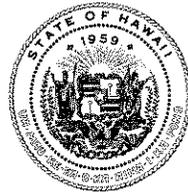


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GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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DIRECTOR

RYAN S. USHIJIMA
COMMISSIONER OF SECURITIES

STATE OF HAWAII
BUSINESS REGISTRATION DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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INTERPRETIVE ORDER NO. 2003-1

In the Matter of the Definitions)
of)
)
“Discretionary Authority” and)
“Certified” Financial Statements.)
_____)

RECITALS

WHEREAS, the State of Hawaii Commissioner of Securities (“**Commissioner**”) is charged with the administration of the Hawaii Securities Act (“**Act**”) in Hawaii Revised Statutes (“**HRS**”) chapter 485, and the Hawaii Administrative Rules (“**HAR**”) promulgated thereunder;

WHEREAS, under HAR chapter 16-38, an investment adviser who has “discretionary authority” over client funds is required to file a “certified” financial statement;

WHEREAS, the Commissioner desires to define the terms “discretionary authority” and “certified” financial statements for purposes of HAR chapter 16-38; and

WHEREAS, the Commissioner has determined that this Interpretive Order is in the public’s interest, necessary and appropriate for the protection of investors, and consistent with the purposes of the Act.

INTERPRETIVE ORDER

NOW THEREFORE, PURSUANT TO HRS § 485-2(c), IT IS HEREBY ORDERED THAT:

1. “Discretionary authority” means that an investment adviser has the express or implied authority to direct funds away from client accounts.
 - a. This term also includes the limited authority to change the investment adviser’s compensation where the investment adviser sends a simultaneous billing to both the client and the custodian of accounts and the investment adviser receives payment for services ren-

dered directly from the custodian of accounts without the custodian of accounts obtaining a written change authorization from the client.

b. However, this term does not include:

1. The limited authority to only direct client funds within a particular client account, investment fund family, or group (e.g., only being able to transfer funds within fidelity's fund family or within the Schwab One account); or
 2. The limited authority to change the investment adviser's compensation as long as the investment adviser's broker/dealer or custodian of accounts receives written authorization from the client for each change, and the investment adviser certifies this procedure by written affidavit provided to the Business Registration Division.
2. A "certified" balance sheet or financial statement means and includes an audited balance sheet or financial statement prepared in accordance with generally accepted accounting principles.

This Interpretive Order shall supercede the Information Release 98-4, issued on February 16, 1999. This Interpretive Order shall be effective as of the date specified above, and shall remain in effect until subsequently amended or rescinded by another Interpretive Order or rule of the Commissioner.

DATED: July 28, 2003.

/s/ Ryan S. Ushijima
Ryan S. Ushijima
Commissioner of Securities