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**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:

MICHAEL DEVINE;
INTERNATIONAL CONSULTING LLC;
DOWN UNDER SEAFOODS LLC;
KIMBERLEY INVESTMENTS, INC.,

Respondents.

Order Number S-08-045-08-SC01

STATEMENT OF CHARGES AND NOTICE
OF INTENT TO ENTER ORDER TO CEASE
AND DESIST, IMPOSE FINES, AND
RECOVER COSTS

9 THE STATE OF WASHINGTON TO:

Michael Devine
International Consulting LLC
Down Under Seafoods LLC
Kimberley Investments, Inc.

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STATEMENT OF CHARGES

13 Please take notice that the Securities Administrator of the State of Washington has reason to
14 believe that Respondents, Michael Devine, International Consulting LLC, Down Under Seafoods LLC,
15 and Kimberly Investments, Inc., have violated the Securities Act of Washington and that their violations
16 justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each to cease
17 and desist from such violations, and to impose fines and recover costs. The Securities Administrator finds
18 as follows:

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TENTATIVE FINDINGS OF FACT

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Respondents

22 1. Michael Devine (“Devine”), also known as Michael J. Devine or Michael John Devine, is a
23 Washington resident. His last known address is in Kirkland, Washington.

1 Resources Ltd. (“Adelaide Resources”), an Australian company that owned land in Australia with
2 supposedly confirmed iron ore deposits. Devine represented that his father owned a generator plant in
3 Beijing and had connections with a Chinese steel company called China Kingdom International.
4 Devine stated that his company International Consulting planned to purchase the mining rights for
5 \$140,000 and sell the rights to the Chinese steel company for \$46 million. International Consulting
6 would retain 51% of the rights and therefore would control logistics.

7 12. In January 2005, Investor A gave Devine \$5,000 to put towards this iron ore venture. At
8 Devine’s request, Investor A wired the funds to the bank account for Pearl Coast Marine Products.
9 Devine represented that Pearl Coast Marine Products was a seafood shipping company that he owned.

10 13. Around this time, Devine supplied Investor A with a two page document describing an
11 investment opportunity in the “Warramboe Iron Ore Project.” The document stated that investors
12 could have a return on their investment in 90 days. The document further stated than on offering
13 document would be available upon request.

14 14. On March 3, 2005, Investor A invested an additional \$30,000 with International
15 Consulting LLC. Devine promised a 6-to-1 return if the deal with the Chinese steel company was
16 completed. Devine signed a Letter of Guarantee in which he personally guaranteed the principal of
17 the investment and agreed to return Investor A’s principal by June 1, 2005. Devine again requested
18 that Investor A wire the funds to the Pearl Coast Marine Products bank account though it was
19 understood the investment was with International Consulting.

20 15. Devine did not discuss the risks of the investment or provide offering or disclosure
21 information to Investor A. Because he had Devine’s personal guarantee, Investor A did not believe
22 there was any risk to his principal.

1 22. Devine requested funds be wired to the bank account for Pearl Coast Marine Products
2 located at Bank of America in Kirkland, Washington. Devine explained that International Consulting
3 was such a new company he had not had time to set up a bank account for it. He assured Investor B
4 that the funds would be transferred to a bank account for International Consulting as soon as possible.

5 23. On April 15, 2005, Devine, as sole member of International Consulting LLC, signed a
6 \$50,000 "Non-Negotiable Promissory Note" in Seattle, Washington. Under the terms of the note,
7 Devine promised to pay Investor B his \$50,000 principal plus 50% annual interest, or \$62,500, by
8 October 14, 2005. On the same day, Devine signed a "Guaranty Agreement." The guarantee recites
9 that Investor A, as guarantor, guarantees Investor B's \$50,000 principal. The "Guaranty Agreement"
10 was signed by Michael Devine in his individual capacity. The documents were sent to Investor B.
11 Investor B then wired \$50,000 to the Pearl Coast Marine Products bank account.

12 24. Later in July or August 2005, Investor B agreed to invest additional money into the iron
13 ore venture in exchange for a membership interest in International Consulting. Devine told Investor B
14 that this would allow Investor B to participate in the profits from the iron ore venture. Investor B
15 wired \$38,000 directly to Adelaide Resources.

16 25. Devine did not discuss the risk of the investment with Investor B. Because he had the
17 personal guarantees of Devine and Investor A, Investor B did not believe there was any risk to his
18 principal.

19 26. Investor B did not receive payment on the promissory note. Investor B requested his
20 money back from Devine, but did not receive it. He was also informed by either Adelaide Resources
21 or Devine that Adelaide Resources would keep his \$38,000 as a default because International
22 Consulting had not raised the amount required to purchase the mining rights.

1 37. At Devine's instruction, Investor D wired \$30,000 on January 23, 2007 to a bank account
2 for Blue Damsel Machinery LLC at Capital One. Blue Damsel Machinery LLC was a ship
3 reclamation company purportedly owned by Devine in Louisiana. However, Investor D's
4 understanding was that the investment was in Down Under Seafood.

