

BEFORE THE DIVISION OF INSURANCE
DEPARTMENT OF LABOR AND REGULATION
STATE OF SOUTH DAKOTA

IN THE MATTER OF
KIRK BERTSCH

) CONSENT ORDER FOR IMPOSITION OF
) MONETARY PENALTY AND
) ORDER TO CEASE AND DESIST

In resolution of the above matter and in lieu of issuance of a Notice of Hearing and a formal hearing, the undersigned parties do hereby agree to the following:

KIRK BERTSCH ("BERTSCH") whose address of record is 586 Fish Hatchery Loop, Spearfish, SD 57783 is a formerly registered investment advisor in the State of South Dakota;

BERTSCH is aware that the South Dakota Division of Insurance ("Division") has conducted an investigation into his securities and investment advisory activities in South Dakota;

The Division has alleged the following:

- 1) BERTSCH engaged in securities transactions that were not recorded on his firm's regular books or records, in violation of ARSD 20:08:03:06(2);
- 2) BERTSCH violated ARSD 20:08:03:06(3) by violating FINRA Rule 3270 when he failed to obtain proper written approval from his firm before engaging in outside business activities;
- 3) BERTSCH violated ARSD 20:08:03:06(3) by violating FINRA Rule 3280 for engaging in private securities transactions without notifying his firm;
- 4) The above-cited conduct may be grounds for the Division to issue a cease and desist order; seek the revocation or suspension of BERTSCH'S registration; and seek the issuance of a monetary penalty of up to \$10,000 per violation, pursuant to SDCL §§ 47-31B-412 and 47-31B-604;

BERTSCH is aware of and understands the nature of the charges and has been informed that he has the right to notice, hearing, and appeal, and that by agreeing to and signing this Consent Order, agrees to the waiver of these rights;

In return for BERTSCH agreeing to the provisions of this Consent Order, the Division agrees not to proceed to a formal order and hearing and agrees that this Consent Order will constitute an informal final disposition of this matter pursuant to SDCL § 1-26-20;

BERTSCH agrees to a civil penalty in the amount of \$5,000 and the entry of the Order to Cease and Desist below pursuant to SDCL §§ 47-31B-412, 47-31B-602, and 47-31B-604, in lieu of contesting this matter formally; and

BERTSCH further agrees that this Consent Order may be considered for the purpose of determining an appropriate sanction in any future actions with the Division for any violations of the laws or regulations of the State of South Dakota or for failing to abide by any order of the Director;

Wherefore, good cause appearing from the foregoing, it is hereby ORDERED pursuant to SDCL § 47-31B-604 that KIRK BERTSCH shall permanently cease and desist from offering and selling securities in and from the State of South Dakota, noting that any willful violation of this Consent Order is a Class 4 felony pursuant to SDCL § 47-31B-508(a); and it is further

ORDERED it is hereby ORDERED that the BERTSCH pay a penalty in the amount of \$5,000 payable to "South Dakota Division of Insurance" for deposit in the general fund of the State of South Dakota; and it is further

ORDERED that BERTSCH abide by the agreements made by him in this Consent Order; and it is further

ORDERED that this Consent Order is necessary and appropriate in the public interest and for the protection of investors and is consistent with the purposes fairly intended by the policy and provisions of SDCL 47-31B; and it is further

ORDERED that the provisions of this Consent Order shall be effective from the date the Director signs this Order.

Dated at Pierre, South Dakota this 21st day of November, 2018.



Larry Deiter, Director
South Dakota Division of Insurance

The undersigned represents that her understand the terms of this Consent Order and the waiver of his due process rights and voluntarily enter into this Consent Order.

Dated this 14 day of November, 2018.


Signature of Authorized Representative
Printed Name