

1 **FINDINGS OF FACT**

2 The Director **FINDS** that:

3 **Part One: Parties**

4 1. **KLECK** was, at all times material herein, a broker-dealer salesperson (CRD#
5 1069636) licensed by the State of Oregon. Kleck conducted business from 101 Fir Street, La
6 Grande, Oregon 97035.

7 2. **KLECK** was, at all times material herein, affiliated with Linsco Private Ledger (CRD
8 #6413) a broker-dealer licensed by the State of Oregon. Linsco Private Ledger conducts business
9 from One Beacon Street, Boston, Massachusetts 02108-3106.

10 3. **KLECK** passed the Series 7 (general securities), 24 (general securities principal), and
11 63 (state “blue sky” law) securities licensure examinations.

12 **Part Two: Petroleum Development Corporation**

13 4. **KLECK** sold securities issued by Petroleum Development Corporation (hereafter
14 “PDC”) to Linsco Private Ledger clients. PDC, based in West Virginia, engages in the
15 acquisition, development, production, and marketing of natural gas and oil in the United States.
16 The company also purchases, aggregates, and resells natural gas developed by other producers to
17 industrial end-users, utilities, gas marketers, and wholesale gas purchasers.

18 5. **KLECK** sold seventy-one (71) PDC partnership units to thirty-four (34) clients. Each
19 PDC partnership operated oil and gas wells in Colorado, Michigan, North Dakota, Alabama,
20 West Virginia, and Utah.

21 6. PDC partnership units were not liquid securities, and were not listed on any public
22 exchange. PDC investors could not readily sell their partnership units.

23 7. PDC partnerships operate in a speculative industry: natural gas and oil drilling may
24 result in unproductive wells, and even completed wells may not produce enough gas or oil to
25 generate profits, given that prices for natural gas and oil have been volatile in recent years.
26

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 **Part Four: Kleck's Suitability Obligations**

2 16. **KLECK**, in order to fulfill his obligation as a broker-dealer salesperson under OAR
3 441-205-0140, was required to make client specific determinations that the securities he
4 recommended, including partnership units and bonds, were "suitable" for that client, considering
5 the client's age, financial situation, needs, tolerance for risk, investment objectives, and other
6 relevant factors.

7 17. Linsco Private Ledger, in order to fulfill its obligation as a broker-dealer under OAR
8 441-195-0010, required new clients to provide data to the firm about their employment, financial
9 portfolio, age, investment objectives, and other information. **KLECK** had access to all such
10 materials when engaging in the securities transactions described below.

11 18. Linsco Private Ledger, in order to fulfill its obligation as a broker-dealer under OAR
12 441-195-0010, required existing clients to provide data to the firm about their employment,
13 financial portfolio, age, investment objectives, and other information when a client's change of
14 circumstances could impact the broker-dealer salesperson's analysis of which securities to
15 recommend for that client. **KLECK** had access to all such materials when engaging in the
16 securities transactions described below.

17 19. Linsco Private Ledger required every client to classify their overall investment
18 objective as falling within one of the following six categories: income with capital preservation,
19 income with moderate growth, growth with income, growth, aggressive growth, or trading.

20 20. Linsco Private Ledger also required a broker-dealer salesperson selling PDC general
21 or limited partnership units to identify the client's specific objective for the PDC purchase
22 ("What is your client's investment objective for this investment?") by choosing from one of six
23 categories: income with capital preservation, income with moderate growth, growth with income,
24 growth, aggressive growth, or trading.

25 21. PDC general or limited partnership units are most aptly classified within the
26 "aggressive growth" realm.

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 **Part Five: Windsor Kuchler**

2 22. Windsor Kuchler is an 89-year-old La Grande, Oregon resident. **KLECK** has been
3 Kuchler's broker-dealer salesperson for over a decade.

4 23. Kuchler informed Linsco Private Ledger that his objective in investing was to obtain
5 "income with moderate growth."

6 24. From 2003 on, Kuchler began showing signs of his advanced age, including a visibly
7 apparent loss of cognitive abilities, evident by near constant episodes of confusion and
8 disorientation, as well as a significant loss of hearing. **KLECK**, who has admitted that he was
9 aware of Kuchler's obviously deteriorating condition and described him as "mentally lost" and
10 "confused", nevertheless continued to engage in securities transactions on his behalf.

11 25. In 2003, and as a result of Windsor Kuchler's condition, Robert Kuchler obtained a
12 written power of attorney from Windsor Kuchler, authorizing him to act as an agent for his
13 father. Robert Kuchler presented this instrument to **KLECK**, advising **KLECK** that he was to
14 participate in all investment related discussions **KLECK** had with Windsor Kuchler.

