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SECURITIES DIVISION

JUN 28 2010

INDIANA
SECRETARY OF STATE

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SECURITIES DIVISION

STATEMENT OF POLICY REGARDING
EFFECTIVE DATE OF THE SECURITIES
RESTITUTION FUND

The Indiana Secretary of State and the Securities Commissioner (“Commissioner”) have determined that it is appropriate and in the public interest to issue a Statement of Policy clarifying the Securities Division’s position on the effective date of the Securities Restitution Fund (Ind. Code 23-20-1), established in House Enrolled Act 1332 (P.L. 114-2010).

Background

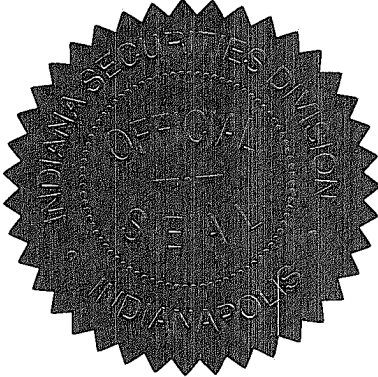
The Securities Restitution Fund (“Fund”) was created by the Indiana General Assembly to provide restitution for victims of securities violations. The Fund is officially established on July 1, 2010. The Securities Division can only make a payment to victims if a state court, federal court, or administrative agency has ordered restitution to be paid to that victim as a result of a securities violation. A copy of the Final Order showing that restitution has been awarded will be required as part of the application. FINRA arbitration awards are not eligible for payment from the Fund. Restitution will be paid out of civil penalties imposed by the Securities Division against those who have violated the Indiana Uniform Securities Act. Payment to each victim will be capped at twenty-five percent (25%) or fifteen thousand dollars (\$15,000), whichever amount is less. The intent of the Indiana General Assembly appears to be creating a Fund that would provide some compensation for losses that are the result of securities violations.

HEA 1332 becomes effective on July 1, 2010. The statute does not indicate a specific date establishing eligibility for a submission of a claim for restitution. Based on established principles of statutory interpretation the activity giving rise to a claim for restitution under HEA 1332 must have occurred no earlier than the effective date of the Act, July 1, 2010. Since the General Assembly chose not to provide a specific eligibility date, the strong presumption is that the statute was not intended to be applied retroactively. In Section 25 of HEA 1332, the Indiana General Assembly created a separate and distinct restitution fund associated with escrow companies. The language establishing that fund clearly states that eligibility for claims under that Section is retroactive. By expressly providing that one Section of HEA 1332 applies retroactively and remaining silent as to the eligibility date in another Section, it is clear that the General Assembly intended for the Fund to apply no earlier than the effective date of the Act. Since the effective date of the Fund established in the Act is July 1, 2010, the activity giving rise to the violation upon which a claim for restitution is based, must have occurred after July 1, 2010.

Policy

Eligibility for a Securities Restitution Fund claim applies prospectively. Only claims arising from securities violations occurring after July 1, 2010, will be eligible for restitution award consideration.

DATED at Indianapolis, Indiana, this 28TH day of JUNE, 2010.



TODD ROKITA
SECRETARY OF STATE

A handwritten signature in black ink, appearing to read "Chris Naylor", written over the printed name.

CHRIS NAYLOR
SECURITIES COMMISSIONER