

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of
Finance, Securities Bureau,

Docket No. 1998-7-90

Complainant

vs.

Randy Tew, and J & T Enterprises,

Respondents.

**FINDINGS OF FACT AND CONCLUSIONS
OF LAW; CONTINUANCE OF CEASE AND
DESIST ORDER, CONTINUANCE OF
REPAYMENT ORDER; AND PRELIMINARY
ORDER**

I. PROCEDURAL BACKGROUND

The State of Idaho, Department of Finance, Securities Bureau (Department hereafter), issued a Cease and Desist Order to Respondents Randy Tew (Tew hereafter) and J & T Enterprises on June 3, 1998. Along with the Cease and Desist Order, the Department also issued, on June 3, 1998, an Order compelling Tew and J & T Enterprises to repay all consideration that Tew or J & T Enterprises received from Idaho Investors in connection with any offers for the sales of securities.

Tew filed a Request for Hearing on June 20, 1998. J & T Enterprises did not.

On June 29, 1998, the matter was set for hearing, and a Hearing Officer was appointed. The hearing was scheduled for July 28, 1998.

The hearing commenced on July 28, 1998, at the Department of Finance Offices in Boise, Idaho. The Department was prepared to proceed through counsel and had witnesses present. Tew did not present himself in person, by telephone or through an attorney at the hearing.

Tew not being present at the very hearing he requested, a Notice of Proposed Default Order was issued on June 29, 1998, pursuant to Idaho Code § 67-5242(4) and I.R.A.P. 701, 702, 703. The Notice of Proposed Default Order continued

the Cease and Desist Order and advised that all further proceedings necessary to complete this case would be conducted without Tew's participation should default be entered.

On August 8, 1998, Tew filed a Petition resisting entry of default. On August 13, 1998, the Hearing Officer denied Tew's Petition and entered Tew's default. The Default Order also provided, pursuant to applicable statutes and rules, that all further proceedings herein would be conducted without Tew's participation. The Default Order, once again, continued the original Cease and Desist Order indefinitely.

Tew being in default and not entitled to further participation, the Department set this matter for hearing for September 25, 1998. That hearing proceeded. The Department was represented by Deputy Attorney General Scott B. Muir. The Department called one witness, James Burns, (Burns hereafter) and the Department placed one exhibit, Exhibit A, into evidence.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Burns is an investigator for the Department. He has been a Department employee for eleven years and an investigator for at least nine.

Burns testified that, in late May or early June, 1998, he received an inquiry from an Idaho resident concerned about an investment Tew had tried to sell that resident. Thereafter, Burns learned Tew was to make an investment presentation in Idaho Falls, Idaho, on June 3, 1998. Burns attended that presentation incognito.

Tew's presentation lasted about an hour and a quarter. It was abundantly clear that Tew was inviting and soliciting funds from some twenty Idaho residents in attendance. It was also clear that Tew was seeking these funds in exchange for securities, which Tew called "contracts."

Exhibit A is Burns' investigation report. Exhibit A is dated September 25, 1998, but that is merely the last print date from Burns' word processor. In reality, this exhibit was generated by Burns in the regular course of business shortly after June 3, 1998.

Exhibit A recounts in detail the nature of Tew's June 3, 1998, solicitation/presentation in Idaho Falls. It is unnecessary here to reiterate all the particulars of that exhibit, since the same is part of the record herein. It is enough here to say that the evidence is clear and uncontroverted that Tew was offering the sale of securities in the form of investment contracts and that the offering was made to Idaho residents at a location within this state.

Burns further testified that the securities offered by Tew were not registered with the Department and that Tew is not licensed by the Department as a broker-dealer or a salesman for a broker-dealer. These facts are uncontroverted. Therefore, it is found that the investment contracts offered for sale by Tew constitutes securities within the meaning of Idaho Code § 30-1402(12). It is additionally found that Tew violated Idaho Code § 30-1416 because the securities offered were not registered as required by that statute. It is further found the Tew violated Idaho Code § 30-1406 because he was not licensed as mandated by that statute.

Exhibit A and Burns' testimony show that Tew represented that the investment contracts, involving offshore investments, were safe and low risk of and that Tew represented that returns accruing to investors could be returned through a mechanism that would make paying taxes thereon unnecessary. These statements were untrue, were statements of material fact and were misleading. Tew thus violated Idaho Code § 1403(2).

