



1 **B. The Fund’s Investment in Securities and Castle Advisers’ Status as a**
2 **“State Investment Adviser”**

3 4. From on or about January 5, 2009 to on or about January 28, 2009, Castle
4 Advisers effected approximately 36 trades in the Fund’s account. Those transactions included
5 18 securities purchases totaling approximately \$176,575 and 18 securities sales totaling
6 approximately \$57,109.

7 5. On March 20, 2009, the Fund, through its former counsel, asserted that
8 Castle Advisers was not required to be licensed as a “state investment adviser” in Oregon
9 because Castle Advisers was excluded from the definition of “state investment adviser”
10 pursuant to OAR 441-175-0030(1)¹ because its only clients were accredited investors.

11 6. Between January 5, 2009 and January 28, 2009 and at the time that
12 assertion was made, the Fund had at least two limited partners that were not accredited
13 investors.²

14 **C. Current Status of the Fund and Castle Advisers**

15 7. According to its December 31, 2010 audited financial statements, Castle
16 Partners and subsidiaries had \$3,244,102 in assets; \$2,545,552 of those assets were real estate that
17 was being held for sale, which were recorded at cost; and \$225,127 of those assets were cash and
18 cash equivalents. In addition, the Fund experienced a net loss in the fiscal year ended December
19 31, 2010 of \$(323,978).

20 8. According to quarterly financial statements provided by Castle Advisers
21 to the Division, as of March 31, 2011, Castle Advisers had accrued and/or deferred \$32,184 in
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23 ¹ OAR 441-175-0030, in part, states: “An exclusion from the definition of “state investment adviser” is granted
24 pursuant to subsection (20)(b)(K) of ORS 59.015 to the following persons, provided the person is not otherwise
25 licensed as a broker-dealer, state investment adviser, mortgage broker, salesperson, or investment adviser
26 representative: (1) Any person who conducts no public advertising or general solicitation in this state and whose
only clients in this state are “accredited investors” as that term is defined in OAR 441-035-0010.” (emphasis added)

² The Fund subsequently sold Interests to at least seven unaccredited investors.



1 management fees it was owed by the Fund. Castle Advisers has now collected the management
2 fees accrued and/or deferred as of March 31, 2011, but has deferred the payment of certain of
3 the management fees accrued after March 31, 2011. Castle Advisers does not charge the Fund
4 interest on the deferred management fees.

5 9. The Fund asserts that it is presently invested only in real estate and other
6 assets that are not “securities” as that term is defined under ORS 59.015(19)(a). The Fund further
7 asserts that, since June 23, 2009, the Fund has not invested in “securities” and Castle Advisers
8 has not advised the Fund regarding the advisability of investing in securities for compensation.

9 10. The Fund further asserts that it has not offered or sold any limited
10 partnership interests in the Fund (“Interests”) since on or about August 21, 2009 and that it does
11 not presently intend to sell additional Interests.

12 II. CONCLUSIONS OF LAW

13 THE DIRECTOR CONCLUDES THAT:

14 A. Definition Under ORS 59.015

15 11. Prior to June 23, 2009, Castle Advisers acted as a “state investment
16 adviser” under ORS 59.015(20)(a) because it advised the Fund as to the advisability of investing
17 in, purchasing, or selling securities for compensation.

18 B. Violations of ORS 59.165(6)

19 12. Castle Advisers violated ORS 59.165(6) when it transacted business as an
20 investment adviser in Oregon without first being licensed to do so. In particular, Castle
21 Advisers advised the Fund regarding 36 purchases or sales of securities between January 5,
22 2009 and on or about January 28, 2009.

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Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
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1 III. ORDERS

2 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

3 A. Order to Cease and Desist

4 13. The Director, pursuant to the authority under ORS 59.245(4), hereby
5 **ORDERS** the Respondent and any affiliated and/or successor business or corporation to
6 **CEASE AND DESIST** from violating any provision of the Oregon Securities Law and
7 Administrative Rules promulgated thereunder.

8 B. Order Denying Use of Exemptions to the Securities Registration
9 Requirements

10 14. The Director, pursuant to the authority under ORS 59.045, hereby
11 **DENIES** the Respondent and any affiliated and/or successor business or corporation the
12 exemptions allowed by ORS 59.025 and ORS 59.035.

13 C. Order Withdrawing Exclusions from Definition of "Investment Adviser"

14 15. The Director, pursuant to the authority under OAR 441-175-0030(8)
15 promulgated thereunder, hereby **WITHDRAWS** from the Respondent and any affiliated and/or
16 successor business or corporation their ability to rely on the exclusions from the definition of
17 "investment adviser" found under OAR 441-175-0030.

18 D. Order Assessing Civil Penalties

19 16. The Director, pursuant to the authority under ORS 59.995, hereby
20 **ASSESES** the following **CIVIL PENALTY**:

21 17. Castle Advisers shall pay FORTY THOUSAND DOLLARS (\$40,000) for
22 the violations of ORS 59.165(6), which violation continued over a period of time in early 2009.

