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

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, SECURITIES BUREAU, )

Docket No. 2001-7-09

Complainant, )

**CEASE AND DESIST ORDER**

vs. )

PRIME YIELD, INC., BRUCE EDWARD )  
CARTER, DARIUSZ "DAREK" )  
ZALEWSKI, and their agents and )  
representatives, )

Respondents. )  
\_\_\_\_\_ )

The Director of the Department of Finance, State of Idaho (Director), pursuant to the authority of the Idaho Securities Act, Idaho Code § 30-1401, *et seq.*, has reasonable grounds to believe that violations of the Idaho Securities Act have occurred, and may continue to occur, as follows:

(1) Prime Yield, Inc. is a California corporation conducting business from 24551 Raymond Way, Suite 270, Lake Forest, California 92630. Prime Yield is engaged in the business of marketing certificate of deposit investment interests (CDs) that are associated with or issued by various financial institutions.

(2) Bruce Edward Carter (Carter) is an officer and director of Prime Yield, Inc. Carter filed a voluntary Chapter 7 bankruptcy petition on September 18, 2000, and has been the subject of various federal and state tax liens between 1991 and 1999. Carter was associated with the regulated securities industry and was licensed as a securities salesperson while employed with San Clemente Securities, Inc. in 1994 and 1995.

(3) Prime Yield, Inc. and Bruce Carter were the subjects of a Cease and Desist Order issued by the National Credit Union Administration Board (NCUA) in 1997, based on alleged violations of federal requirements regarding investments sold to federal credit unions. Prime Yield, Inc. and Bruce Carter were assessed a money penalty as a part of that order.

(4) San Clemente Securities, Inc. was the subject of a Cease and Desist Order and Order to Pay a Civil Money Penalty issued by the NCUA in 1997, based on alleged violations of the Federal Credit Union Act occurring between 1992 and 1995. Certain of the alleged violations underlying that cease and desist order involved selling certificates of deposits to credit unions in violation of federal law and rules.

(5) Dariusz "Darek" Zalewski (Zalewski) is an officer of Prime Yield, Inc. He also represents himself as a director of that company. Between 1992 and 1996, Zalewski regularly engaged in the securities industry associated with various broker-dealers. Zalewski was employed by San Clemente Securities, Inc. as a general securities representative and chief financial officer in 1995.

(6) Beginning on a date uncertain, but at least since December of 1999, various agents or representatives of Prime Yield, Inc., under the direction and control of Carter and Zalewski, offered and sold interests in CDs issued by various financial institutions as investments to credit unions located in the state of Idaho.

(7) The CDs referred to in paragraph (6) above were held under the control of a third party custodian.

(8) The CDs referred to in paragraphs (6) and (7) above which were offered and sold through various agents or representatives of Prime Yield, Inc. are securities within the meaning of Idaho Code § 30-1402(12).

**COUNT ONE**

(9) Paragraphs (1) through (8) set forth above are fully incorporated herein by this reference.

(10) In connection with the offer and sale of the certificate of deposit investment interests referenced above, various sales agents or representatives, under the direction and control of Carter and Zalewski, 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 anti-fraud provisions of the Idaho Securities Act. The omissions of Respondents include, but are not limited to, the following:

- (a) Respondents failed to inform offerees and purchasers of the specific remuneration that would accrue to Prime Yield, Inc., its control persons, and the sales agent(s) or representative(s) associated with the transaction(s).
- (b) Respondents failed to inform at least one Idaho purchaser that the purchaser's invested dollars would not be entirely committed to the purchase of the certificate of deposit interests.
- (c) Respondents failed to inform offerees and purchasers that the security purchased would be held by a third-party custodian and not delivered to the investor.

- (d) Respondents failed to inform offerees and purchasers of the particular costs associated with any subsequent liquidation or transfer of the securities being offered and sold.
- (e) Respondents failed to inform offerees and purchasers as to the exact terms and conditions of the particular investment instrument being offered.
- (f) Respondents failed to inform offerees and purchasers that principals of Prime Yield, Inc., specifically Carter and Zalewski, had been the subjects of securities customer complaints and that Carter had been the subject of complaints by credit unions, while both were employed in the regulated securities industry.
- (g) Respondents failed to inform offerees and purchasers that Carter and Prime Yield, Inc. had consented to the issuance of a Cease and Desist Order and Order to Pay a Civil Penalty by the National Credit Union Administration (NCUA) in 1997. In that consent order, Carter and Prime Yield, Inc. were ordered to comply with various rules and regulations regarding sales of investments to federal credit unions.
- (h) Respondents failed to provide disclosures regarding Prime Yield, Inc. and its officers and directors. Such failures to disclose include, but are not limited to, the following:
  - (1) failing to disclose that Carter, an officer and director of Prime Yield, Inc., was the subject of various tax liens and money judgments between 1991 and 1999;
  - (2) failing to disclose that Carter had been the subject of securities complaints by other credit unions while employed as a securities salesperson;

(3) failing to inform offerees and purchasers that Carter and Prime Yield, Inc. had consented to the issuance of a Cease and Desist Order and Order to Pay a Civil Money Penalty by the NCUA in 1997.

(11) Such omissions by Respondents constitute a violation of Idaho Code § 30-1403(2).

### COUNT TWO

(12) Paragraphs (1) through (11) set forth above are fully incorporated herein by this reference.

