

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **SECURITIES DIVISION**

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

7 Beerbaum & Beerbaum Financial and
8 Insurance Services Inc.; Gary D. Lee,

Respondents.

Order Number S-05-220-05-TO01

SUMMARY ORDER TO CEASE AND
DESIST AND NOTICE OF INTENT TO
REVOKE BROKER-DEALER
REGISTRATION, DENY INVESTMENT
ADVISER REGISTRATION, SUSPEND
AND/OR DENY FUTURE REGISTRATION,
IMPOSE FINES AND CHARGE COSTS

9 THE STATE OF WASHINGTON TO: Beerbaum & Beerbaum Financial and Insurance
10 Services Inc. (CRD # 17099)
Gary D. Lee (CRD # 1242630)

11 **STATEMENT OF CHARGES**

12 Please take notice that the Securities Administrator of the State of Washington has reason to
13 believe that the Respondents, Beerbaum & Beerbaum Financial and Insurance Services Inc. and Gary D.
14 Lee, have each violated the Securities Act of Washington. The Securities Administrator believes those
15 violations justify an entry of an order against Respondents to cease and desist from such violations
16 pursuant to RCW 21.20.390, revocation of Beerbaum & Beerbaum Financial and Insurance Services
17 Inc.'s broker-dealer registration pursuant to RCW 21.20.110(1), denial of Beerbaum & Beerbaum
18 Financial and Insurance Services Inc.'s investment adviser registration application pursuant to
19 21.20.110(1) and suspension and/or denial of Gary D. Lee's future registration pursuant to RCW
20 21.20.110(1). The Securities Administrator believes these are grounds for imposing fines pursuant to
21 21.20.110(1) and 21.20.395, and charging costs pursuant to RCW 21.20.110(7) and RCW 21.20.395(5).

22 SUMMARY ORDER TO CEASE AND DESIST AND
23 NOTICE OF INTENT TO REVOKE BROKER-
24 DEALER REGISTRATION, DENY INVESTMENT
25 ADVISER REGISTRATION, SUSPEND AND/OR
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PO Box 9033
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1 The Securities Administrator finds that delay in ordering Beerbaum & Beerbaum Financial and Insurance
2 Services Inc.'s and Gary D. Lee to each cease and desist from such violations, and in ordering the
3 revocation of Beerbaum & Beerbaum Financial and Insurance Services Inc.'s broker-dealer registration,
4 denial of the Beerbaum & Beerbaum Financial and Insurance Services Inc.'s investment adviser
5 registration, and suspension and/or denial of Gary D. Lee's future registration would be hazardous to
6 investors and to the public and that a Summary Order to Cease and Desist should be entered
7 immediately.

8 The Securities Administrator finds as follows:

9 **TENTATIVE FINDINGS OF FACT**

10 **I. RESPONDENTS**

11 1. Beerbaum & Beerbaum, Financial and Insurance Services, Inc. ("Beerbaum &
12 Beerbaum") is a broker-dealer with its principal place of business at 5881 Roblar Road, Petaluma, CA
13 94952.

14 2. Gary D. Lee ("Lee") is a securities salesperson for Beerbaum & Beerbaum. Lee is a
15 resident of Spokane, Washington.

16 **II. NATURE OF THE CONDUCT**

17 3. Beerbaum & Beerbaum opened a branch office in Spokane, Washington in June of 1996
18 and designated Lee as the branch supervisor. The branch office is located at the residence of Lee.

19 4. Lee has been acting as a securities salesperson in the Spokane branch office since 1996
20 servicing the securities accounts of at least twenty-three Washington households. Lee purchases mutual

1 funds, individual stocks and limited partnerships for clients' accounts. Lee also assists clients with IRAs.
2 Lee receives commissions from the mutual funds he purchases for clients accounts.

3 5. Lee has also provided asset management services to at least two hundred California clients
4 and approximately seven Washington clients since March of 2004 from his Spokane office. Lee's
5 business card, letterhead and QwestDex yellow page advertisement imply or claim that Lee is a
6 registered investment adviser. Lee prepares and sends newsletters to clients, which include performance
7 returns and index comparisons. Lee also developed the "All-Star" portfolio management system, a
8 system used in advisory clients' portfolios. Under the All-Star system Lee purchases "valuable" stock
9 "cheap" and then sells the stock when the price rises. For Lee's asset management services clients pay
10 an ongoing management fee deducted from the accounts quarterly. According to the fee agreement the
11 fees are paid to Beerbaum & Beerbaum. Lee also charges fees for specific financial advice and planning.

12 6. Lee and Beerbaum & Beerbaum had an oral agreement that if Beerbaum & Beerbaum
13 handled all regulatory requirements Beerbaum & Beerbaum would receive a percentage of commissions
14 and fees from Lee's accounts.

