

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order Number S-05-026-05-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES, SUMMARY
) ORDER REVOKING EXEMPTIONS, AND
InterBay Funding Group Inc., Donald J.) NOTICE OF INTENT TO ENTER STOP
Vanhook, and Jeanne Vanhook,) ORDER AND ORDER TO CEASE AND
) DESIST, IMPOSING FINES, AND
Respondents.) ASSESSING COSTS

THE STATE OF WASHINGTON TO: InterBay Funding Group Inc., Donald J.
Vanhook, and Jeanne Vanhook
2031 196th Street SW, Suite B-202
Lynnwood, WA 98036

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that the Respondents, InterBay Funding Group Inc., Donald J. Vanhook, and Jeanne Vanhook, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.325, RCW 21.20.280, RCW 21.20.390, and RCW 21.20.732 revoking securities registration exemptions, denying securities registration, to cease and desist from such violations, and to pay a \$50,000 fine and at least \$2,000 in costs. The Securities Administrator finds that delay in revoking Respondents' securities registration exemptions would be hazardous to the investors and to the public and that a summary order revoking exemptions should be entered immediately. The Securities Administrator finds as follows:

1 its first \$1,000,000 of such outstanding securities plus, for any such securities in excess of
2 \$1,000,000 but not more than \$100,000,000, additional net worth of 10% of that amount.

3 6. Generally, under WAC 460-16A-200 an issuer of debt securities must have a
4 reasonable ability to service the debt, which among other things requires the issuer to
5 demonstrate a pro forma earnings-to-fixed-charges (EFC) ratio of 1 to 1 or greater.

6 7. InterBay was the subject of a prior Securities Division order dated February 25, 1998.
7 In that order, InterBay and Donald Vanhook resolved with the Division allegations that they
8 had offered or sold securities in Washington without registering the securities, RCW 21.20.140;
9 registering as a salesperson or broker-dealer, RCW 21.20.040; and providing proper disclosure
10 to investors, RCW 21.20.010. InterBay and Donald J. Vanhook agreed to cease and desist from
11 future violations and to a two-year revocation of the registration exemptions granted in RCW
12 21.20.320(1), (5), and (11).

13 8. InterBay's permit to sell securities in Washington has been specially conditioned on
14 filing quarterly and monthly reports with the Division. Monthly reports are due within 20 days
15 of the end of the applicable month and quarterly reports are due within 30 days of the end of
16 the applicable quarter. Among other items, the reports require InterBay to state its outstanding
17 Notes, net worth, and earnings. The monthly report also requires InterBay to list its capital
18 excess or shortage under RCW 21.20.710 and its EFC ratio. From the quarterly reports, the
19 Division can calculate the capital excess or shortage and EFC ratio based on the financial
20 information InterBay provides.
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23 NATURE OF THE CONDUCT

24 9. InterBay has filed monthly reports that show the following information:
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Date covered	Date filed	Outstanding Notes	Net worth	Capital Excess (shortage)	EFC ratio
Mar. '04	4/20/04	\$4,274,136	\$653,868	\$126,455	1.67
Apr. '04	5/21/04	4,374,296	691,144	153,715	1.31
May '04	11/24/04	4,465,935	643,977	97,384	1.15
Jun. '04	7/21/04	4,526,648	671,421	118,756	1.21
Jul. '04	11/24/04	4,547,781	560,553	5,775	0.86
Aug. '04	11/24/04	4,612,584	489,064	(72,204)	0.73
Sep. '04	<i>Not filed</i>	--	--	--	--
Oct. '04	1/17/05	4,662,097	245,666	(319,543)	0.52
Nov. '04	12/20/04	4,684,239	228,146	(340,278)	0.50
Dec. '04	1/21/05	4,701,706	279,025	(291,145)	0.63

On November 24, 2004, InterBay amended its June 2004 monthly report to decrease its net worth to \$465,641, indicate a capital shortage of (\$87,024), and lower its EFC ratio to 0.50.

10. InterBay has filed quarterly reports that show the following information:

Date covered	Date filed	Outstanding Notes	Net worth	Capital Excess (shortage)	EFC ratio
Jan.-Mar. '04	7/2/04	\$4,269,307	\$472,022	\$(54,909)	0.83
Apr.-Jun. '04	9/8/04	4,526,648	352,678	(199,987)	0.51
Jul.-Sep. '04	12/9/04	4,640,968	253,513	(310,584)	0.52
Oct.-Dec. '04	1/31/05	4,701,706	246,352	(323,819)	0.62

11. InterBay's reports contain substantially inconsistent financial information. For instance, the net worth and EFC ratios reported from compiled data at the end of quarters has been significantly lower than those on InterBay's monthly reports. Similarly, the two different June reports show greatly varying net worth and EFC ratios.

12. In August 2004, InterBay applied to renew its securities registration. InterBay's registration materials contained stale financial information that was at least 18 months old.

13. Since September 2004, InterBay's reports have acknowledged InterBay's capital deficiency violation under RCW 21.20.710. From at least September 2004 and as recently as

1 December 2004, the Division has alerted InterBay of its duties to comply with the Securities
2 Act of Washington, including the net worth requirements in RCW 21.20.710, the EFC ratio
3 requirements in WAC 460-16A-200, and the requirement to provide investors full disclosure of
4 all material information, including current financial information. The Division has contacted
5 and issued comments to InterBay about the tardiness and reliability of financial information in
6 InterBay's reports and the disclosure materials, including financial information, in InterBay's
7 registration application. InterBay has indicated that it needed more time to respond these
8 comments and gather and prepare financial information. InterBay has not responded to all of
9 the Division's comments.
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11 14. Through this time period, InterBay has rolled over existing note holders as their Notes
12 became due and provided inadequate disclosure.

