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

IN THE MATTER OF DETERMINING) Order No. S-01-039-03-CO01
whether there has been a violation of the)
Securities Act of Washington by:) CONSENT ORDER AND ORDER VACATING
TERRENCE R. SPRAGUE,) STATEMENT OF CHARGES S-01-039-01-SC01 AS
Respondent.) TO TERRENCE R. SPRAGUE
_____)

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INTRODUCTION

9 On August 1, 2001, the Securities Division, Department of Financial Institutions, State of Washington,
10 issued a Statement of Charges, Order No. S-01-039-01-SC01, against Respondent Terrence R. Sprague.
11 The Securities Division and Respondent Terrence R. Sprague do hereby enter into this Consent Order in
12 settlement of this matter. Respondent Sprague acknowledges the Division's jurisdiction and authority to
13 enter this Order in settlement of this matter. Respondent Sprague has cooperated with the Division's
14 investigation into this matter, will continue to cooperate in related investigations, but neither admits nor
15 denies the Securities Administrator's allegations. The Securities Administrator finds as follows:

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FINDINGS OF FACT

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I. Respondent

18 1. At all times material to this action, Respondent Terrence R. Sprague ("Sprague") was licensed as a
19 securities salesperson and employed as a registered representative of US Bancorp Investments, Inc. or US
20 Bancorp Piper Jaffray, Inc. ("USB").

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II. Nature of the Conduct

22 2. This case involved the sale of brokered certificates of deposit ("brokered CDs"). Brokered CDs
23 differ from regular certificates of deposit ("regular CDs") in that brokered CDs are issued by banks in very
24 large denominations. Securities broker-dealers fractionalize the brokered CDs and sell them to investors

1 in smaller denominations, usually under \$100,000. Unlike regular CDs, which mature within six months
2 to five years, brokered CDs generally have a longer term, maturing anywhere from five to twenty years.
3 Brokered CDs usually pay a slightly higher rate of interest than regular CDs, and offer a variety of interest
4 rate terms, including "step-down" rates. With a step-down rate, the issuer pays a higher rate of interest for
5 a short period, with a lower rate paid for the balance of the term.

6 3. Brokered CDs also differ from regular CDs in their liquidity. Unlike regular CDs, which can usually
7 be redeemed before maturity, brokered CDs are callable only by the issuing bank. The effect of this is to
8 greatly reduce the liquidity of brokered CDs. An investor can only liquidate a brokered CD before
9 maturity 1) if a secondary market exists; 2) if the investor is adjudicated incompetent; or 3) when the
10 investor dies, the so-called "death put" provides for liquidation regardless of maturity.

11 4. Between August 28, 1998, and May 24, 1999, Sprague offered and sold brokered certificates of
12 deposit to at least 34 USB customer s. Thirteen customers subsequently filed complaints alleging that
13 Sprague recommended and sold them unsuitable brokered CDs.

14 5. The following paragraphs provide representative examples of Sprague's unsuitable sales:

15 A. Recommendation and Sale to GJS

16 6. GJS¹ was born in 1923, and is a retired buyer for a shoe import company. At the time of the
17 transaction at issue, GJS had an annual income in excess of \$100,000 and a net worth in excess of
18 \$100,000. Before meeting Sprague, GJS had only invested in regular CDs.

19 7. On or about August 28, 1998, GJS called Sprague to inquire about purchasing a money market
20 account. GJS was interested in an account so that would give him ready access to his money and earn a
21 decent rate of return.

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23
24 ¹ We use the customers' initials for privacy protection.

1 8. Sprague recommended GJS purchase a 20-year brokered Euro American Stepdown CD with an
2 initial rate of 7.25% the first year and a rate of 6.50% for years 2 through 20. GJS understood that the CD
3 met his stated liquidity and growth objectives as he had the option to either take the lower interest rate the
4 second year or to take his money out of the CD. Based on Sprague's recommendation GJS invested
5 \$25,000 in the CD.

6 9. Within a year of his purchase, GJS discovered that the CD would not mature until the year 2018,
7 and that he could not withdraw his funds at the end of the first year without substantial loss. On or about
8 April 9, 1999, GJS sent a letter to Sprague complaining about the liquidity of the CD. In his letter GJS
9 stated, "I'm 75 now and have no interest whatsoever in tying up my assets until 2018."

10 10. On or about April 13, 1999, Sprague replied to GJS by phone and reminded him of the "death put"
11 option in the CD. Sprague proposed that GJS hold onto the CD until August 28, 1999. Based on the value
12 of the CD after the first year, GJS could decide what course of action to take. On or about April 16, 1999,
13 Sprague wrote a letter to GJS detailing the terms of their conversation.