15 7. Lee stated in a newsletter that he let his securities salesperson and investment adviser
16 licenses lapse for "lack of use" but stated that his "practical experience, plus all the continuing
17 education...plus continuous research keeps [him] well qualified."

18 III. REGISTRATION STATUS

19 8. Beerbaum & Beerbaum did not register as a broker-dealer with the Washington State
20 Securities Division ("the Division") until October of 1997, more than a year after opening the branch

1 office in Spokane, Washington. Beerbaum & Beerbaum was registered with the Division as a broker-
2 dealer from October of 1997 to 1998 and then from October 1999 to present.

3 9. Beerbaum & Beerbaum submitted an investment adviser registration application with the
4 Division in November of 2005 but is not currently registered as an investment adviser in the state of
5 Washington and has not previously been so registered.

6 10. Lee is not currently registered as a securities salesperson in the state of Washington and
7 has not previously been so registered.

8 11. Lee is not currently registered as an investment adviser or investment adviser
9 representative in the state of Washington and has not previously been so registered.

10 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

11 **CONCLUSIONS OF LAW**

12 1. The actions of Gary D. Lee, as described above, constitute a violation of RCW 21.20.040,
13 as Lee offered or sold securities while not registered as a securities salesperson or broker-dealer in the
14 state of Washington, as defined by RCW 21.20.005. Such action is grounds for suspension and/or denial
15 of Gary D. Lee's future securities salesperson registration and grounds for the imposition of a fine
16 pursuant to RCW 21.20.110(1).

17 2. The actions of Beerbaum & Beerbaum Financial and Insurance Services Inc., as described
18 above, constitute a violation of RCW 21.20.040(2) by employing a salesperson that was not registered in
19 the state of Washington. Such action is grounds for revocation of Beerbaum & Beerbaum Financial and
20 Insurance Services Inc.'s broker-dealer registration and grounds for the imposition of a fine pursuant to
21 RCW 21.20.110(1).

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1 IT IS FURTHER SUMMARILY ORDERED that Respondents, Beerbaum & Beerbaum
2 Financial and Insurance Services Inc. and Gary D. Lee, their agents, employees, and affiliated entities,
3 each cease and desist from violation of RCW 21.20.040, the section of the Securities Act that requires
4 registration of investment advisers and investment adviser representatives.

5 **NOTICE OF INTENT TO REVOKE REGISTRATION**

6 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
7 Conclusions of Law, the Securities Administrator intends to order that the broker-dealer registration of
8 Respondent, Beerbaum & Beerbaum Financial and Insurance Services Inc., be revoked.

9 **NOTICE OF INTENT TO DENY REGISTRATION**

10 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
11 Conclusions of Law, the Securities Administrator intends to order that the investment adviser registration
12 of Respondent, Beerbaum & Beerbaum Financial and Insurance Services Inc. be denied.

13 **NOTICE OF INTENT TO SUSPEND AND/OR DENY FUTURE REGISTRATION**

14 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
15 Conclusions of Law, the Securities Administrator intends to order that the future registration of Gary D.
16 Lee as a securities salesperson, investment adviser and/or investment adviser representative be suspended
17 and/or denied.

18 **NOTICE OF INTENT TO IMPOSE FINES**

19 Pursuant to RCW 21.20.110(1) and RCW 21.20.395, and based upon the above Tentative
20 Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent,

1 Beerbaum & Beerbaum Financial and Insurance Services Inc., shall be liable for and pay a fine of
2 \$20,000.

3 Pursuant to RCW 21.20.110(1) and RCW 21.20.395, and based upon the above Tentative
4 Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that the
5 Respondent, Gary D. Lee, shall liable for and pay a fine of \$10,000.

6 **NOTICE OF INTENT TO CHARGE COSTS**

7 Pursuant to RCW 21.20.110(7) and RCW 21.20.390(5), and based upon the Tentative Findings of
8 Fact and Conclusions of Law, the Securities Administrator intends to order that Respondents, Beerbaum
9 & Beerbaum Financial and Insurance Services Inc. and Gary D. Lee, shall each be liable for and pay to
10 the Securities Division the costs, fees, and other expenses incurred in the conduct of the administrative
11 investigation and hearing of this matter.

12 **AUTHORITY AND PROCEDURE**

13 This Order is entered pursuant to the provisions of RCW 21.20.110, RCW 21.20.390 and RCW
14 21.20.395 and is subject to the provisions of RCW 21.20.120 and Chapter 34.05 RCW. The Respondents
15 may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
16 AND OPPORTUNITY FOR HEARING accompanying this Order. If a Respondent does not request a
17 hearing, the Securities Administrator intends to adopt the foregoing Tentative Findings of Fact and
18 Conclusions of Law as final, and enter a permanent cease and desist order against that Respondent
19 revoking, suspending and/or denying that Respondent's registration and imposing the fines and costs
20 sought.

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