15 26. **KLECK** regularly interacted with the elder Kuchler about investment related matters
16 without informing Robert Kuchler after he was presented with the power of attorney, and knew
17 that Robert Kuchler wanted to participate.

18 27. From 2003 on **KLECK** or his assistant drove Kuchler to the Community Bank
19 branch in La Grande, where Kuchler maintained an account, on one or more occasions each
20 month. Community Bank employees witnessed **KLECK**, or an individual asserting that she was
21 an employee of **KLECK** and acting on his instructions, walk into the bank with Kuchler and
22 wait for him while he made withdrawals from his account, informing bank employees that the
23 money was "for Jack."

24 28. On one occasion, **KLECK** personally accompanied Kuchler into the Community
25 Bank branch in La Grande and approached teller Nancy Marks, asking questions about Kuchler's
26 account, such as the account balance and the nature and amount of recent deposits and

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 withdrawals. When Marks advised **KLECK** that, pursuant to bank policy, she could only
2 provide such information to an accountholder **KLECK** told Kuchler, standing next to him and
3 appearing confused, what questions to ask the teller. Kuchler complied with **KLECK**'s requests.

4 29. On another occasion, **KLECK** personally accompanied Kuchler into the Community
5 Bank branch in La Grande and approached teller Cristal Thurston, asking questions about
6 Kuchler's account, such as the account balance and the nature and amount of recent deposits and
7 withdrawals. When Thurston advised **KLECK** that, pursuant to bank policy, she could only
8 provide such information to an accountholder **KLECK** told Kuchler, who appeared disoriented,
9 what questions to ask the bank employee. Kuchler complied with **KLECK**'s requests.

10 30. On March 26, 2004 **KLECK** sold Kuchler a PDC general partnership unit in the
11 amount of \$20,000. **KLECK** did not inform Kuchler of the high degree of risk associated with
12 this investment, and was aware that even had he informed Kuchler, this elderly gentleman lacked
13 the cognitive ability to process the information.

14 31. On April 20, 2004 **KLECK** sold Kuchler a PDC general partnership unit in the
15 amount of \$10,000. **KLECK** did not inform Kuchler of the high degree of risk associated with
16 this investment, and was aware that even had he informed Kuchler, this elderly gentleman lacked
17 the cognitive ability to process the information.

18 32. On November 7, 2004 **KLECK** sold Kuchler a PDC general partnership unit in the
19 amount of \$10,000. **KLECK** did not inform Kuchler of the high degree of risk associated with
20 this investment, and was aware that even had he informed Kuchler, this elderly gentleman lacked
21 the cognitive ability to process the information.

22 33. Pursuant to Linsco Private Ledger's requirement that **KLECK** transmit information
23 about Kuchler's objective in purchasing the PDC general partnership units to the brokerage firm,
24 **KLECK** asserted that Kuchler was investing in PDC, an aggressive growth security, to achieve
25 "growth with income."
26



1 partner, instead of as a limited partner, potentially subjected him to unlimited personal liability,
2 above and beyond the amount of his investment.

3 42. Pursuant to Linsco Private Ledger's requirement that **KLECK** transmit information
4 about Lathrop's objective in purchasing the PDC general partnership units to the brokerage firm,
5 **KLECK** asserted that Lathrop was investing in PDC, an aggressive growth security, to achieve
6 "growth with income."

7 43. Had Lathrop been informed that his investment in PDC subjected him to potentially
8 unlimited personal liability, he would not have invested in PDC.

9 **Part Seven: Edward Hegele**

10 44. Edward Hegele is a 71-year-old La Grande, Oregon resident. **KLECK** has been
11 Hegele's broker-dealer salesperson for nearly two decades.

12 45. Hegele informed Linsco Private Ledger that his objective in investing was to obtain
13 "growth with income."

14 46. On September 8, 2003 **KLECK** sold Hegele a PDC general partnership unit in the
15 amount of \$10,000.00. **KLECK** did not inform Hegele that investing in PDC as a general partner
16 potentially subjected him to unlimited personal liability, above and beyond the amount of his
17 investment.

18 47. On October 27, 2003 **KLECK** sold Hegele a PDC general partnership unit in the
19 amount of \$10,000.00. **KLECK** did not inform Hegele that investing in PDC as a general partner
20 potentially subjected him to unlimited personal liability, above and beyond the amount of his
21 investment.

22 48. On November 6, 2003 **KLECK** sold Hegele a PDC general partnership unit in the
23 amount of \$10,000.00. **KLECK** did not inform Hegele that investing in PDC as a general partner
24 potentially subjected him to unlimited personal liability, above and beyond the amount of his
25 investment.
26

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 **KLECK** asserted that Hempe was investing in PDC, an aggressive growth security, to achieve
2 “income with moderate growth.”

