

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF determining
Whether there has been a violation of the
Securities Act of Washington by:

EDWARD B. WINSTON,

Respondent.

SDO - 33 - 99

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

Case No. 98-09-291

THE STATE OF WASHINGTON TO: EDWARD B. WINSTON
9606 58th Avenue South
Seattle, WA 98118-3068

On November 10, 1998, the Securities Administrator of the State of Washington issued Summary Order to Cease and Desist SDO-89-98 (hereinafter referred to as "Summary Order") to Edward Winston.

The Summary Order, together with a Notice of Opportunity to Defend and Opportunity for Hearing (hereinafter referred to as "Notice of Opportunity for Hearing") and an Application for Adjudicative Hearing (hereinafter referred to as "Application for Hearing"), were served on Edward Winston via certified mail on January 7, 1999. The Notice of Opportunity for Hearing advised Edward Winston that he had twenty days from the date of receipt of the notice to file a written application for an administrative hearing on the Summary Order.

Edward Winston failed to request an administrative hearing within twenty days of his receipt of the Summary Order and Notice of Opportunity for Hearing, either on the Application for Hearing provided or otherwise.

The Securities Administrator therefore will adopt as final the findings of fact and conclusions of law as set forth in the Summary Order.

FINDINGS OF FACT

I. RESPONDENT

EDWARD B. WINSTON ("Winston") resides at 9606 58th Avenue South, Seattle, WA 98118.

ENTRY OF FINDINGS OF FACT AND
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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
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II. NATURE OF OFFERING

In March 1997, Winston offered a Renton, Washington resident an opportunity to invest \$5,000 with Ariel Productions, Inc. ("Ariel") in the production of a concert to be held on May 31, 1997. In return, the Washington resident was to receive a 25% return on his investment (\$1,250) by June 7, 1997. At the time of the offer, Winston represented to the Washington resident that he was raising capital on behalf of Ariel. Winston led the Washington resident to believe that he was affiliated with Ariel and that he was authorized to enter into contracts on behalf of Ariel. Winston told the Washington resident that the capital he raised on behalf of Ariel would be used by Ariel to organize and promote concerts; and any investments made with Ariel were guaranteed, so that, at a minimum the Washington resident's principal investment would be returned. The Washington resident invested \$5,000 on March 23, 1997. At the time of the investment, Winston was not employed by or authorized to raise capital for Ariel.

In June 1997, Winton told the Washington resident that the May 31st concert resulted in a net loss, and thus Ariel was unable to pay the 25% return on his investment as agreed, but that Ariel still had the Washington resident's \$5,000. Winston solicited the Washington resident to re-invest the original \$5,000 that was purportedly in Ariel's possession, in a stage production to be held on September 5, 1997. In return, the Washington resident was to receive a 30% return on his investment (\$1,500) by September 12, 1997.

Although the September 5th event was profitable, Winston convinced the Washington resident to re-invest the original \$5,000 plus the \$1,500 which purportedly accrued from the September 5th event for a total of \$6,500 in the production of a concert to be held on October 11, 1997. In return, Winton promised that the Washington resident would receive a 30% return on his investment (\$1,950) by October 17, 1997. To date, the Washington resident has not received his initial \$5,000 investment or any agreed-upon return.

III. MISREPRESENTATIONS AND OMISSIONS

In connection with the offer and sale of the investment described in paragraph II above, Winston led the Washington resident to believe that he was an agent of Ariel and was authorized to raise capital for Ariel. But in fact, Winston was not an employee of Ariel and had never been an authorized agent of Ariel, nor had Ariel ever employed Winston to raise capital on behalf of Ariel.

25 ENTRY OF FINDINGS OF FACT AND
26 CONCLUSIONS OF LAW AND FINAL ORDER
27 TO CEASE AND DESIST

1 Although Winston represented to the Washington resident that his \$5,000 investment would go directly to Ariel,
2 in fact, Winston obtained the \$5,000, added \$2,000 of his own money, and individually entered into a separate agreement
3 with Ariel whereby Winston would invest \$7,000 in return for 20% of any profits made from the May 31st event. Winston
4 failed to disclose to the Washington resident that Winston would pool his money with the Washington resident's and that
5 he would enter into a separate agreement to which the Washington resident was not a party, and to which the Washington
6 resident would not benefit from.

7 In June 1997, when Winston told the Washington resident that the May 31st concert resulted in a net loss, Winston
8 misrepresented to the Washington resident that Ariel was still in possession of his \$5,000. Also, Winston failed to
9 disclose to the Washington resident that Ariel had paid Winston \$1,629.91 from the May 31st event.

10 Winston then solicited the Washington resident to re-invest the \$5,000 in a stage production to be held on
11 September 5, 1997. Winston again entered into a separate agreement with Ariel whereby Winston agreed to invest only
12 \$3,500 in return for 10% of any profits made from the September 5th event. The September 5th event was in fact profitable
13 and Winston profited \$2,632.76. Winston again failed to disclose that Winston was entering into a separate agreement
14 with Ariel to which the Washington resident was not a party and to which he would not benefit from.

15 In September 1997, when Winston again solicited the Washington resident to re-invest his \$6,500 (\$5,000 plus
16 the \$1,500 that purportedly accrued) in the production of a concert/party to be held on October 11, 1997, Winston failed to
17 disclose that he individually entered into a separate agreement with Ariel whereby Winston added his own money and
18 agreed to invest a total of \$15,000 in return for 15% of any profits made from the October 11th event.

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

20 CONCLUSIONS OF LAW

21 I.

22 The solicitation of the investment with Ariel as described above in the Tentative Findings of Fact constitutes the
23 offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: an investment contract or risk capital.

1 II.

2 The offer and/or sale of said securities was made in violation of RCW 21.20.010 because as set forth in
3 paragraphs II and III of the Tentative Findings of Fact, Winston made untrue statements of material fact and omitted to
4 state material facts necessary in order to make the statements made, in light of the circumstances under which they were
5 made, not misleading.

6 III.

7 The Securities Administrator finds that an emergency exists because Winston continuously made false and
8 misleading statements to the Washington resident and employed a scheme or artifice to defraud a Washington investor.
9 The Securities Administrator finds that the continued violations of RCW 21.20.010 constitute a threat to the investing
10 public, and that a summary order to cease and desist from those violations is in the public interest and necessary for the
11 protection of the investing public.

12 **ORDER**

13 Based upon the above Findings of Fact and Conclusions of Law, it is hereby:

14 ORDERED that Edward B. Winston, his agents, employees, and representatives, shall each cease and desist from
15 offering and selling any security in violation of RCW 21.20.010, the anti-fraud section of the Securities Act of
16 Washington.

17 This Order is entered pursuant to RCW 21.20.390, and is subject to the provisions of Chapter 34.05 RCW.

18 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

19 DATED this 11 day of May, 1999.

20 _____
DEBORAH R. BORTNER
21 Securities Administrator

22 Approved by:

Presented by:

23 _____
24 Michael E. Stevenson
Chief of Compliance

25 Paul S. Ocampo
26 Staff Attorney

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