

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order Number S-08-375-08-SO01
Whether there has been a violation of the)
Securities Act of the State of Washington by:) STOP ORDER DENYING EFFECTIVENESS
35, LLC;) OF APPLICATION FOR REGISTRATION
Respondent)
)
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THE STATE OF WASHINGTON TO: 35, LLC

**STOP ORDER DENYING EFFECTIVENESS OF APPLICATION FOR
REGISTRATION**

Please take notice that the Securities Administrator of the State of Washington enters an order against 35, LLC under RCW 21.20.280 denying effectiveness of the application for registration filed by 35, LLC. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

1. On October 27, 2008, an application for registration was filed with the Securities Division under RCW 21.20.180 for an offering of \$3,500,000 worth of Class A Limited Liability Units in 35, LLC. The stated purpose of 35, LLC is to “engage in the business of developing, financing, producing, marketing, and selling the full length motion picture, 35.” 35 is described as a film about “three intersecting stories of high school friends having trouble

1 turning 35.” 35 was one of three films selected from a pool of movie scripts that were submitted
2 to and reviewed by IndieShares, LLC.

3 2. The Operating Agreement of 35, LLC provides that IndieShares Management,
4 LLC is the manager and does not provide for removal or replacement of the manager. Rather,
5 upon the termination of IndieShares Management, LLC as the manager, 35, LLC shall be
6 dissolved. As the manager, IndieShares Management, LLC is vested with full, exclusive and
7 complete authority and discretion in the management and control of the business of 35, LLC and
8 shall have the right to make any and all decisions affecting the business of 35, LLC.
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10 3. The Operating Agreement of 35, LLC further provides that it has a Board of
11 Directors consisting of Jay T. Schwartz, Julie Chase, and George Brumder, who collectively
12 own all of the outstanding interests in IndieShares Management, LLC. The powers conferred on
13 the Board of Directors are to form an audit committee, a corporate governance committee, and a
14 compensation committee and to adopt charters (approved by the Manager) relative to these
15 committees. The Operating Agreement does not provide for an election of members of the
16 board of directors or any other mechanism for their removal and replacement.
17

18 4. The Operating Agreement indicates that IndieShares Management, LLC owns the
19 one and only common share in 35, LLC, for which it contributed \$10, and that it is entitled to
20 50% of the net profits of 35, LLC after payment to the class A shareholders of 105% of their
21 capital contributions.

22 5. The prospectus, included in the registration statement, intended for delivery to
23 prospective investors does not disclose that various conflicts of interest and the lack of investor
24 oversight may negatively affect any return on their investment.
25

1 6. The prospectus does not disclose that investors have no ability to remove the
2 manager and that 35, LLC shall be dissolved if IndieShares Management, LLC ceases to be the
3 manager.

4 7. The prospectus does not disclose the risks to investors created by the payment of
5 the production management fee of \$300,000 at the time the offering amount is raised as opposed
6 to payments made as services are performed and the fact that this fee was not an arm's length
7 transaction or approved by any independent directors.

8 8. The prospectus does not disclose the need or failure of IndieShares Management,
9 LLC to register as a securities salesperson or broker-dealer.

10 9. The prospectus does not disclose the existence and nature of the Securities
11 Division's investigation of the unregistered offer of securities through the website of
12 IndieShares, LLC. Neither does it disclose the potential liability arising from the general
13 solicitation conducted prior to the filing of an application for registration.

14 10. The prospectus does not disclose a prior offering conducted by Detour, LLC or
15 the results of that offering. In June 2006, Jay T. Schwartz, George Brumder, and Julie Chase
16 were involved with a similar film project by Detour, LLC. Although Detour, LLC was issued a
17 permit to solicit indications of interest in the offering from investors, Detour, LLC did not
18 respond to comments made by the Securities Division concerning its application for registration
19 and the application was withdrawn on March 19, 2008.

20 11. The prospectus does not disclose the terms of the agreement with the author of
21 the script for the film 35 or the intellectual property risks or disputes that may arise between the
22 author and 35, LLC.
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24
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1 **AUTHORITY AND PROCEDURE**

2 This ORDER SUSPENDING EFFECTIVENESS is entered pursuant to the provisions of
3 RCW 21.20.280 and RCW 21.20.300 and is subject to the provisions of Chapter 34.05 RCW.

4 The Respondent, 35, LLC, may make a written request for a hearing as set forth in the NOTICE
5 OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
6 Order.

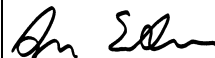
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8 If the respondent does not request a hearing, the Securities Administrator intends to
9 adopt the above Tentative Findings of Fact, Conclusions of Law, and STOP ORDER DENYING
10 EFFECTIVENESS OF APPLICATION FOR REGISTRATION of 35, LLC as final.

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12 DATED AND ENTERED this 19th day of November, 2008.

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14 _____
15 MICHAEL E. STEVENSON
16 Securities Administrator

17 Approved by:

18 

19 Suzanne Sarason
20 Chief of Compliance

Presented by:



21 Jack McClellan
22 Enforcement Attorney