3 57. Had Hempe been informed that his investment in PDC subjected her to potentially
4 unlimited personal liability, she would not have invested in PDC.

5 **Part Nine: Duane Fleet**

6 58. Duane Fleet was a La Grande, Oregon resident prior to his death from cancer in June,
7 2004 at the age of 89. **KLECK** served as Fleet’s broker-dealer salesperson.

8 59. Fleet informed Linsco Private Ledger that his objective in investing was to obtain
9 “income with moderate growth.”

10 60. On April 19, 2004 **KLECK** sold Fleet a PDC general partnership unit in the amount
11 of \$20,000. **KLECK** did not inform Fleet of the high degree of risk associated with this
12 investment, and was aware that even had he informed Fleet, this elderly gentleman was in a
13 Milton Freewater, Oregon hospital undergoing cancer treatment, and would have been unable to
14 objectively comprehend and evaluate any information presented to him.

15 61. Pursuant to Linsco Private Ledger’s requirement that **KLECK** transmit information
16 about Fleet’s objective in purchasing the PDC general partnership units to the brokerage firm,
17 **KLECK** asserted that Fleet was investing in PDC, an aggressive growth security, to achieve
18 “growth with income.”

19 **CONCLUSIONS OF LAW**

20 The Director **CONCLUDES** that:

21 62. **KLECK** was licensed as a broker-dealer salesperson in the State of Oregon at the
22 time he engaged in securities transactions on behalf of Windsor Kuchler, Emra Lathrop, Edward
23 Hegele, Wana Hempe, and Duane Fleet.

24 63. **KLECK** engaged in unfair or unethical practices in connection with the sale of a
25 security, in violation of ORS 59.205 (2) and OAR 441-205-0140, by selling Windsor Kuchler
26 general partnership interests in PDC. **KLECK** lacked reasonable grounds to believe that these

1 high risk securities would be suitable for an individual of Kuchler's age, deteriorated mental
2 condition, and investment objectives.

3 64. **KLECK** engaged in unfair or unethical practices in connection with the sale of a
4 security, in violation of ORS 59.205 (2) and OAR 441-205-0140, by selling Emra Lathrop,
5 Edward Hegele, and Wana Hempe general partnership interests in PDC. **KLECK** lacked
6 reasonable grounds to believe that these high risk securities would be suitable for individuals of
7 their age and investment objectives.

8 65. **KLECK** engaged in unfair or unethical practices in connection with the sale of a
9 security, in violation of ORS 59.205 (2) and OAR 441-205-0140, by selling Duane Fleet general
10 partnership interests in PDC. **KLECK** lacked reasonable grounds to believe that these high risk
11 securities would be suitable for an individual of Fleet's age, deteriorated physical condition, and
12 investment objectives.

13 66. In connection with the sale of general partnership interests in PDC to Windsor
14 Kuchler, Emra Lathrop, Edward Hegele, Wana Hempe, and Duane Fleet, **KLECK** omitted to
15 state a material fact necessary in order to make the statements he made, in the light of the
16 circumstances in which they were made, not misleading, in violation of ORS 59.135 (2), by not
17 explaining that investing in PDC as a general partner, instead of as a limited partner, potentially
18 subjected them to unlimited personal liability, above and beyond the amount of their investment.

19 67. **KLECK** engaged in unfair or unethical practices in connection with the sale of a
20 security, in violation of ORS 59.205 (2) and OAR 441-205-0140, by selling high yield bonds to
21 Windsor Kuchler. **KLECK** lacked reasonable grounds to believe that these high risk securities
22 would be suitable for an individual of Kuchler's age, deteriorated mental condition, and
23 investment objectives.

24 **ORDER**

25 Therefore, the Director **ORDERS:**

26

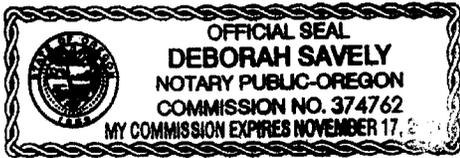
Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



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

CONSENT TO ENTRY OF ORDER

Respondent **JACK KLECK**, doing business individually and under the name **JACK KLECK INVESTMENTS**, states that he has read the foregoing Order and fully understands the contents thereof; that he has been advised of his right to a hearing and of his right to be represented by counsel at any such hearing; that he, voluntarily, and without any force or duress, consents to the entry of this Order, expressly waiving any right to a hearing or appeal in this matter; that he understands that the Director reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the Oregon Securities Laws; and that he will fully comply with the terms and conditions stated herein.



Dated this 13 day of April, 2007.

Jack Kleck

Jack Kleck

Deborah Savely

(Printed Name of Notary Public)

Notary Public

for the State of: Oregon

My commission expires: NOV. 17, 2007

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



041607-040-002-001-0500-0003000000