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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
whether there has been a violation
of the Securities Act of Washington by:

David Waldemar Asplund Jr.,

Respondent.

Order Number S-07-478-12-FO01

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL
ORDER TO CEASE AND DESIST, DENY
FUTURE REGISTRATIONS, IMPOSE
FINES, AND RECOVER COSTS

On October 6, 2011, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, Deny Future Registrations, Impose Fines, and Recover Costs, S-07-478-11-SC01, hereinafter referred to as "Statement of Charges," against David Waldemar Asplund Jr.

The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing, hereinafter referred to as "Notice of Opportunity for Hearing," and an Application for Adjudicative Hearing, hereinafter referred to as "Application for Hearing," was received by David Waldemar Asplund Jr. on December 1, 2011. The Notice of Opportunity for Hearing advised David Waldemar Asplund Jr. that a written application for an administrative hearing on the Statement of Charges must be received within twenty days from the date of receipt of the notice. The Statement of Charges advised David Waldemar Asplund Jr. that if a hearing was not requested, the Securities Administrator intends to adopt the "Tentative Findings of Fact" and "Conclusions of Law," as set forth

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1 in the Statement of Charges, as final, and enter a final order against the Respondent to cease and desist
2 from violations of the Securities Act, to deny future securities registration applications, to impose the
3 fine, and recover costs.

4 David Waldemar Asplund Jr. failed to request an administrative hearing within twenty days of
5 receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the Application
6 for Hearing provided or otherwise. The Securities Administrator therefore will adopt as final the
7 findings of fact and conclusions of law as set forth in the Statement of Charges and enter a final order
8 against David Waldemar Asplund Jr. to cease and desist from violations of the Securities Act, to deny
9 future securities registration applications, to impose the fine, and recover costs.

10 The Securities Administrator makes the following findings of fact and conclusions of law:

11
12 **FINDINGS OF FACT**

13 Respondent

14 1. David Waldemar Asplund Jr. (“Asplund”) is an individual residing in Redmond,
15 Washington. Asplund was first employed in the securities industry in 1996, as a securities salesperson
16 for John Hancock Distributors, Inc. Asplund was next employed with Financial Services International
17 Corp. (“FSIC”) from January 1998 until June 2010. Asplund was registered with the Washington State
18 Securities Division as a securities salesperson from November 1996 to June 2010, and as an investment
19 adviser representative from March 1999 to June 2010. He is not currently registered with the
20 Washington State Securities Division in any capacity. Asplund has a Central Registration Depository

1 number of 2803177. Asplund has been a Washington State licensed insurance agent from May 1996 to
2 present.

3 Nature of the Conduct

4 *Introduction*

5 2. While employed as a securities salesperson and investment adviser representative at
6 FSIC, Respondent Asplund engaged in several prohibited activities with respect to two of his
7 Washington resident customers, "Resident A" and "Resident B," as discussed below. He did not
8 disclose these activities to his employing firm. In approximately February 2006, FSIC discovered that
9 Respondent Asplund was acting as attorney-in-fact for Resident A. In response, FSIC put Respondent
10 Asplund on probation. Subsequently, in approximately June 2010, FSIC discovered that Respondent
11 Asplund had borrowed funds from Resident B. Respondent Asplund was permitted to resign from the
12 firm at that time.

13 *Resident A*

14 3. In approximately November 2000, Resident A and his wife, an elderly couple, became
15 customers of Respondent Asplund while he was employed at FSIC. Resident A and his wife
16 established a non-discretionary brokerage account with Respondent Asplund. This brokerage account
17 became an asset of a joint living trust that Resident A and his wife had established in 1993. Resident A
18 maintained this brokerage account with Respondent Asplund until November 2006.

19 4. After Resident A's wife passed away, Respondent Asplund was named as co-trustee of
20 the joint living trust on May 29, 2002. According to the amendment made to the trust agreement,
21 Respondent Asplund would serve as co-trustee along with Resident A.

1 5. On May 29, 2002, Resident A also executed a Durable Power of Attorney which named
2 Respondent Asplund as his attorney-in-fact. The Durable Power of Attorney was effective
3 immediately.

4 6. Respondent Asplund purportedly did not receive compensation for serving as co-trustee
5 or attorney-in-fact. However, Respondent Asplund did receive gifts from Resident A, in the form of
6 cash. Although the value of the gifts is unknown, they totaled more than \$1,000.

7 7. In approximately June 2003, Respondent Asplund offered to buy Resident A's house for
8 \$200,000. Respondent Asplund intended to remodel the house and then sell it. Resident A purportedly
9 accepted the offer, although no standard paperwork was executed for this transaction. The title
10 remained in Resident A's name and no new financing was obtained for the property. Respondent
11 Asplund agreed to make payments on the mortgage Resident A had on the property. Respondent
12 Asplund also purportedly gave Resident A \$5,000 as a down payment.

13 8. Respondent Asplund spent approximately \$40,000 renovating the house. He made
14 mortgage payments of over \$1,000 per month for approximately 8 months until the house was sold in
15 January 2004 for \$305,000. After the sale proceeds paid off the mortgage and home equity line of
16 credit on the property, there was a remainder of \$110,094.07, which was wired to an account controlled
17 by Respondent Asplund. Respondent Asplund purportedly gave Resident A approximately \$10,000 of
18 this amount, and kept the rest for himself.

19 9. Respondent Asplund was attorney-in-fact for Resident A until February 25, 2006. After
20 FSIC discovered that he was acting in this capacity, he was told to resign as attorney-in-fact.

1 Respondent Asplund notified Resident A, per a letter, that he was no longer able or willing to serve as
2 his attorney-in-fact.