23 18. The Director hereby **SUSPENDS** THIRTY FIVE THOUSAND DOLLARS
24 (\$35,000) of the Civil Penalty so long as the Respondent is in full compliance with all terms of
25 this Order and commits no further violations of the Oregon Securities Law. The suspended
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1 portion of the Civil Penalty shall be immediately due and payable upon a determination by the
2 Director, subject to ORS 59.295, that the Respondent has committed further violations of the
3 Oregon Securities Law or has violated any term of this Order, including but not limited, to
4 nonpayment of the unsuspended portion of the Civil Penalties.

5 19. The unsuspended portion of the Civil Penalties shall be due and payable
6 within 10 business days after the Respondent receives a certified true copy of the Order from
7 the Director.

8 **IV. ADDITIONAL AGREEMENTS**

9 20. The Respondent agrees that it will notify the Director in writing at least
10 14 days before: 1) the Fund invests in securities; and/or 2) Castle Advisers advises the Fund or
11 others as to the advisability of investing in securities for compensation.

12 21. The Respondent further agrees that, before it or the Fund offers or sells
13 any Interests, it will, with the assistance of counsel, develop and implement compliance and
14 recordkeeping policies and procedures to ensure that any such offers or sales are be made in
15 compliance with the Oregon Securities Law.

16 22. The Respondent also agrees that, not more than 60 days after the entry of
17 this Order, it will provide a copy of this Order to holders of Interests and will make all
18 necessary disclosures to them regarding: 1) the Fund’s current investment strategy; and 2) the
19 material risks associated with that strategy. These disclosures will include, but are not limited
20 to:

21 • That the Director concluded that Castle Advisers acted as an unlicensed
22 state investment adviser because 1) it advised the Fund as to the advisability of investing in
23 securities for compensation, and 2) the Fund had at least one limited partner that was not
24 accredited at the time that advice was given;

25 • That Castle Advisers is not presently licensed as an investment adviser;
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- 1 • That Castle Advisers does not presently believe that investing in
- 2 securities is in the best interests of the Fund, and it does not presently plan to apply to be
- 3 licensed in Oregon as an investment adviser;
- 4 • That, if Castle Advisers determines at any time in the future that
- 5 investing in securities is in the best interests of the Fund, Castle Advisers will need to become
- 6 licensed in Oregon as an investment adviser before it implements its securities investment
- 7 strategy;
- 8 • That, if Castle Advisers seeks to become licensed as an investment
- 9 adviser in Oregon, the Division could deny Castle Advisers' application or condition its
- 10 investment adviser license in a way that could impact its investment strategy for the Fund; and
- 11 • A summary of the policies and procedures the Respondent and the Fund
- 12 have implemented to ensure compliance with the Oregon Securities Law.

13 **V. AUTHORITY OF DIRECTOR TO ISSUE ADDITIONAL ORDERS AND TO SEEK**

14 **FURTHER REMEDIES UNDER OREGON SECURITIES LAW**

15 23. The Director reserves the right to take further action against the

16 Respondent to enforce this Order, or to take appropriate action upon discovery of new

17 violations of the Oregon Securities Law that arise from facts and circumstances that are not set

18 forth herein. The Director will not take any additional action against the Respondent for

19 violations of the Oregon Securities Law that arise from facts and circumstances that are set forth

20 herein.

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1 24. The entry of this Order in no way limits further remedies that may be
2 available to the Director under Oregon Law.

3 **IT IS SO ORDERED.**

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5 Dated this 14th day of March, 2012 at Salem, Oregon.

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Patrick Allen, Acting Director
Department of Consumer and Business Services

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By: /s/ David Tatman
David Tatman, Administrator
Division of Finance and Corporate Securities

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**CORPORATE CONSENT TO ENTRY OF ORDER
(for Castle Advisers, LLC)**

I, AJ Kitt, state that I am a Manager of Castle Advisers, LLC (“Castle Advisers”); that I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents hereof; that Castle Advisers has been advised of the right to a hearing; that Castle Advisers voluntarily and without any force or duress, consents to the entry of this Order, without admitting or denying the factual allegations and conclusions of law stated herein, expressly waiving any right to a hearing in this matter; that Castle Advisers 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 Law that arise from facts and circumstances that are outside the scope of this Order; and that Castle Advisers will fully comply with the terms and conditions stated herein.

Castle Advisers further assures the Director that neither Castle Advisers nor its managers, employees or agents will provide advice regarding securities for compensation in Oregon unless such activities are in full compliance with the terms of this Order and with Chapter 59 of the Oregon Revised Statutes and Chapter 441 of the Oregon Administrative Rules thereunder.

Castle Advisers understands that this Order is a public document.

CASTLE ADVISERS, LLC

By: /s/ Aj Kitt
AJ Kitt
Manager

State of Oregon

County of Hood River

Subscribed and sworn to before me on February 7, 2012.

/s/ Beverly Nanez
Notary Public

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