14 11. On or about August 28, 1999, Sprague checked the bid price on the CD. Over the course of the
15 first year, the CD had lost close to 12% of its value, and was now worth approximately \$22,000. GJS
16 refused to sell the CD at that price, and decided instead to file a complaint directly with USB.

17 12. On or about October 28, 1999, GJS filed a complaint with USB relating to Sprague's sale of the
18 brokered CD. After investigating the complaint, USB agreed to reimburse GJS for any losses. On
19 November 23, 1999, GJS signed a Settlement Release with USB and received \$26,550.56 in settlement.

20 21 B. Recommendation and Sale to GAS

22 13. GAS was born in 1945 and worked as a consultant before retiring in 1997. At the time of the
23 transactions at issue, GAS had an annual income in excess of \$50,000 a net worth over \$100,000. Before

1 meeting Sprague, GAS had maintained a brokerage account for over 20 years, investing primarily in
2 government securities, municipal funds, and regular CDs.

3 14. In August 1998, the CD Administrator of USB in Bellingham called GAS to tell him that one of
4 his regular CDs would mature at the end of the month. She suggested he contact Sprague about his
5 options. GAS spoke with Sprague and told him he was interested in a product that would provide security,
6 liquidity, and growth. Sprague recommended a 20-year brokered Euro American Bank Stepdown CD with
7 an initial interest of 7.50% the first year and 6.50% for years 2 through 20. Based upon Sprague's
8 recommendation, GAS invested more than \$100,000 in brokered CDs.

9 15. Approximately one year later, expecting to receive notice of that his CDs would mature or roll-
10 over, GAS discovered that he would lose approximately \$17,000 if he sold his CDs. Sprague explained to
11 him that with brokered CDs only the bank could call them before maturity. GAS told Sprague he would
12 not have purchased the brokered CDs had he known that at the time of purchase.

13 16. On or about October 7, 1999, GAS filed a complaint with USB relating to Sprague's sale of the
14 brokered CDs. After investigating the complaint, USB agreed to reimburse GAS for any losses. On
15 October 21, 1999, GAS sold the three CDs for \$102,436.50, a loss of \$10,563.50 on the principal. On
16 November 19, 1999, GAS signed a Settlement Release with USB and received \$17,053.56 in settlement.

17
18 C. Recommendation and Sale to DB

19 17. DB was born in Toronto, Canada in 1963. DB worked for five years as a real estate agent for
20 Windermere Realty, and is currently a self-employed real estate investor. At the time of the transaction at
21 issue, DB had an annual income in excess of \$50,000 and a net worth in excess of \$100,000. Before
22 meeting Sprague, DB had invested for more than ten years in real property, stocks, and mutual funds .
23

1 18. In 1989, DB opened an Individual Management Account ("IMA") with USB where he maintained
2 the funds he used in his real estate investments. DB described this account as a cash savings account used
3 to purchase real estate. In early April 1998, Sprague contacted DB and announced that he was DB's new
4 account manager. Sprague asked about DB's investment objectives. By this time, DB had purchased a
5 real estate investment and management company and was working only part time for Windermere. DB
6 explained his business operations and said that he was interested in a decent return with short-term, liquid
7 investments. DB told Sprague that it was critical that he could access the money in his IMA within 30 to
8 60 days for essential business operations. DB then told Sprague that he was happy with the return and
9 liquidity of his IMA, and purchased no investments through Sprague at that time.

10 19. In the fall of 1998, Sprague called DB again and said that DB could earn a much higher rate of
11 return investing the IMA money in other products. DB reminded Sprague of his investment objectives of
12 growth and liquidity, and Sprague said that he was aware of them and had "just the product for him."
13 Sprague recommended DB purchase a brokered CD. Sprague said that the CD offered a higher rate of
14 return than the IMA and that with two-weeks notice Sprague could liquidate the CD with no penalty.

15 20. On November 27, 1998, based on Sprague's representations that the CD met his investment
16 objective of liquidity and growth, DB purchased a 20-year \$100,000 Provident Ohio Bank step-down
17 brokered CD. The interest rate for the first year was 7.5%, stepping down to 6% for years 2 through 20.

18 21. Sprague listed DB's investment objectives as "Safety" and "Income," on the new account form.
19 Sprague failed to rank liquidity as an investment objective, despite the fact that DB had repeatedly told
20 him that the liquidity of his investments was his primary concern.

