

STATE OF NORTH DAKOTA
SECURITIES DEPARTMENT

In the Matter of Brent L. Kitzan, doing)	CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY, AND NOTICE OF RIGHT TO REQUEST A HEARING
business as Kitzan & Associates,)	
)	
Respondent.)	

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THE SECURITIES COMMISSIONER OF THE STATE OF NORTH DAKOTA

**TO: BRENT L. KITZAN, doing business as KITZAN & ASSOCIATES,
RESPONDENT.**

The North Dakota Securities Commissioner has a reasonable basis to believe that the Respondent has engaged in, is engaging in, or is about to engage in, acts, practices or transactions, as more fully described below, which are prohibited under Chapter 10-04 of the North Dakota Century Code (N.D.C.C.). It is necessary and appropriate in the public interest and for the protection of investors to restrain these acts, practices, or transactions of the Respondent.

1. Respondent, Brent L. Kitzan, (Kitzan or Respondent), is a resident of Mandan, North Dakota, doing business as Kitzan & Associates, with offices at 1929 North Washington Street, Bismarck, North Dakota. Kitzan holds himself out as a "Registered Financial Consultant" and insurance agent. Kitzan is not now and has never been registered as a securities agent or an investment adviser representative with the North Dakota Securities Department.
2. On four occasions between May 26, 1999, and August 20, 1999, Respondent engaged in the offer for sale and sale of an investment contract with "Capital

Minerals Company Inc.” in the total sum of \$22,500 to at least one North Dakota resident, in Bismarck, North Dakota. Said transactions involved a purported 15% working interest in Midwest Oil Properties in Wyoming. Said investment contracts are “securities” as defined in N.D.C.C. § 10-04-02(19).

3. On or about October 1, 2003, Respondent entered into an investment contract with Trembly Cattle Company using \$65,000 in funds provided by a North Dakota investor in Bismarck, North Dakota. The contract indicates that \$65,000 was invested with a yield of 5% per year payable annually until August 2009, at which time the investment would be repaid in 16 equal payments over eight years. The contract further provides that if anything were to happen to Respondent, the beneficiaries of the contract would be two heirs of the source of the funds. Said investment contract was a “security” as defined in N.D.C.C. § 10-04-02(19).
4. On or about June 7, 2004, Respondent engaged in the offer for sale and sale of an investment contract with an undisclosed “limited capital venture trust” in the amount of \$5,000 to at least one North Dakota resident, in Bismarck, North Dakota. The terms of the investment were a 150 day maturity and a yield of \$650. Said investment contract was a “security” as defined in N.D.C.C. § 10-04-02(19).
5. On or about September 24, 2004, Respondent engaged in the offer for sale and sale of an investment contract or promissory note issued by Respondent, Brent L. Kitzan, in the amount of \$6,000 to at least one North Dakota resident, in New Salem, North Dakota. The terms of the investment were that the proceeds would be distributed as a three year loan to an undisclosed private investor to be repaid at

\$200/month for 36 months or a total of \$7,200. Said investment contract was a "security" as defined in N.D.C.C. § 10-04-02(19).

6. On or about February 16, 2005, Respondent engaged in the offer for sale and sale of an investment contract or promissory note issued by Edward D. Waslaski, in the amount of \$20,000, to at least one North Dakota resident, in New Salem, North Dakota. The terms of the investment were repayment commencing April 16, 2005, with 24 consecutive monthly payments of \$280 and a final payment of \$20,000 on the 25th month. Said investment contract was a "security" as defined in N.D.C.C. § 10-04-02(19).
7. On or about March 2, 2005, Respondent engaged in the offer for sale and sale of an investment contract or promissory note with "Partners Trust" in the amount of \$2,650 to at least one North Dakota resident, in Bismarck, North Dakota. The terms of the investment were renewable in six month intervals, with a yield of 7.5% and the first payment due on September 2, 2005. Said investment contract was a "security" as defined in N.D.C.C. § 10-04-02(19).
8. On or about March 9, 2005, Respondent engaged in the offer for sale and sale of an investment contract with "PIP Investments" in the amount of \$11,100 to at least one North Dakota resident, in Bismarck, North Dakota. Said transaction appears to involve an illegal investment scam known as "People in Profit Systems" or "PIPS." Said investment contract was a "security" as defined in N.D.C.C. § 10-04-02(19).
9. On or about April 7, 2005, Respondent engaged in the offer for sale and sale of an investment contract with Bio-Science Organic Solutions, LLC, in the amount of

\$10,000 to at least one North Dakota resident, in New Salem, North Dakota. The terms of the investment were that the investor would receive either 1% of the shares of the company or repayment of principal and interest at the rate of 10% per annum 12 months from the date of the investment, at the investor's discretion. Said investment contract was a "security" as defined in N.D.C.C. § 10-04-02(19).