13 EMERGENCY AND PUBLIC INTEREST

14 The Securities Administrator finds that the continued offering of InterBay Notes in the
15 circumstances and manner described in the Tentative Findings of Fact, particularly given the
16 prior enforcement order, capital deficiency, and failure to provide information to the Division,
17 presents a threat to the investing public.
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19 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:
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21 CONCLUSIONS OF LAW

22 1. The offer or sale of the Notes described above constitutes the offer or sale of a security
23 as defined in RCW 21.20.005(10) and (12).

24 2. InterBay is a "debenture company" as defined in RCW 21.20.705.
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1 3. As set forth in Tentative Findings of Fact 8, 9, 10, 13, and 14, the Respondents have
2 violated RCW 21.20.710 by, in at least the months of March, June, August, September,
3 October, November, and December, 2004, offering or selling securities but not maintaining the
4 required net worth.

5 4. As set forth in Tentative Findings of Fact 8 through 14, the Respondents have violated
6 RCW 21.20.010 by, in connection with the offer or sale of securities, making untrue statements
7 of material fact, or omitting to state material facts necessary in order to make the statements
8 made not misleading, including failing to disclose full and current financial information.

9 5. As set forth in Tentative Findings of Fact 8, 9, 10, and 14, the Respondents have
10 violated WAC 460-16A-200 by offering or selling securities without maintaining an earnings to
11 fixed-charges ratio of 1 to 1 or greater.

12 6. The conduct set forth in Tentative Findings of Fact 8 through 14 constitutes unsafe or
13 unsound practices in conducting the business of a debenture company under RCW 21.20.732
14 because: (A) the Respondents have not timely submitted monthly and quarterly reports in
15 compliance with the terms of their permit; (B) the Respondents have not maintained current
16 and accurate financial records; (C) the Respondents have been unable to adequately monitor,
17 evaluate, and respond to important business issues such as profitability, net worth, and the
18 prospect of insolvency; (D) the Respondents have not provided to the Division or their
19 investors current financial information; and/or (E) the cumulative effect of these practices, the
20 allegations in the above Tentative Findings of Fact, and/or the violations noted in the above
21 Conclusions of Law constitute unsafe or unsound practices under RCW 21.20.732.
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1 **CONTINUING INVESTIGATION**

2 The Department is continuing to investigate the practices of the Respondents and their
3 principals, employees, and agents to determine the full extent of the violations of the Securities
4 Act of Washington that have occurred in this matter.
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6 **SUMMARY ORDER REVOKING EXEMPTIONS**

7 Based on the foregoing,
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9 NOW, THEREFORE, IT IS HEREBY SUMMARILY ORDERED that the exemptions
10 provided in RCW 21.20.320 from the securities registration requirement are REVOKED as to
11 any transactions in InterBay securities.
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13 **NOTICE OF INTENT TO ENTER STOP ORDER AND ORDER TO CEASE AND**
14 **DESIST, IMPOSING FINES, AND ASSESSING COSTS**

15 Pursuant to RCW 21.20.280, RCW 21.20.390, RCW 21.20.395, and RCW 21.20.732,
16 and based upon the Tentative Findings of Fact and Conclusions of Law, the Securities
17 Administrator intends to order that:

- 18 1. InterBay Funding Group Inc.'s application for securities registration be denied;
19 2. InterBay Funding Group Inc., Donald J. Vanhook, Jeanne Vanhook, and their
20 employees and agents each cease and desist from violations of RCW 21.20.010, the anti-fraud
21 provisions of the Securities Act of Washington; WAC 460-16A-200, the earnings-to-fixed
22 charges ratio for debt offerings; and RCW 21.20.732, prohibiting unsafe or unsound practices
23 by debenture companies;
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1 3. InterBay Funding Group Inc., Donald J. Vanhook, and Jeanne Vanhook be jointly and
2 severally liable for and pay to the Division a fine of \$50,000; and

3 4. InterBay Funding Group Inc., Donald J. Vanhook, and Jeanne Vanhook be jointly and
4 severally liable for and pay to the Division the costs, fees, and other expenses incurred in the
5 conduct of the investigation on this matter, in an amount not less than \$2,000.
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9 **AUTHORITY AND PROCEDURE**

10 This Statement of Charges, Summary Order Revoking Exemptions, and Notice of Intent
11 to Enter Stop Order and Order to Cease and Desist, Imposing Fines, and Assessing Costs is
12 entered pursuant to the provisions of RCW 21.20.325, RCW 21.20.280, RCW 21.20.390, and
13 RCW 21.20.732 and is subject to the provisions of chapter 34.05 RCW. The Respondents,
14 InterBay Funding Group Inc., Donald J. Vanhook, and Jeanne Vanhook may each make a
15 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
16 AND OPPORTUNITY FOR HEARING accompanying this order.

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1 If a Respondent does not request a hearing, the Securities Administrator intends to
2 adopt the above Tentative Findings of Fact and Conclusions of Law as final and make the
3 Statement of Charges, Summary Order Revoking Exemptions, and Notice of Intent to Enter
4 Stop Order and Order to Cease and Desist, Imposing Fines, and Assessing Costs permanent as
5 to that Respondent.
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8 Dated this 9th day of February, 2005

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11 MICHAEL E. STEVENSON
12 Securities Administrator

13 Approved by:

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15 Martin Cordell
16 Chief of Enforcement

17 Presented by:

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19 Andrew Ledbetter
20 Financial Legal Examiner
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