5 38. Prior to the payment date of the promissory note, in or about April 2007, Devine offered
6 to convert Investor D's loan into an ownership interest in Down Under Seafood. This would allow
7 Invest D to receive a share of the profits of the business. Devine told Investor D that there was only a
8 short period of time in which Investor D could convert to an equity interest. This was because Down
9 Under Seafood was selling its first franchise store. Devine spoke of this sale as if it had already been
10 completed.

11 39. Following their conversation in which Devine offered the loan conversion, Devine sent a
12 document to Investor D which stated:

13 Down Under Seafood, LLC hereby agrees to convert loan 01 entered into January
14 15 2007 from [Investor D] into two points of ownership of Down Under Seafood,
15 LLC. Points are fully tradable [sic] as per the guidelines set by the board of
16 directors of the Down Under Seafood Group.

17 As per our conversation you are eligible [sic] to sell points held at the 40 k level.
18 The current market price of 40 k expires June 5, 2007. As the situation stands
19 today we have more investors than sellers leaving a sellers [sic] market. I would
20 be happy to assist you in the sale of your holding in Down Under Seafood's [sic]
21 if you choose to do so.

22 The document was signed by Michael Devine as President of Down Under Seafood Group. Investor
23 D understood the document to state that if he converted his loan to two points of ownership interest,
24 there was a ready market for him to sell the points for \$80,000 total until June 5, 2007. Investor D
agreed to the loan conversion.

1 the architectural services. When Investor E demanded payment from Devine, Devine offered Investor
2 E's firm two ownership points, or a 2% interest, in Down Under Seafood. Devine represented that the
3 points could be sold immediately for \$40,000 each.

4 46. Investor E reluctantly agreed to accept the points because he needed to pay the
5 consultants he had hired for Devine's project. He emailed Devine on June 6, 2007 requesting that
6 Devine sell one of the points. Devine replied on the same day and said Investor E would receive
7 payment from the sale of the point in 30 days.

8 47. Over the next 30 days, Investor E repeatedly requested documentation from Devine, such
9 as an assignment, which would confirm his firm's equity ownership in Down Under Seafood. He also
10 requested the Operating Agreement for the company. Devine told Investor E that he would receive a
11 confirmation from a law firm. Despite repeated requests, Investor E never received confirmation. He
12 also never received any payment from sale of his points.

13 48. Investor E sued Devine and received a judgment for approximately \$33,000.

14 *Investor F*

15 49. Investor F is a Washington resident who owns property in Devine's neighborhood.
16 Investor F is not an accredited investor. Soon after meeting, Devine told Investor F he was looking for
17 investors for his business Down Under Seafood. Devine showed Investor F blueprints for the seafood
18 store. He promised Investor F large returns.

19 50. Devine provided Investor F with a document entitled "Investment Opportunity." The
20 document described Down Under Seafood's plan to create a seafood store and restaurant. The
21 document stated that "Currently 25% of Down Under Seafood company is being offered for purchase
22 to qualified investors." The document further stated that purchasers would be entitled to share in

1 profits of the business. The document stated that percentage point interests had a value of \$20,000
2 each, and all owners could sell their interests at the current assessed value.

3 51. In or about 2007, Investor F invested \$5,000 in Down Under Seafood. In addition,
4 Investor F paid approximately \$15,000 in various expenses for running Down Under Seafood.
5 Investor F was supposed to receive a certificate stating that he owned a 2% interest in Down Under
6 Seafood. However, he never received a certificate. He never received any additional disclosure
7 information concerning the company.

8 Kimberley Investments

9 52. In 2008, Investor F requested return of his investment in Down Under Seafood. Devine
10 offered to convert Investor F's interest in Down Under Seafood into an equity interest in Devine's new
11 company Kimberley Investments.

12 53. According to Devine, Kimberley Investments was going to raise hundred of millions of
13 dollars in Dubai. It would then purchase foreclosed homes in the United States. The company would
14 sell the properties for profit. Devine stated that Investor F would be a "big time owner."

15 54. Devine offered Investor F a 5% interest in Kimberley Investments because of his
16 previous investments in Down Under Seafood. Devine provided two promissory notes to Investor F
17 issued by Kimberly Investments, Inc. on May 9, 2008. One note promised to pay \$25,297 together
18 with 75% annual interest in 90 days. The other note promised to pay \$12,000 plus 75% annual interest
19 in 30 days. Investor F has received no payments on these notes. Investor F received no disclosure
20 information on Kimberley Investments.

21 Additional Offerings by Kimberley Investments, Inc.

1 Child Support

2 60. As of January 28, 2005, Michael Devine owed \$58,038.13 in past due child support,
3 according to a withholding notice issued by the State of Washington Department of Social and Health
4 Services. It is believed that the child support is still unpaid.