Exhibit A and Burns' testimony further show that Tew:

- A) Failed to inform potential investors of Tew's financial condition and the exact uses to which investor proceeds would be applied;
- B) Failed to disclose information regarding his history of raising money and paying returns on investments;
- C) Failed to disclose the nature and amounts of any compensation or other remuneration accruing to Tew as a result of the proffered investments;
- D) Failed to disclose the risks associated with committing funds to the proffered investments;
- E) Failed to disclose that the proffered securities were not registered with the Department as required by Idaho Code § 30-1416; and
- F) Failed to disclose that he was not licensed with the Department as required under Idaho Code § 30-1406.

Consequently, Tew, in each of these ways, violated Idaho Code § 30-1403(2).

III. CONTINUANCE OF CEASE AND DESIST ORDER

IT IS HEREBY ORDERED that the Department's Cease and Desist Order, originally issued to Tew on June 3, 1998, is hereby made permanent and continued indefinitely, pursuant to Idaho Code § 30-1442(2).

IV. CONTINUANCE OF REPAYMENT ORDER

IT IS HEREBY ORDERED that the Department's Repayment Order, originally issued on June 3, 1998, be continued and made permanent. TEW IS HEREBY ORDERED, pursuant to Idaho Code § 30-1442(2)(a), to repay all consideration that has been received from Idaho investors in connection with this matter.

V. PRELIMINARY ORDER

This is a Preliminary Order of the Hearing Officer. It can and will become final without further action of the Department unless any party petitions for reconsideration before the Hearing Officer or appeals to the Director of the Department (or the designee of the Director). Any party may file a motion for reconsideration of this Preliminary Order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code Section 67-5243(3).

Within twenty-one (21) days after (a) the service date of this Preliminary Order, (b) the service date of the denial of a petition for reconsideration of this Preliminary Order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration of this Preliminary Order, any party may in writing appeal or take exception to any part of the Preliminary Order and file briefs in support of the party's position on any issue in the proceeding to the Director of the Department (or the designee of the Director). Otherwise, this Preliminary Order will become a Final Order of the Department.

If any party appeals or takes exception to this Preliminary Order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the Department. Written briefs in support of or taking exception to the Preliminary Order shall be filed with the Director of the Department (or the designee of the Director). The Director (or his designee) may review the Preliminary Order on his own motion.

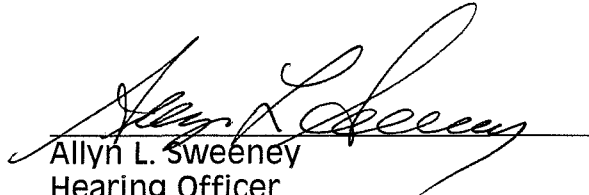
If the Director of the Department (or his designee) grants a petition to review the Preliminary Order, the Director (or his designee) will allow all parties an opportunity to file briefs in support of or taking exception to the Preliminary Order and may schedule oral argument in the matter before issuing a Final Order. The Director (or his designee) will issue a Final Order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties for good cause shown. The Director (or his designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a Final Order.

Pursuant to Idaho Code Sections 67-5270 and 67-5272, if this Preliminary Order becomes final, any party aggrieved by the Final Order or orders previously issued in this proceeding may appeal the Final Order and all previously issued orders in this case to the district court by filing a petition in the district court of the county in which:

- (1) the hearing was held,
- (2) the final agency action was taken,
- (3) the party seeking review of the order resides, if within Idaho, or
- (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of this Preliminary Order becoming final. See Idaho Code Section 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED this 25th day of September, 1998.


Allyn L. Sweeney
Hearing Officer
455 S. Third Street
P.O. Box 2773
Boise, Idaho 83701

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 1998, I caused to be served the following documents on the following in the method indicated below:

U.S. Mail, postage prepaid

Facsimile (FAX)

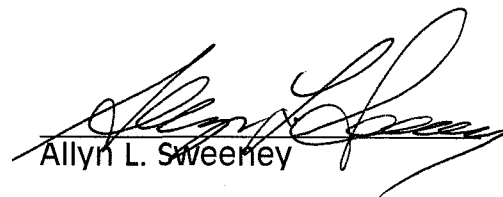
Hand Delivered

The Original hereof and one Copy to:

Scott B. Muir
Department of Finance
P.O. Box 83270
Boise, ID 83270-0031

One Copy hereof to:

Randy Tew
685 East 500 North
Orem, UT 84097


Allyn L. Sweeney

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of
Finance, Securities Bureau,

Docket No. 1998-7-90

Complainant,

**DEFAULT ORDER AND CONTINUANCE
OF CEASE AND DESIST ORDER; ORDER
DENYING MOTION TO DISQUALIFY
HEARING OFFICER**

vs.