21 22. In January 1999, DB had the opportunity to invest in an apartment building. He called Sprague
22 and instructed him to liquidate the CD. Sprague refused, telling DB that he should only liquidate if he
23 needed the money immediately. DB agreed to wait since he had some time before the funds were

1 required. In late March 1999, DB needed the funds in order to take advantage of the investment
2 opportunity and left a message for Sprague to liquidate the CD. DB received no response from Sprague
3 and assumed he was selling the CD. Sprague did not sell the brokered CD, and because of the delay, DB
4 missed the investment opportunity.

5 23. On or about April 1, 1999, DB spoke with Sprague about his investment and expressed concern
6 over the lost opportunity. Sprague suggested that DB use his money market funds for real estate
7 investments. DB told Sprague, as he had on numerous occasions, the funds that were in the CD were
8 intended for use in his real estate investments. DB again instructed Sprague to liquidate his investment.
9 Sprague delayed again, asking DB for more time to sell the CD. DB reluctantly agreed, instructing
10 Sprague to sell the CD as soon as possible.

11 24. On or about June 1, 1999, Sprague telephoned DB and told him that selling the CD would result in
12 a significant loss of principal. Sprague had not previously told DB that liquidation could result in a loss of
13 principal. In response, DB called an assistant manager at Piper Jaffray who confirmed that selling the CD
14 would result in a 15% loss.

15 25. On or about July 9, 1999, DB filed a complaint with USB relating to Sprague's recommendation
16 that he purchase the brokered CD. After investigating the complaint, USB agreed to reimburse GJS for
17 any losses. On October 15, 1999, DB sold the brokered CD for \$86,493.64. On November 8, 1999, DB
18 signed a Settlement Release with USB and received \$12,772.50 in settlement.

19
20 Based upon the above Findings of Fact, the following Conclusions of Law are made:

21 CONCLUSIONS OF LAW

22 1. The offer and/or sale of the brokered CDs as described above by Respondent Sprague constitutes
23 the offer and/or sale of securities as defined in RCW 21.20.005 (10) and (12).

1 2. The recommendation to purchase said securities was made in violation of RCW 21.20.702 because,
2 as set forth above, Respondent Sprague failed to make reasonable efforts to obtain information necessary
3 to make suitable recommendations, and recommended the purchase of securities to his customers without
4 reasonable grounds to believe that such transactions were suitable for those customers.

5 3. Willful violations of RCW 21.20.702 provide grounds, under RCW 21.21.110(1)(b), for the
6 Administrator to limit any application of Respondent Sprague to be registered as a broker-dealer,
7 investment adviser, securities salesperson, or investment adviser representative.

8
9 **CONSENT ORDER**

10 Based upon the foregoing,

11 It is AGREED AND ORDERED, pursuant to RCW 21.20.390, that Respondent Terrence R. Sprague
12 shall cease and desist from offering and/or selling securities in violation of RCW 21.20.702, the suitability
13 provision of the Securities Act of Washington.

14 It is further AGREED AND ORDERED, pursuant to RCW 21.20.395, that Respondent Terrence R.
15 Sprague shall be subject to a fine in the amount of Fifty Thousand Dollars (\$50,000), with the entire
16 amount suspended based on future compliance with this Consent Order. In the event of a violation of this
17 Order, the Securities Division will seek enforcement of the Order and imposition of the suspended fine
18 pursuant to RCW 21.21.395.

19 It is further agreed and ordered, pursuant to RCW 21.20.110, that for a period of six (6) months from
20 the date of entry of this Consent Order, Respondent Terrence R. Sprague shall not make application for
21 nor be granted registration as a broker-dealer, investment adviser, securities salesperson, or investment
22 adviser representative.

1 It is further AGREED that in consideration of the foregoing, Respondent Terrence R. Sprague
2 withdraws his request for a hearing, waives his right to a hearing on this matter, and waives his right to
3 judicial review of this Order pursuant to RCW 21.20.440, and the Securities Division vacates Statement of
4 Charges S-01-039-01-SC01 as to Terrence R. Sprague.

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6 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE**

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8 SIGNED this 5th day of March, 2004.

9
10 /s/ Terrence R Sprague
11 Terrence R. Sprague

/s/ W. Tracy Codd
W. Tracy Codd
W. Tracy Codd, P.S.
Attorneys for Terrence R. Sprague

12 Terrence Sprague
(Print Name)

13
14 ENTERED this 23 day of March, 2004

15 Order Entered by:

16
17 Deborah R Bortner

18 Deborah R. Bortner
Securities Administrator

19 Approved by:

20
21 Michael E. Stevenson
22 Michael E. Stevenson
Chief of Enforcement

Presented by:

23
24 Anthony W. Carter
25 Anthony W. Carter
Financial Legal Examiner

24 CONSENT ORDER

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