

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**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:  
GENE DAVID HART and HART INVESTING  
COMPANY,  
Respondents

SDO - 023 - 02

SUMMARY ORDER TO CEASE AND DESIST  
AND NOTICE OF INTENT TO IMPOSE FINES  
AND COSTS

Case No. 02-02-067

THE STATE OF WASHINGTON TO: GENE DAVID HART and HART INVESTING COMPANY

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, Gene David Hart and HART Investing Company, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be hazardous to investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

**I. RESPONDENTS**

Gene David Hart ("Hart") resides in Kitsap County, Washington. Hart holds himself out as President of HART Investing Company, although the company has not made any corporate filings with the Washington Secretary of State.

SUMMARY ORDER TO CEASE AND  
DESIST AND NOTICE OF INTENT TO  
IMPOSE FINES AND COSTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

## II. NEWSPAPER ADVERTISEMENT

Hart has placed a newspaper advertisement in the *Bremerton Sun* that reads “Certificates of Deposit Paying 10% Interest (360) 373-7344.” The ad ran at least ten times during February 2002 and has been scheduled to run again during March.

## III. TERMS OF THE OFFERING

During February and March 2002, several persons have called the telephone number listed in Hart’s newspaper advertisement. They have spoken with Hart, who tells them that he is offering “certificates of deposit” that are “guaranteed” to pay 10% annual interest. Hart tells some prospective investors that he will pool investor funds to buy and sell stock.

Hart distributes to Washington residents written materials that describe the terms of the investments that he is offering. Hart sends at least one prospective investor a business card that says “Tired of low interest on your savings? Tired of losing money on risky stocks? Get new, improved, guaranteed 10 percent interest.”

Hart distributes a form letter with a personalized salutation. The letter says that HART Investing Company “guarantees” to pay ten percent annual interest on a one-year “Certificate of Deposit.” The letter says “Your Certificate of Deposit is backed by U.S. government guaranteed bonds, exchange traded funds and other financial instruments.” The letter says that HART Investing Company “engaged in 1.5 million dollars worth of transactions last year.”

Hart distributes a “Certificate of Deposit” form with a one-paragraph agreement saying that HART Investing Company will pay ten percent interest on a one-year deposit. Hart also distributes a brochure that describes the “Certificates of Deposit.”

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

#### IV. MISREPRESENTATIONS AND OMISSIONS

Hart and HART Investing Company advertisements and offering materials include significant misrepresentations or omissions about the investments they are offering. They misrepresent the safety of the investments by referring to the investments as “Certificates of Deposit.” They fail to disclose to prospective investors that HART Investing Company is not regulated as a bank or other financial institution that is authorized to accept deposits. They fail to disclose the risks of the investments. They fail to provide financial statements for the issuer of the investments. They fail to disclose the source or terms of the purported “guarantee” for the investments. They fail to adequately describe the source of the projected return on the investments. They fail to disclose the intended use of proceeds from investors.

12  
13  
14

#### V. UNREGISTERED SECURITIES

HART Investing Company is not currently registered to sell its securities in the State of Washington and has not previously been so registered.

15  
16  
17

#### VI. UNREGISTERED BROKER-DEALER AND SECURITIES SALESPERSON

Gene David Hart and HART Investing Company are not currently registered as a broker-dealer or securities salesperson in the State of Washington and have not previously been so registered.

18  
19  
20  
21  
22  
23

#### VII. THREAT TO THE INVESTING PUBLIC

The Securities Administrator finds that Hart’s continued offering of investments in the manner described in the Tentative Findings of Fact presents a threat to the investing public.

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

CONCLUSIONS OF LAW

I.

The offer or sale of the investments described above constitutes the offer or sale of a security, as defined in RCW 21.20.005(10) and (12), whether in the form of a note, debenture, evidence of indebtedness or investment contract.

II.

The offer or sale of said securities is in violation of RCW 21.20.140 because no registration for such offer or sale is on file with the Washington Securities Administrator.

III.

Gene David Hart and HART Investing Company have violated RCW 21.20.040 by offering or selling said securities without being registered as a securities salesperson or broker-dealer in the State of Washington.

IV.

The offer or sale of said securities is in violation of RCW 21.20.010 because Hart and Hart Investing Company have made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

EMERGENCY

The Securities Administrator finds that an emergency exists, that the continued violation of RCW 21.20.010, RCW 21.20.040, and RCW 21.20.140 constitute a threat to the investing public, and that a summary order to cease and desist from those violations is in the public interest and necessary for the protection of the investing public.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**SUMMARY ORDER**

Based upon the foregoing, NOW, THEREFORE, IT IS HEREBY SUMMARILY ORDERED That Gene David Hart, HART Investing Company and their agents and employees shall each cease and desist from offering or selling securities in any manner in violation of RCW 21.20.140, the securities registration section of the Securities Act of Washington.

It is further SUMMARILY ORDERED that Gene David Hart, HART Investing Company and their agents and employees shall each cease and desist from offering or selling securities in any manner in violation of RCW 21.20.040, the broker-dealer and securities salesperson registration section of the Securities Act of Washington.

It is further SUMMARILY ORDERED that Gene David Hart, HART Investing Company and their agents and employees shall each cease and desist from offering or selling securities in any manner in violation of RCW 21.20.010, the anti-fraud section of the Securities Act of Washington.

**NOTICE OF INTENT TO IMPOSE FINES AND COSTS**

Based upon repeated offers of unregistered securities by unregistered broker-dealers or salespersons and based upon the misrepresentations or omissions contained in those offers as described in the foregoing Tentative Findings of Fact and Conclusions of Law, the Securities Administrator finds that there have been at least ten knowing or reckless violations of the Securities Act, which justify the imposition of fines and costs pursuant to RCW 21.20.395. Therefore, the Securities Administrator intends to order the Respondents to pay a fine of \$20,000 and to pay the Department of Financial Institutions' costs associated with this proceeding.

**AUTHORITY AND PROCEDURE**

This Order is entered pursuant to the provisions of RCW 21.20.390 and RCW 21.20.395 and is subject to the provisions of the Administrative Procedures Act, Chapter 34.05 RCW. The respondents may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this order.

If any respondent fails to request a hearing, the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law and enter a Final Order to Cease and Desist against that respondent and impose the fines and costs sought in this order.

**WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

DATED this 18th day of March, 2002.



DEBORAH R. BORTNER  
Securities Administrator

Presented by:

\_\_\_\_\_  
Janet So  
Financial Legal Examiner

Approved by:

\_\_\_\_\_  
Michael E. Stevenson  
Chief of Enforcement