Randy Tew and J & T Enterprises,

Respondents.

I. DEFAULT ORDER AND CONTINUANCE OF CEASE AND DESIST ORDER

On June 3, 1998, the State of Idaho, Department of Finance (Department hereafter), issued its Cease and Desist Order in the above-captioned matter. On June 20, 1998, Respondent Randy Tew (Tew hereafter), requested a hearing as allowed by law. Co-Respondent J & T Enterprises did not request a hearing.

On June 29, 1998, the Department served a Notice of Hearing upon Tew, along with the Appointment of Hearing Officer. The hearing was set for approximately one full month later on July 28, 1998, at 9:00 a.m., at the Department's conference room, 700 West State Street, Second Floor, Boise, Idaho. Tew never made any objection to the time or the place set for the hearing; nor did he ever, at any time between June 29, 1998, and July 29, 1998, make any effort to continue or reschedule the hearing.

The hearing commenced as scheduled on July 28, 1998. Technically, the hearing did not actually start on the record until approximately 9:25 a.m. This was because the Hearing Officer waited additional time to see if Tew would present himself and because it was necessary for the Hearing Officer to review various motions that had been filed on Tew's behalf just minutes before 9:00 a.m. The

important point here is that the short delay in commencing the hearing did not prejudice Tew since he was not there at all that morning. Not only did Tew fail to appear in person, but he did not appear by telephone or through an attorney at the hearing.

On July 29, 1998, the a Hearing Officer served a Notice of Proposed Default Order and Continuance of Cease and Desist Order, by regular mail, upon Tew. The Notice of Proposed Default Order gave Tew through August 10, 1998, to challenge the Proposed Default Order by written petition and to state the reasons why Tew believed that default should not be entered. Idaho Code § 67-5242(4); I.R.A.P. 701.

On August 10, 1998, Tew telefaxed to the Hearing Officer a document entitled Petition for Rescheduling of Hearing, Resumption and Proper Assignment of Unbiased Hearing Officer to Preside over Rescheduled Additional Hearing.

Tew's Petition resists entry of default, asks for another hearing date and seeks disqualification of the Hearing Officer. Tew's Petition is timely. Although timely, Tew's Petition resisting entry of default and seeking another hearing date is DENIED.

As mentioned before, it was Tew, not the Department, who requested the hearing in the first place. Tew received notice of the hearing a month in advance, but he never said he would be unavailable at the time set therefor. Nor did he ever request a different hearing date. More significantly, in Tew's latest Petition, including the Affidavit Koreen Morgan submitted with that Petition, there is no mention of any reason why Tew could not have been present at the very hearing he requested, nor is there any reason set forth why he could not have sought a different hearing date, in a timely fashion, if he could not accommodate the hearing date that was set with ample notice. Tew does not claim that he suddenly became ill and thereby unable to attend the scheduled hearing. Tew does not set

forth that an unforeseen family emergency had arisen. Tew does not contend that unforeseen business exigencies arose at the last minute. Put simply, Tew does not offer a single excuse why he could not have come to the hearing as scheduled or could not, at least, have asked early on that it be rescheduled.

Idaho Code § 67-5242(4) and I.R.A.P. 701, 702 and 703 all require that a party opposing entry of default, after having received notice of the proposed default order, must set forth the specific grounds relied upon in resisting that proposed order. This particularly true when the proposed default order is premised upon a party's failure to attend at any stage of a contested case or upon his failure to appear at the time and place set for a hearing. Here, Tew has failed to meet the requirements of these applicable statute and rules.

Tew is hereby declared to be in DEFAULT. The terms of the Proposed Default Order of July 29, 1998, are hereby entered and put into effect. Specifically, this Order affirms and indefinitely continues the Department's June 3, 1998, Cease and Desist Order in each and every particular. Additionally, all further proceedings necessary to complete this matter, if any, shall be conducted without Tew's participation. Idaho Code § 67-5242(5); I.R.A.P. 701, 702, 703; Idaho Code § 30-1442.