(13) In connection with the offer or sale of securities referenced above, Respondents misrepresented 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 anti-fraud provisions of the Idaho Securities Act. The misrepresentations of Respondents include, but are not limited to, the following:

- (a) Respondents, through sales agent or representative Craig Chamberlain, represented that a certificate of deposit offered and sold to Credit Union A could be redeemed for principal plus interest after a six-month holding period. When Credit Union A attempted to liquidate its investment interest at the conclusion of the six-month period, Credit Union A was informed that it would incur a penalty upon liquidation that would result in it receiving less money than it originally invested, even with accrued interest.
- (b) Respondents issued a purchase confirmation to Credit Union A stating a certificate of deposit purchase price. Said confirmation and sales transaction misrepresented the amount of funds committed to the issuing financial institution or other seller. Credit Union A was later informed that a net amount less than the

amount charged on the purchase confirmation was actually committed to the purchase of the subject security.

- (c) In written communications, Respondents represented Prime Yield, Inc. as a "registered financial services company." In reality, Prime Yield, Inc. is not registered as a securities broker-dealer in the state of Idaho, nor in any other state. Further, Prime Yield, Inc. is not registered with the Federal Deposit Insurance Corporation, the NCUA, or the United States Securities and Exchange Commission. Prime Yield, Inc. is not registered with the Idaho Department of Insurance.

(14) Respondents' misrepresentations in connection with the offer or sale of a security constitute a violation of Idaho Code § 30-1403(2).

**CEASE AND DESIST ORDER**

**NOW, THEREFORE, PURSUANT TO § 30-1442(2) OF THE IDAHO SECURITIES ACT, IT IS HEREBY ORDERED THAT PRIME YIELD, INC., BRUCE EDWARD CARTER, DARIUS "DAREK" ZALEWSKI AND THEIR AGENTS AND REPRESENTATIVES IMMEDIATELY CEASE AND DESIST FROM:**

- (A) 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 were 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.

(B) Aiding, abetting, counseling, inducing, or causing any person to engage in any of the types of conduct described in paragraph (1) through (3) of this order.

**IT IS FURTHER ORDERED, PURSUANT TO § 30-1442(2)(a) OF THE IDAHO SECURITIES ACT, THAT PRIME YIELD, INC. IMMEDIATELY REPAY ALL CONSIDERATION RECEIVED FROM IDAHO INVESTORS IN CONNECTION WITH THE OFFER AND SALE OF THE SECURITIES REFERENCED IN PARAGRAPHS (1) THROUGH (14) ABOVE.**

**IT IS FURTHER ORDERED, PURSUANT TO § 30-1442(2)(b) OF THE IDAHO SECURITIES ACT, THAT PRIME YIELD, INC. IMMEDIATELY PAY A CIVIL PENALTY TO THE IDAHO DEPARTMENT OF FINANCE IN THE AMOUNT OF FIVE THOUSAND DOLLARS (\$5,000.00).**

(15) This Cease and Desist Order is a final order of the Department of Finance. In accordance with Idaho Code § 30-1442(2), you have the right to a hearing before the Department of Finance regarding this Cease and Desist Order. You may file a motion for reconsideration of the Cease and Desist Order, or a request for hearing, **within fourteen (14) days after this order has been served.** Pursuant to Idaho Code § 67-5246(4), the Department 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. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

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

A copy of the motion for reconsideration or request for hearing must also be sent to A. René Martin, counsel for the Department, at the address listed on the first page of this Cease and Desist Order.

(16) If a motion for reconsideration or 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 desire, you may also be represented by legal counsel at your own expense.

(17) Any hearing and subsequent proceeding will be conducted in accordance with the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code.

(18) Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it to the district court by filing a petition in the district court of the county in which:

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides; or
- d. where the real property or personal property that was the subject of the agency action is located.

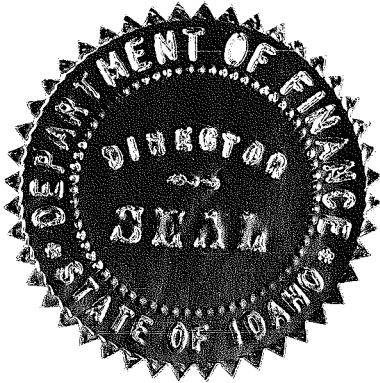
(19) Pursuant to Idaho Code § 67-5273, an appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order, (b) the issuance of an order denying a petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, **whichever is later**.

(20) The foregoing Cease and Desist Order is necessary and appropriate, in the public interest, and for the protection of the public.



**IT IS SO ORDERED.**

DATED this 27<sup>th</sup> day of March, 2001.



A handwritten signature in black ink, appearing to read "Gavin Gee", written over a horizontal line.

GAVIN GEE, Director  
Idaho Department of Finance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27<sup>th</sup> day of March, 2001, I caused a true and correct copy of the foregoing CEASE AND DESIST ORDER to be served by the method indicated below, and addressed to the following:

Prime Yield, Inc.  
24551 Raymond Way, Suite 270  
Lake Forest, California 92630  
Attn: Dariusz Zalewski

U.S. Mail, postage prepaid  
 Certified mail  
 Facsimile  
 Hand delivery

Darius Zalewski  
c/o Prime Yield, Inc.  
24551 Raymond Way, Suite 270  
Lake Forest, California 92630

U.S. Mail, postage prepaid  
 Certified mail  
 Facsimile  
 Hand delivery

Bruce Edward Carter  
c/o Prime Yield, Inc.  
24551 Raymond Way, Suite 270  
Lake Forest, California 92630

U.S. Mail, postage prepaid  
 Certified mail  
 Facsimile  
 Hand delivery

A handwritten signature in black ink, appearing to read "Martha L. Cooper", written over a horizontal line.