5 Misrepresentations and Omissions

6 61. Respondents Michael Devine and International Consulting LLC failed to provide
7 material information regarding investing in International Consulting LLC, including but not limited to:
8 financial statements, use of proceeds, the business background and experience of Michael Devine, the
9 general risks of investing, and the specific risks of investing in an iron ore venture located in Australia.

10 62. Respondents Michael Devine and Down Under Seafoods LLC failed to provide material
11 information regarding investing in Down Under Seafoods LLC and/or Down Under Seafood Group,
12 including but not limited to: financial statements, use of proceeds, the business background and
13 experience of Michael Devine, the relationship between Down Under Seafoods LLC and Down Under
14 Seafood Group, the entity status of Down Under Seafood Group, the general risks of investing, and the
15 specific risks of investing in a seafood store and fish and chips restaurant.

16 63. Respondent Michael Devine misrepresented that the sale of the Down Under Seafood
17 franchise store was completed when it was not, and misrepresented that there was a ready market for
18 Down Under Seafood LLC and/or Down Under Seafood Group ownership points until a fixed date,
19 when there was no such market.

20 64. Respondents Michael Devine and Kimberley Investments, Inc. failed to provide material
21 information regarding investing in Kimberley Investments, Inc, including but not limited to: financial
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1 statements, use of proceeds, the business background and experience of Michael Devine, and the
2 general risks of investing.

3 65. Respondent Michael Devine failed to disclose that he had judgments entered against him
4 related to the iron ore business prior to his offer of investments to Investors D, E, and F.

5 66. Respondents Michael Devine, International Consulting LLC, Down Under Seafoods
6 LLC, and Kimberley Investments, Inc. failed to disclose at the time of the investments that Devine
7 owed more than \$58,000 in child support.

8 Registration Status

9 67. Respondent International Consulting LLC is not currently registered to sell its securities
10 in the State of Washington and has not previously been registered.

11 68. Respondent Down Under Seafoods LLC is not currently registered to sell its securities in
12 the State of Washington and has not previously been registered.

13 69. Respondent Kimberley Investments, Inc. is not currently registered to sell its securities in
14 the State of Washington and has not previously been registered.

15 70. Respondent Michael Devine is not currently registered as a securities salesperson or
16 broker-dealer in the State of Washington and has not previously been so registered.

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

22 **CONCLUSIONS OF LAW**

1 1. The offer or sale by Respondents of each of the investments described above constitutes
2 the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12).

3 2. The offer or sale of said securities violated RCW 21.20.140 because Respondents were
4 not registered to sell securities in the State of Washington.

5 3. Respondent Michael Devine violated RCW 21.20.040 by offering or selling said
6 securities while not registered as a broker-dealer or securities salesperson in the State of Washington.

7 4. The offer or sale of the investments described above was made in violation of
8 RCW 21.20.010 because, as set forth in the Tentative Findings of Fact, Respondents made
9 misstatements of material facts or omitted to state material facts necessary in order to make the
10 statements made, in light of circumstances under which they were made, not misleading.

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12 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

13 Pursuant to RCW 21.20.390, and based on the above Tentative Findings of Fact and Conclusions
14 of Law, the Securities Administrator intends to order that Respondents, Michael Devine and International
15 Consulting LLC, and their agents and employees, shall each cease and desist from violations of RCW
16 21.20.140, RCW 21.20.040, and RCW 21.20.010.

17 **NOTICE OF INTENT TO IMPOSE FINES**

18 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of
19 Law, the Securities Administrator intends to order that Respondent Michael Devine shall be liable for
20 and pay a fine of \$15,000.

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22 **NOTICE OF INTENT TO RECOVER COSTS**

1 Pursuant to RCW 21.20.390(5), and based upon the Tentative Finds of Fact and Conclusions of
2 Law, the Securities Administrator intends to order that the Respondents Michael Devine, International
3 Consulting LLC, Down Under Seafoods LLC, and Kimberley Investments, Inc. shall be liable jointly
4 and severally for and pay the Securities Division the costs, fees, and other expenses incurred in the
5 conduct of the administrative investigation and hearing of this matter of not less than \$1,500.

6 **AUTHORITY AND PROCEDURE**

7 This Statement of Charges is entered pursuant to the provisions of the RCW 21.20.390 and
8 RCW 21.20.395 and is subject to the provisions of RCW 34.05. The Respondents may each make a
9 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
10 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

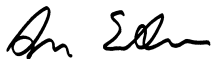
11 If a Respondent does not request a hearing, the Securities Administrator intends to adopt the
12 above Tentative Findings of Fact and Conclusions of Law as final, enter a permanent cease and desist
13 order as to that Respondent, and impose the fines and costs sought.

14 DATED AND ENTERED this 9th day of December, 2008.

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16 _____
17 MICHAEL E. STEVENSON
18 Securities Administrator

19 Approved by:

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21 _____
22 SUZANNE SARASON
23 Chief of Compliance & Examinations

Presented by:

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JILL M. VALLEY
Enforcement Attorney