II. ORDER DENYING PETITION TO DISQUALIFY HEARING OFFICER

Tew's Petition seeking to resist entry of the Default Order having been denied and the Default Order having been entered, above, Tew is not entitled to participate further in these proceedings, which would by definition include additional motions or petitions. Idaho Code § 67-5242(4); I.R.A.P. 701, 702, 703. Accordingly, Tew's Petition to disqualify the Hearing Officer is not entitled to consideration.

If Tew's Petition to disqualify the Hearing Officer were entitled to consideration it would be denied, anyway. Tew has not set forth any basis, under applicable law, for disqualifying of the Hearing Officer.

Idaho Code § 67-5252 and I.R.A.P. 412 provide that a Hearing Officer may be disqualified in either of two instances. Initially, any party has the right to disqualify one Hearing Officer without cause. However, to exercise that right, the party must disqualify the Hearing Officer within 14 days after receipt of the Notice indicating that such person will preside over a contested matter. Idaho Code § 67-5252(2); I.R.A.P. 412. In this case, the record shows the Appointment of Hearing Officer was made on June 29, 1998. At no time between that date and the time of Tew's present Petition, dated August 10, 1998, did Tew seek to exercise his right to one disqualification of a Hearing Officer without cause. Alternatively, a party may disqualify a Hearing Officer for cause for various reasons, including bias or prejudice. Tew now asserts bias/prejudice as a reason to disqualify the Hearing Officer for cause.

Tew has not presented any facts to support his bare allegation of bias or prejudice on the part of the Hearing Officer. Granted, the Hearing Officer has made certain rulings, which were probably not to Tew's liking. This must, of necessity, occur in any contested case where one side wins a point and another side loses on that issue. The mere act of ruling upon a matter, such as a motion, for example, does not itself show bias or prejudice against the party who had his motion denied. Something greater than the mere loss of a motion or the failure to grant a party what he wants is required to show bias or prejudice.

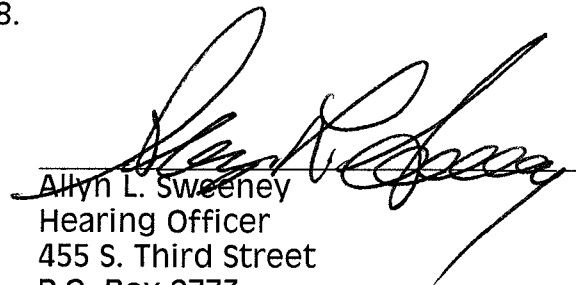
On a final point, it is observed that the Koreen Morgan Affidavit states that the Hearing Officer, prior to the hearing itself and on two separate occasions left the hearing room and went into the offices of the Department of Finance to have

copies of certain documents made. Ms. Morgan's Affidavit is partially correct. Initially, the hearing itself was in the offices of the Department of Finance, and all involved had to be there. Beyond that, the Hearing Officer did leave the hearing room to once ask a receptionist to make work copies of Tew's motions, which were filed minutes earlier on Tew's behalf by John Bach. Additionally, the Hearing Officer left the room again to avail himself of access to two volumes of the Idaho Code, which the Hearing Officer utilized in ruling on Tew's motions. After reviewing pertinent sections of the Idaho Code, the Hearing Officer asked that all persons seeking to be involved in the hearing present themselves in the hearing room. This included Scott B. Muir, James Burns, Timothy Martin, John Bach, Koreen Morgan and another gentlemen who was in the company of Bach and Morgan. The simple acts of having some photocopies made, of referring to a couple of volumes of the Idaho Code and of seeing various persons in the corridor and asking them to assemble for the hearing is not evidence of bias, prejudice or inappropriate conduct.

Tew's Petition to disqualify the Hearing Officer is DENIED.

IT IS SO ORDERED.

DATED this 13th day of August, 1998.


