requested that Mrs. B replace her original promissory note with the
2 new one. Kim stated LionHearted needed the additional time “to put the other financing in place.”

3 C. Third Promissory Note

4 22. On or about August 8, 2003, LionHearted mailed a third letter to Mrs. B. The letter, dated August
5 8, 2003, and signed by Kim, described LionHearted’s continuing efforts to raise funds with which to repay
6 investors. Included was a third promissory note with the maturity date extended from 24 to 48 months.

7 D. Internet Offering

8 23. On or about August 26, 2003, Kim posted a solicitation for investors on the Internet website
9 www.whatdoyouneednext.com. The website was a matchmaking site where entrepreneurs posted offers
10 soliciting whatever they needed to “proceed or succeed with your latest venture.” LionHearted’s posting
11 was in the section of the website for entrepreneurs needing capital, and stated that LionHearted was
12 seeking investors in a new film production company, LionHearted Entertainment, Inc. The posting
13 promised investors full return of investment principal as well as future revenue streams from films.

14 24. Neither the website nor LionHearted’s posting disclosed any limitation on the offer, or indicated in
15 any way that the offer was not available to Washington residents.

16 *III. Misrepresentations and Omissions*

17 25. Respondents represented that investors in the corporate promissory note program would be repaid
18 in full within twelve months, and receive the 500% return within sixty months. At the time, Respondents
19 had no reasonable basis for making the claims. More than four years after investing, Mrs. B is still
20 waiting for the return of her original \$15,000 principal.

21 26. Respondents represented that the corporate promissory note offering would close when the full
22 \$300,000 was raised, or on June 30, 2001. At the time, Respondents had no reasonable basis for making
23 the claims. In fact, though they continue to seek capital, LionHearted has still not raised the \$300,000.

1 27. Respondents represented that investors in the corporate promissory note program would receive
2 up to a 500% return on their investments from films exclusively distributed by LionHearted throughout
3 the United States. In addition, Respondents represented that a consulting firm would further distribute the
4 films to premium cable and television networks. At the time, Respondents had no reasonable basis for
5 making the claims. LionHearted has failed to produce any films for distribution.

6 28. The one-page table titled "Gap Funding, Cash Flow Projection" included in the Memorandum
7 provided by Respondents projects full funding of the \$300,000 promissory note offering within four
8 months, and repayment of the entire principal, plus interest, by the end of July 2001. The table projects
9 that LionHearted would raise the entire \$5 million in limited partnership interests by the end of July 2001.
10 Respondents failed to disclose any basis for the income projections in their "Gap Funding, Cash Flow
11 Projection," or provide any audited or pro-forma financials for LionHearted.

12 29. Respondents failed to disclose any risk factors associated with the investment, including the risk
13 of being unable to raise the \$300,000 in start-up financing, their subsequent inability to raise the \$5 or \$6
14 million necessary to create LionHearted Development, and their subsequent inability to obtain production
15 financing from an entertainment bank.

16 *IV. Registration Status*

17 30. Respondent LionHearted is not currently registered to offer or sell its securities in Washington
18 State and has not previously been so registered. There is no notification of exemption on file with the
19 Securities Division.

20 31. Respondents Mary Ann and Kim Heathman are not currently registered as securities salespersons
21 or broker-dealers in Washington State and have not previously been so registered.

22 32. The promissory notes offered and sold by Respondents LionHearted, Mary Ann, and Kim
23 Heathman are not currently registered in Washington State and have not previously been so registered.

1 Based upon the foregoing Findings of Fact, the following Conclusions of Law are made:

2 **CONCLUSIONS OF LAW**

3 1. The offer and sale of the investments described above constitutes the offer or sale of a security as
4 defined in RCW 21.20.005(10) and (12), to wit: promissory notes.

5 2. Respondents LionHearted Entertainment, Inc., Mary Ann Heathman, and Kim A. Heathman have
6 each violated RCW 21.20.010, the anti-fraud provision of the Securities Act of Washington, by making, in
7 connection with the offer or sale of said securities, untrue statements of material fact and by omitting to
8 state material facts necessary in order to make the statements made, in light of the circumstances under
9 which they were made, not misleading.

10 3. Respondents LionHearted Entertainment, Inc., Mary Ann Heathman, and Kim A. Heathman, have
11 each violated RCW 21.20.140, the securities registration provision of the Securities Act of Washington,
12 because no registration for the offer or sale of said securities is on file with the Securities Administrator.

13 4. Respondents LionHearted Entertainment, Inc., Mary Ann Heathman, and Kim A. Heathman, have
14 each violated RCW 21.20.040, the securities broker-dealer and salesperson registration provision of the
15 Securities Act of Washington, by offering and selling said securities while not registered as securities
16 broker-dealers or salespersons in Washington State.

17
18 **FINAL ORDER**

19 Based on the foregoing:

20
21 IT IS HEREBY ORDERED that, pursuant to RCW 21.20.390, Respondents LionHearted
22 Entertainment, Inc., Mary Ann Heathman, Kim A. Heathman, their officers, directors, employees, and

1 agents each cease and desist from offering or selling securities in any manner in violation of RCW
2 21.20.010, the anti-fraud provision of the Securities Act.

3
4 IT IS FURTHER ORDERED that, pursuant to RCW 21.20.390, Respondents LionHearted
5 Entertainment, Inc., Mary Ann Heathman, Kim A. Heathman, their officers, directors, employees, and
6 agents shall each cease and desist from offering or selling securities in any manner in violation of RCW
7 21.20.140, the securities registration provision of the Securities Act.

8
9 IT IS FURTHER ORDERED that, pursuant to RCW 21.20.390, Respondents LionHearted
10 Entertainment, Inc., Mary Ann Heathman, Kim A. Heathman, their officers, directors, employees, and
11 agents shall each cease and desist from offering or selling securities in any manner in violation of RCW
12 21.20.040, the broker-dealer and securities salesperson registration provision of the Securities Act.

13
14 IT IS FURTHER ORDERED that, pursuant to RCW 21.20.390(6), Respondents shall be jointly and
15 severally liable for and shall pay restitution to Mrs. B in the principal amount of Fifteen Thousand Dollars
16 (\$15,000), plus 10% simple interest per annum from the date of her investment until paid in full.

17
18 IT IS FURTHER ORDERED that, for any person or entity not a party to this Order, this Order does not
19 limit any private rights or remedies against Respondents, and is not intended to nor shall it be construed to
20 have created, compromised, settled or adjudicated any claims, causes of action, or rights of any person
21 whomsoever, other than as between the Securities Division and Respondents.

1 IT IS FURTHER ORDERED that Summary Order No. S-05-201-05-TO01 is hereby vacated as to all
2 Respondents.

3
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5 **AUTHORITY AND PROCEDURE**

6 This Final Order is entered pursuant to the provisions of RCW 21.20.110 and 21.20.390, and is subject
7 to the provisions of RCW 21.20.120 and Chapter 34.05 RCW. Respondents have the right to petition the
8 superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. For the
9 requirements for filing a Petition for Judicial Review, see RCW 34.050.510 and sections following.

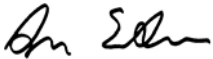
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11 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

12 DATED and ENTERED this 25th day of August, 2006.

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15 _____
MICHAEL E. STEVENSON
Securities Administrator

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17 Approved for entry by:

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19 _____
SUZANNE E. SARASON
Program Manager
Compliance & Examinations

Presented by:

20 

21 _____
ANTHONY W. CARTER
Staff Attorney
Compliance & Examinations