STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:	)	
	)	
NEIL PHILIP BERMAN	)	
	)	
	)	**ADMINISTRATIVE ORDER**
	)	**NO. CD 2013-0010**
	)	
RESPONDENT	)	

CEASE AND DESIST ORDER

The Alabama Securities Commission ("Commission"), having the authority to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act ("Act"), upon due consideration of the subject matter hereof, and having confirmed information of the offers for sale and/or sale of securities into, within or from the state of Alabama, has determined as follows:

RESPONDENT

1. **NEIL PHILIP BERMAN ("BERMAN")** is a Florida resident with a residential address of 11050 Seaport Lane, Boca Raton, Florida 33428. He is not currently registered nor has he ever been registered with the Commission in any capacity.

STATEMENT OF FACTS

2. On February 10, 2009, **BERMAN** solicited an Alabama resident ("investor") to wire $9000 to **BERMAN'S** personal bank account. **BERMAN** represented that he was an investment advisor for a company called Delta Mutual, Inc., and that the investor funds would be invested in mutual funds with Delta Mutual, Inc. **BERMAN** did not provide any documentation to the investor to substantiate how the funds were invested.

3. In January 2010, the investor requested that **BERMAN** provide $200 from the investment for the investor's personal use. **BERMAN** complied with the request. From

January 2010 and continuing through January 2012, **BERMAN** made periodic payments back to the investor totaling $7000.00, including $800 that **BERMAN** paid to the investor's now ex-spouse. The investor stated there was no agreement that **BERMAN** would pay any funds to the ex-spouse.

4. The investor made multiple requests to **BERMAN** for documentation to show how the funds were invested. However, **BERMAN** failed to provide any documentation to substantiate how the funds were invested. **BERMAN** provided only a list of payouts he had made to the investor.

5. In February and March, 2012, the investor sent correspondence and made phone calls to **BERMAN** demanding that **BERMAN** pay the remaining $2000 and/or provide documents to show where the funds were invested. **BERMAN** failed to repay the $2000 and failed to provide any documents to show where the funds were invested. **BERMAN** refused any further contact from the investor.

6. During the Commission's investigation, Malcolm Sherman, the Executive Vice President/Vice-Chairman of Delta Mutual, Inc. reported to the Commission that Delta Mutual, Inc. has no record of the company ever receiving any funds on behalf of the investor.

7. The Commission staff conducted a financial analysis of the bank account in which the investor funds were deposited and determined that the funds were wired to an account in the name of **BERMAN** and another individual. 99.8% of the investor funds exited **BERMAN'S** account for personal expenses and cash withdrawals. There was no evidence that any of the investor funds were paid to Delta Mutual, Inc.

8. On November 9, 2012, a review of the Commission's registration files disclosed no record of registration for **BERMAN** as a broker dealer agent, investment advisor representative or as a restricted agent in the state of Alabama

9 On December 11, 2012, a Commission subpoena was personally delivered by a Certified Process Server to **BERMAN'S** home residence in Florida. An individual

represented to be **BERMAN'S** spouse/co-resident took receipt of the subpoena. The subpoena allowed **BERMAN** until January 4, 2013, to respond to the Commission's subpoena for any and all records related to any Alabama investor funds. **BERMAN** failed to respond to the Commission's subpoena.

CONCLUSIONS OF LAW

10. Pursuant to Section 8-6-2(10), Code of Alabama 1975, Alabama's statutory definition of a security includes certificate of participation, investment contract, share, etc. **BERMAN** represented that the investor funds would be invested in mutual funds with a company called Delta Mutual, Inc. Such investment is a security under the Act.

11. Pursuant to Section 8-6-2(2), Code of Alabama 1975, the definition of "agent" includes any individual who represents a dealer or an issuer in effecting or attempting to effect sales of securities. **Berman** by soliciting the sale of a security, to wit; the investment in mutual funds in Delta Mutual, Inc, acted as an "Agent" as defined by the Act.

12. Pursuant to Section 8-6-3(a), Code of Alabama 1975, it is unlawful for any person to transact business in this state as a Dealer or Agent for securities unless he is registered under the Act. **BERMAN** sold a security in the state of Alabama while not being registered with the Commission in violation of the Act.

13. Section 8-6-4, Code of Alabama 1975 states: It is unlawful for any person to offer or sell any security in this state unless it is registered under the Act; the security is exempt from registration under Section 8-6-10; or the transaction is exempt under Section 8-6-11. The security offered and sold by **BERMAN**, to wit; the investment in mutual funds with Delta Mutual, Inc. as represented by **BERMAN**, was neither registered nor exempt from registration in Alabama in violation of the Act.

This Order is appropriate in the public interest for the protection of investors and consistent with the purposes of the Alabama Securities Act.

This Order does not prevent the Commission from seeking such other civil or criminal remedies that may be available to it under the Alabama Securities Act.

Additionally, if the allegations set forth herein are found to be true, through either administrative adjudication, failure of the **RESPONDENT** to make a timely request for hearing, or default of the **RESPONDENT**, it is the intention of the Commission to impose sanctions upon the **RESPONDENT**. Such sanctions may include, inter alia, an administrative assessment imposed on **RESPONDENT**, an additional administrative assessment for investigative costs arising from the investigation of the violation(s) described herein against **RESPONDENT**, and a permanent order to bar **RESPONDENTS** from participation in any securities related industry in the state of Alabama.

ACCORDINGLY, IT IS HEREBY ORDERED that **RESPONDENT** immediately **CEASE AND DESIST** from further offers or sales of any security into, within or from the state of Alabama.

Entered at Montgomery, AL, this 13th day of May, 2013.

ALABAMA SECURITIES COMMISSION
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BY:

Joseph P. Borg
Director