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**INDIANA SECRETARY OF STATE  
SECURITIES DIVISION**

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SECRETARY OF STATE**

**AMENDED STATEMENT OF POLICY REGARDING CLARIFICATION OF  
REIMBURSEMENT UNDER THE SECURITIES RESTITUTION FUND**

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On July 1, 2010, the Indiana Secretary of State and the Securities Commissioner (“Commissioner”) determined it was appropriate and in the public interest to issue a Statement of Policy Regarding Clarification Of Reimbursement Under The Securities Restitution Fund. The statement of policy clarified the Securities Division’s position on awarding restitution under the Securities Restitution Fund (Ind. Code 23-20-1). After five years of use, the Commissioner has determined that it is necessary to amend the statement of policy to further clarify for claimants how awards are calculated.

Background

The Securities Restitution Fund (“Fund”) was created by the Indiana General Assembly to provide restitution for victims of securities violations. The Fund was officially established on July 1, 2010. The Securities Division can only make a payment to victims if a state court, federal court, or administrative agency has ordered restitution to be paid to that victim as a result of a securities violation. A copy of the Final Order showing that restitution has been awarded will be required as part of the application. FINRA arbitration awards are not eligible for payment from the fund. Restitution will be paid out of civil penalties imposed by the Securities Division against those who have violated the Indiana Uniform Securities Act. Payment to each victim will be capped at twenty-five percent (25%) or fifteen thousand dollars (\$15,000), whichever amount is less.

Strict application of this formula for determining the amount to be paid from the Fund could lead to payments to victims in amounts in excess of the actual awards. To demonstrate, if an Order of Restitution provided that a victim should be repaid the original investment of eighty thousand dollars (\$80,000), and the victim received restitution of seventy-five thousand dollars (\$75,000) from the party ordered to pay restitution, then the net loss for the victim would be five thousand dollars (\$5,000). According to the statute, the victim could apply to the Fund, and the Fund would pay the victim fifteen thousand dollars (\$15,000), because fifteen thousand dollars (\$15,000) is the lesser of twenty-five percent (25%) of the amount of restitution ordered (which was \$80,000) or fifteen thousand dollars (\$15,000). Even though the victim lost eighty thousand dollars (\$80,000) through the securities violations, strict application of the statute could lead to a return of ninety-five thousand dollars (\$95,000). This would provide the victim with amounts in excess of the original award, which is not the intent of the General Assembly.

Policy

When computing the amount of restitution to be paid from the Fund, the Securities Division shall use the victim's net loss for the purposes of applying the twenty-five percent (25%) calculation. The net loss will be determined by subtracting restitution, interest, or any other verified payments received from the party ordered to pay, from the total restitution ordered to be paid. The Securities Division will then compare twenty-five percent (25%) of the net loss to fifteen thousand dollars (\$15,000) and pay out the lesser amount from the Fund.

The claimant may only file an application for the restitution fund using the name or names exactly as they appear on the restitution order issued by the court. If a married couple is the victim of a securities violation, and they are listed on the restitution order as one victim, the couple may only apply to the fund for one restitution award. If a married couple is listed on the restitution order as separate victims, they may each apply to the fund for separate restitution awards.

DATED at Indianapolis, Indiana, this 10<sup>th</sup> day of July, 2015.



CONNIE LAWSON  
SECRETARY OF STATE

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

ALEX GLASS  
SECURITIES COMMISSIONER