Allyn L. Sweeney
Hearing Officer
455 S. Third Street
P.O. Box 2773
Boise, Idaho 83701

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 1998, I caused to be served the following documents on the following in the method indicated below:

X U.S. Mail, postage prepaid

Facsimile (FAX)

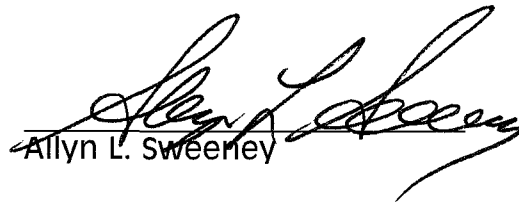
Hand Delivered

The Original hereof and one Copy to:

Scott B. Muir
Department of Finance
P.O. Box 83270
Boise, ID 83270-0031

One Copy hereof to:

Randy Tew
685 East 500 North
Orem, UT 84097


Allyn L. Sweerley

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of
Finance, Securities Bureau,

Docket No. 1998-7-90

Complainant,

**NOTICE OF PROPOSED DEFAULT
ORDER AND CONTINUANCE OF
CEASE AND DESIST ORDER**

vs.

Randy Tew and J & T Enterprises,

Respondents.

I. PROCEDURAL HISTORY

On June 3, 1998, the State of Idaho, Department of Finance (Department hereafter), issued a Cease and Desist Order in the above-captioned matter. The Order was issued pursuant to Idaho Code § 30-1442 and proscribed Randy Tew (Tew hereafter) and J & T Enterprises (J & T hereafter) from a) selling or offering to sell any nonexempt securities in the State of Idaho until said securities have been registered in accordance with Title 30, Chapter 14, Idaho Code; b) selling or offering to sell any non-exempt securities in the State of Idaho until Tew and J & T have registered as broker-dealers or salesmen for a broker-dealer or issuer, as required Title 30, Chapter 14, Idaho Code; c) engaging in any offer or sale of any security while employing any device, scheme or artifice to defraud any purchasers in Idaho, or while making any untrue statement of material fact or omitting to state a material fact in connection therewith, or while in engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person; and d) aiding, abetting, counseling or inducing or causing any person to engage in any of the types of conduct described in a, b or c, above.

The Cease and Desist Order further directed Tew and J & T to repay all consideration that had been received from Idaho investors in connection with all offers and sales of securities in which Tew and J & T engaged.

Finally, the Order notified Tew and J & T that, if either desired to contest the Cease and Desist Order, they had 21 days to request a hearing before the Department as provided in the Idaho Administrative Procedures Act, Idaho Code § 67-5202, et. seq., and the Idaho Rules of Administrative Procedure (I.R.A.P. hereafter).

Tew requested a hearing on June 20, 1998. J & T did not. The Cease and Desist Order was never contested by J & T, and the Cease and Desist Order remains binding upon J & T as originally issued.

Pursuant to Tew's request, the Department, on June 29, 1998, served a Notice of Hearing upon Tew, along with an Appointment of Hearing Officer. The hearing was set for approximately one full month later on July 28, 1998, at 9:00 a.m., at the Department's conference room, 700 West State Street, Second Floor, Boise, Idaho. Tew never made any objection to the time and place set for the hearing or made any effort to continue the hearing at any time between June 29, 1998, and July 27, 1998.

The hearing commenced as scheduled on July 28, 1998. The Department was represented by Deputy Attorney General Scott B. Muir, and the Department was prepared to proceed. Tew did not appear in person, by telephone or through an attorney at the hearing.

Within fifteen minutes before the hearing was scheduled to get underway, Tew caused to be filed with the Department three documents, which are now part of the record in this cause. The first is entitled Special Limited Power of Attorney,

and instrument that purports to be Tew's grant of authority to John Bach (Bach hereafter) to act as Tew's attorney in this proceeding. Bach was present at the hearing. The second document is a triparte motion, discussed below. The third is a Complaint filed in 1996 in the United States District Court for the District of Idaho and has no discernable bearing upon this matter.

II. MOTION PRACTICE

The Department moved to disallow Bach from participating in the hearing as an attorney for Tew. Bach resisted the Department's motion but admitted he is not an attorney licensed in Idaho or any other jurisdiction.

I.R.A.P. 200 provides a party may name up to two persons to act as that party's representatives for purposes of service and receipt of official documents in the proceeding. This rule does not say a designated representative may appear for a party at the hearing itself. I.R.A.P. 202 indicates that a natural person, such as Tew, may be represented by a duly authorized employee, attorney, family member or next friend. Bach is not an employee, attorney or family member of Tew. A next friend is typically utilized where a party is a minor or otherwise legally incapacitated, and there is nothing in the record to suggest that Tew is a minor or is incapacitated. More importantly, though, I.R.A.P. 202 says that a party may be represented by one of the listed individuals only ". . . to the extent authorized or required by law. . . ."