10. The securities described in paragraphs 2 through 9, offered for sale and sold by the Respondent, were not registered with the Securities Department under N.D.C.C. §§ 10-04-07, 10-04-07.1, 10-04-08, or 10-04-08.1; were not an exempt security under N.D.C.C. § 10-04-05; and were not offered for sale or sold in an exempt transaction under N.D.C.C. § 10-04-06; and were not a federal covered security and were not properly filed as a federal covered security under N.D.C.C. § 10-04-08.4. The offer and sale of the subject investments were made in violation of N.D.C.C. § 10-04-04 and Respondent engaged in eleven violations of N.D.C.C. § 10-04-04.
11. The transactions referenced above were conducted at a time when Respondent, Brent L. Kitzan, was not registered as a broker-dealer, an issuer-dealer or as an agent with the Securities Department. The Respondent engaged in eleven violations of N.D.C.C. § 10-04-10(1) and eleven violations of N.D.C.C. § 10-04-10(2).
12. Respondent, Brent L. Kitzan, in the offer for sale and sale of the securities described herein, directly and indirectly employed devices, schemes and artifices to defraud the purchasers of the securities, and made untrue statements and omissions of material fact in that the entire amount of the investments were at risk of loss, and Respondent failed to disclose that he was not registered to sell

securities in this state. Respondent has made numerous misrepresentations to the investors and their heirs as to how the money is invested and when and how they will receive a return on the investments. Therefore, Respondent, Brent L. Kitzan, has engaged in at least eleven violations of N.D.C.C. § 10-04-15(2).

13. Pursuant to N.D.C.C. § 10-04-16(1), the Securities Commissioner has the authority to Order that a person Cease and Desist from violations of the Securities Act, to rescind transactions made in violations of the Securities Act, and to assess civil penalties in an amount not to exceed \$10,000 for each violation of the Securities Act or a total of \$440,000 based on the violations described above. The violations described above are sufficient grounds for the Commissioner to assess civil penalties against the Respondent pursuant to N.D.C.C. § 10-04-16(1).
14. This Order is issued in the public interest, and for the protection of investors.

NOW, THEREFORE, IT IS ORDERED, pursuant to N.D.C.C. § 10-04-16, that the Respondent shall immediately **CEASE AND DESIST**:

1. From offering for sale or selling in North Dakota the subject securities, or any other securities however denominated, unless and until such securities have been registered with the Securities Department.
2. From offering for sale or selling securities, or effecting transactions in securities, in North Dakota unless and until he has registered with the Securities Department as a broker-dealer or agent.
3. From using material misstatements or omissions, engaging in a scheme or artifice to defraud investors, or from engaging in any fraudulent or deceptive practices, in connection with the offer and/or sale of securities in this state.

This order does not prohibit the offer or sale of securities through exempt securities transactions under N.D.C.C. § 10-04-06, nor does it prohibit a registered broker-dealer or agent from offering or selling exempt securities under N.D.C.C. § 10-04-05 or federal covered securities offered pursuant to a notice filing made to the Securities Department pursuant to N.D.C.C. § 10-04-08.4.

YOU ARE NOTIFIED that any willful violation of this order is a Class B Felony pursuant to N.D.C.C. § 10-04-18(1). Pursuant to N.D.C.C. § 12.1-32-01(3), a Class B Felony is punishable by a \$10,000 fine and 10 years' imprisonment, with respect to a natural person. Pursuant to N.D.C.C. § 12.1-32-01.1(2), a Class B Felony is punishable by a \$35,000 fine with respect to an organization.

YOU ARE FURTHER NOTIFIED that, pursuant to N.D.C.C. § 12.1-09-03, a person is guilty of a criminal offense if that person intentionally "alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability" in an official proceeding. As such, intentional destruction of any documents related to this matter may result in criminal prosecution.

NOTICE OF CIVIL PENALTY

YOU ARE NOTIFIED that the above-cited violations are sufficient grounds for the imposition of civil penalties pursuant to N.D.C.C. § 10-04-16(1). The Securities Commissioner does not herein assess a civil penalty, but the Commissioner expressly reserves the authority to assess civil penalties, not to exceed \$10,000 per violation, regarding the violations outlined above, any other violations subsequently discovered, or any future securities violations or violations of this order.

NOTICE OF RIGHT TO REQUEST A HEARING

YOU ARE NOTIFIED that pursuant to N.D.C.C. § 10-04-12 you may request a hearing before the Securities Commissioner if such a request is made in writing WITHIN FIFTEEN (15) DAYS AFTER THE RECEIPT OF THIS ORDER. The Respondent has the right to be represented by legal counsel at the hearing.

IN TESTIMONY WHEREOF, witness my hand and seal this 14th day of December, 2011.





Karen J. Tyler, Securities Commissioner
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