3 10. Resident A passed away on November 23, 2006, at the age of 83. His death certificate
4 lists his immediate cause of death as “Alzheimer’s dementia.” It is believed that shortly after, a trust
5 beneficiary requested through her attorney that Respondent Asplund resign as trustee, and that
6 Respondent Asplund complied with this request.

7 11. In April 2008, the administrator of Resident A’s estate commenced a Trust and Estate
8 Dispute Resolution Act (“TEDRA”) proceeding against Respondent Asplund in King County Superior
9 Court, seeking recovery of funds for the estate. It is believed that the administrator of the estate alleged
10 that Respondent Asplund borrowed money from Resident A and that he converted the proceeds from
11 the sale of Resident A’s house.

12 12. Subsequent to the filing of the TEDRA petition, Respondent Asplund entered into
13 settlement negotiations with the estate of Resident A. In April 2009, Respondent Asplund agreed to a
14 settlement, pursuant to which he agreed to pay the estate \$115,502.67. On or about May 2009, the
15 estate received \$90,000 as a partial payment from Respondent Asplund. As of the entry date of this
16 order, the balance of the amount has not been paid by Respondent Asplund.

17
18 *Resident B*

19 13. In 2000, Resident B and his wife became customers of Respondent Asplund, when
20 Respondent Asplund was employed with FSIC. Resident B and his wife together had three non-
21 discretionary IRA accounts with Respondent Asplund. Resident B and his wife maintained the
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1 accounts with Respondent Asplund until approximately April 2009, when they transferred the accounts
2 to another firm.

3 14. In the summer of 2005, when Respondent Asplund needed money to pay business
4 expenses, he asked Resident B for a loan. Resident B agreed to loan \$20,000 to Respondent Asplund.
5 The terms of this loan are unknown. It is believed that a promissory note was signed. Respondent
6 Asplund repaid this loan in full.

7 15. In approximately July 2006, Respondent Asplund again needed money to pay business
8 expenses. As before, he asked Resident B for a loan. Resident B agreed to loan Respondent Asplund
9 another \$20,000. An unsecured promissory note, dated July 7, 2006, was signed. The note had a 5%
10 annual interest rate. Respondent Asplund defaulted on the note in December 2007. As of the entry
11 date of this order, the balance of the note has not been repaid.

12
13 Form U-4

14 16. Form U-4, the Uniform Application for Securities Industry Registration or Transfer form,
15 must be completed when registering as a securities salesperson. Pursuant to WAC 460-22B-060, a
16 securities salesperson has to update his or her Form U-4 within 30 days of the occurrence of an event
17 that causes the information disclosed on the form to be inaccurate. Section 13 of Form U-4 asks the
18 applicant whether they are currently engaged in any other business, including that of trustee. After
19 being named as co-trustee in May 2002, Respondent Asplund failed to notify FSIC within 30 days of
20 the occurrence of this event, so that the firm could update his Form U-4.

1 dishonest or unethical practice as defined by WAC 460-22B-090(19). Such conduct is grounds for the
2 denial of his future securities registration applications pursuant to RCW 21.20.110(1)(g).

3 3. Respondent David Waldemar Asplund Jr., as described above, failed to have his Form
4 U-4 updated within 30 days of being named as co-trustee, in violation of WAC 460-22B-060. This
5 failure to amend is grounds for the denial of his future securities registration applications pursuant to
6 RCW 21.20.110(1)(b).

7 4. Respondent David Waldemar Asplund Jr., as described above, caused to be filed two
8 amendments to Form U-4 with the state of Washington that each contained a statement which was, at
9 the time and in the light of the circumstances under which it was made, false or misleading in respect
10 to a material fact in violation of RCW 21.20.350.

11 **FINAL ORDER**

12 Based upon the foregoing and finding it in the public interest:

13
14 It is hereby ORDERED that the Respondent David Waldemar Asplund Jr. shall cease and desist
15 from making false or misleading statements in documents filed with the Securities Division in
16 violation of RCW 21.20.350.

17 It is further ORDERED that any future securities registration applications of the Respondent
18 David Waldemar Asplund Jr. as an investment adviser, broker-dealer, investment adviser
19 representative, or securities salesperson shall be denied.
20

1 It is further ORDERED that the Respondent David Waldemar Asplund Jr. shall be liable for
2 and shall pay a fine of \$30,000.

3 It is further ORDERED that the Respondent David Waldemar Asplund Jr. shall be liable for
4 and shall pay investigative costs in the amount of \$2,000.

5 **AUTHORITY AND PROCEDURE**

6 This Final Order is entered pursuant to the provisions of RCW 21.20.390 and RCW
7 21.20.395, and is subject to the provisions of RCW 21.20.440 and RCW 34.05. The Respondent has
8 the right to petition the superior court for judicial review of this agency action under the provisions of
9 RCW 34.05. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and
10 sections following. Pursuant to RCW 21.20.395, a certified copy of this order may be filed in
11 Superior Court. If so filed, the clerk shall treat the order in the same manner as a Superior Court
12 judgment as to the fine, and the fine may be recorded, enforced, or satisfied in like manner.
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14 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE**

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17 DATED AND ENTERED this 1st day of February, 2012.

18 By:

19 

20
21 William M. Beatty

1 Securities Administrator

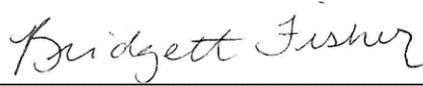
2 Approved by:

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4 _____

5 Suzanne Sarason
6 Chief of Enforcement

Presented by:



7 Bridgett Fisher
8 Enforcement Attorney

9 Reviewed by:

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11 _____
12 Charles Clark
13 Financial Legal Examiner Supervisor

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