According to recitations of the Special Limited Power of Attorney signed by Tew, Bach is a resident of California and is not a lawyer. Idaho Code § 3-104 prohibits those not admitted to practice before the Idaho Supreme Court from practicing law in this state. Our Supreme Court has interpreted this statute to apply to both in-court and out-of-court matters. *In re Eastern Idaho Loan and Trust*

Co, 49 Idaho 280, 288 P. 157 (1930). Further, our Supreme Court has held that no person, not a licensed lawyer, may represent another person or corporation. *Weston v. Gritman Mem. Hosp.*, 99 Idaho 717, 587 P.2d 1252 (1978). Bach was at the hearing to represent Tew in a capacity which cannot be labeled as anything other than that of a lawyer. Bach even stated so when he remarked, "I am not ignorant of the law," and indicated he was there to proceed as Tew's attorney under the document entitled Special Limited Power of Attorney. Indeed, that instrument purports to make Bach Tew's attorney to represent Tew ". . . in all aspects, assertion of rights, privileges and interests. . . ." in the current pending cause.

To allow Bach to act as Tew's attorney -- as opposed to being there as a witness, a representative for service or receipt of documents, or a friend and confidant -- would admit of the unauthorized practice of law without a license. Accordingly, the Department's motion on this point was granted.

Tew's triparte motion sought 1) recusal or disqualification of the entire Idaho Attorney General's office and staff in this cause, 2) dismissal on all grounds for lack of jurisdiction and/or prosecutorial, law enforcement or administrative agency misconduct and 3) for full discovery and continuance of the hearing pending completion of discovery. The Department resisted these motions as untimely and contrary to law.

All three of Tew's motions were denied as being untimely since they were filed just minutes before the hearing and since Tew had been afforded almost a full month's notice of that hearing, plenty of time to file motions without waiting until just moments before the hearing was in session. The I.R.A.P. apparently does not provide time perimeters for filing of such motions. However, common sense and traditional concepts of fair play dictate that at least some reasonable notice of any

motion be given the opposition, if practicable, especially where the motion in question is potentially case dispositive. Here, Tew's first and second motions would have been case dispositive, if granted. Moreover, although I.R.A.P. 52 states that the Idaho Rules of Civil Procedure (I.R.C.P.) do not necessarily apply in administrative proceedings, the I.R.C.P., having been adopted by our Supreme Court, may certainly be looked to for guidance. It is noted that the I.R.C.P. nowhere provides that potentially dispositive, substantive motions may be brought within minutes before a trial and without the opposition having been given a chance to review and respond prior to that trial.

Tew's first motion to recuse was denied on a substantive basis as well. The Department and the Attorney General staff are authorized and entitled to proceed as they have in this matter. Title 30, Chapter 14 Idaho Code; Idaho Code § 67-1401(11); Idaho Code § 67-2720.

Tew's second motion to dismiss was denied on substantive grounds, too. The Department has been statutorily granted authority over the types of matters addressed in the Cease and Desist Order. The Department has thus acted within lawful perimeters. Title 30, Chapter 14, Idaho Code.

Tew's third motion for full discovery was denied, in addition to be untimely, because Tew failed to comply with the discovery provisions of I.R.A.P. 521. Tew's connected motion to continue the hearing pending completion of discovery was, consequently moot, and, therefore, denied.

III. PROPOSED DEFAULT ORDER

Tew requested the hearing following the Department's issuance of the Cease and Desist Order. Tew had just under a full month to prepare for the hearing or seek its rescheduling in a timely fashion. Tew failed to appear at the scheduled

hearing. As a consequence, the Hearing Officer hereby proposes that a default order shall issue against Tew. It is proposed that such order affirm and indefinitely continue the Department's June 3, 1998, Cease and Desist Order in each and every particular and that all further proceedings necessary to complete this case, if any, shall be conducted without the participation of Tew. Idaho Code § 67-5242(4); I.R.A.P. 701, 702, 703.

Tew is hereby advised that he has seven (7) days from the date hereof, but not counting the date hereof and to which shall be added an additional three (3) days for mailing, thereby giving him through and including August 10, 1998, to challenge this purposed default order. Idaho Code § 67-5242(4); I.R.A.P. 701. Any such challenge must be by written petition, must request that the default order not be entered and must state the grounds why the petitioning party believes that default should not be entered. Idaho Code § 67-5242(4); I.R.A.P. 701. If Tew does not avail himself of a challenge to the proposed default order within the time provided, the above described default order will issue.

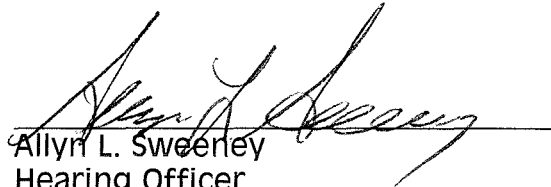
IV. INTERIM CONTINUANCE OF CEASE AND DESIST ORDER

The Cease and Desist Order of June 3, 1998, was issued within the Department's statutory authority. Idaho Code § 30-1442. Tew was afforded an opportunity for a hearing to contest the Cease and Desist Order but did not avail himself of that opportunity. Tew has since been given this Notice of Proposed Default Order and has certain time, as set forth in Section III, supra, to take further action, if he desires. If Tew elects to challenge this proposed default order, and does so in a timely fashion, it will thereafter take a few more days for the Hearing Officer to decide that challenge. During the interim between the date of this Notice of Proposed Default Order and the challenge and decision thereon, if any,

Tew is hereby put on notice and admonished that the Department's original Cease and Desist Order of June 3, 1998, remains in full force and effect, pursuant to Idaho Code § 30-1442.

IT IS SO ORDERED

DATED this 29th day of July, 1998.


Allyn L. Sweeney
Hearing Officer
455 S. Third Street
P.O. Box 2773
Boise, Idaho 83701

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July, 1998, I caused to be served the following documents on the following in the method indicated below:

 X U.S. Mail, postage prepaid

 Facsimile (FAX)

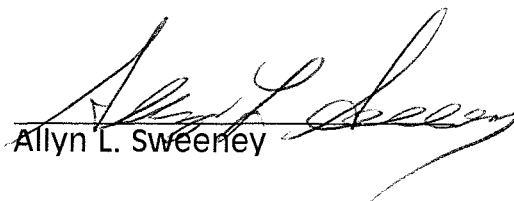
 Hand Delivered

The Original hereof and one Copy to:

Scott B. Muir
Department of Finance
P.O. Box 83270
Boise, ID 83270-0031

One Copy hereof to:

Randy Tew
685 East 500 North
Orem, UT 84097


Allyn L. Sweeney

ALAN G. LANCE
ATTORNEY GENERAL
STATE OF IDAHO

SCOTT B. MUIR
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8091
Facsimile: (208) 332-8099

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of Finance, Securities Bureau,)	
)	
Complainant,)	Docket No. 1998-7-90
)	CEASE AND DESIST ORDER
vs.)	
)	
Randy Tew and J & T Enterprises,)	
)	
Respondents.)	
_____)	

The Director of the Department of Finance, pursuant to the authority of the Idaho Securities Act, Idaho Code § 30-1401, *et seq.*, has reasonable grounds to believe the following:

1. Respondent Randy Tew represents himself as an Idaho resident and is active in soliciting funds for investment in an offshore trading program.
2. Tew represents that he and two unnamed partners operate J&T Enterprises and that they have access to an offshore investment program.
3. Beginning on a date uncertain, but at least May 1998, Respondents have offered and sold investment opportunities to Idaho residents. Respondents have recently represented to

Idaho residents that the investment program would pay a return of twenty-five percent (25%) per month and that an investment of one thousand dollars (\$1,000.00) would return fourteen thousand five hundred dollars (\$14,500) in one year.

COUNT ONE

4. The offshore investment opportunities offered and sold by Respondents are securities in the form of investment contracts as defined in Idaho Code § 30-1402(12).

5. The securities offered by Respondents have not been registered with the Idaho Department of Finance as required pursuant to Idaho Code § 30-1416.

6. Respondents have violated Idaho Code § 30-1416.

COUNT TWO

7. At no time have Respondents been licensed by the Department of Finance as broker-dealers or salesmen for a broker-dealer to sell or offer for sale securities as required by Idaho Code § 30-1406.

8. Respondents have violated Idaho Code § 30-1406.

COUNT THREE

9. In connection with the offer and sale of securities, Respondents made misrepresentations of material fact in violation of the antifraud provisions of the Idaho Securities Act. These misrepresentations include, but are not limited to, the following:

a. Representing that the offshore investment program was safe and that the risk of losing invested principal was very low.

b. Representing that the returns accruing to investors could be returned through a mechanism that would make paying taxes on the investment program unnecessary.

10. Respondents have violated Idaho Code § 30-1403(2).

COUNT FOUR

11. In connection with the offer or sale of securities, Respondents 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 in violation of the antifraud provision of the Idaho Securities Act. The omissions of Respondents include, but are not limited to, the following:

- a. Respondents failed to inform offerees and/or investors of their financial condition and the exact uses toward which investor proceeds would be applied.
- b. Respondents failed to disclose information regarding their history of raising money and paying returns on investments.
- c. Respondents failed to disclose the nature and amounts of any compensation or other remuneration accruing to Respondents as a result of the offshore investment program.
- d. Respondents failed to disclose the risks associated with committing funds to the offshore investment program.
- e. Respondents failed to disclose that the securities were not registered with the Idaho Department of Finance as required under Idaho Code § 30-1416.
- f. Respondents failed to disclose that they were not licensed with the Idaho Department of Finance as required under Idaho Code § 30-1406.

11. Respondents have violated Idaho Code § 30-1403(2).

THEREFORE, PURSUANT TO IDAHO CODE § 30-1442(2), IT IS HEREBY ORDERED THAT RESPONDENTS IMMEDIATELY CEASE AND DESIST FROM:

A. Selling or offering to sell any nonexempt securities in any form in the State of Idaho until such time as the securities have been registered with the Department of Finance in

accordance with Title 30, Chapter 14, Idaho Code.

B. Selling or offering to sell any nonexempt securities in any form in the State of Idaho until such time as Respondents have registered as broker-dealers or salesmen for a broker-dealer or issuer with the Department of Finance in accordance with Title 30, Chapter 14, Idaho Code.

C. While engaged in or in connection with the offer, or sale, of any security in the State of Idaho:

- (1) Employing any device, scheme or artifice to defraud any purchasers of securities in Idaho;
- (2) Making any untrue statement of material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;
- (3) Engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person;

D. Aiding, abetting, counseling, inducing or causing any person to engage in any of the types of conduct described in paragraphs A, B, or C above.

IT IS FURTHER ORDERED, PURSUANT TO IDAHO CODE § 30-1442(2)(a), THAT RESPONDENTS REPAY ALL CONSIDERATION THAT HAS BEEN RECEIVED FROM IDAHO INVESTORS IN CONNECTION WITH THE OFFER AND SALE OF THESE SECURITIES.

12. YOU ARE NOTIFIED that if you wish to contest this Cease and Desist Order, you must request a hearing with the Department of Finance within twenty-one (21) days after service of this Cease and Desist Order. Any request for hearing must be in writing, addressed to:

Marilyn T. Scanlan
Securities Bureau Chief
Department of Finance
P.O. Box 83720
Boise; ID 83720-0031

A copy of the request for hearing must also be sent to the Department's counsel, at the address listed on the front of this Cease and Desist Order.

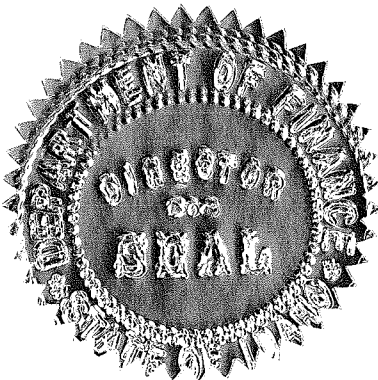
13. If a request for hearing is timely filed, you will be notified of the date, time and place of the hearing, as well as the name of the presiding officer. At the hearing, you will be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the conduct of the proceedings. If you so desire, you may also be represented by legal counsel at your own expense.

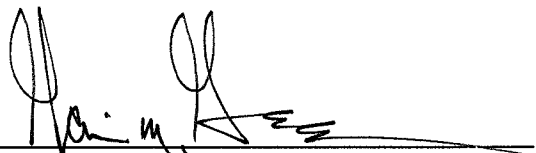
14. Any hearing and subsequent proceedings will be in accordance with the provisions of the Idaho Administrative Procedures Act (Chapter 52, Title 67, Idaho Code).

15. This Cease and Desist Order is necessary and appropriate and in the public interest and for the public protection.

IT IS SO ORDERED.

DATED this 3RD day of June, 1998.




GAVIN M. GEE
Director
Department of Finance