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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-07-478-11-SC01

STATEMENT OF CHARGES AND NOTICE
OF INTENT TO ENTER ORDER TO CEASE
AND DESIST, DENY FUTURE
REGISTRATIONS, IMPOSE FINES, AND
RECOVER COSTS

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THE STATE OF WASHINGTON TO:

David Waldemar Asplund Jr. (CRD # 2803177)

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STATEMENT OF CHARGES

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Please take notice that the Securities Administrator of the State of Washington has reason to believe that the Respondent David Waldemar Asplund Jr. has violated the Securities Act of Washington and has engaged in dishonest and unethical practices in the securities business while employed as a registered securities salesperson and investment adviser representative at Financial Services International Corp. The Securities Administrator believes this justifies the entry of an order to cease and desist from such violations pursuant to RCW 21.20.390, to deny future securities registration applications pursuant to RCW 21.20.110(1), and to impose fines and recover costs.

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STATEMENT OF CHARGES AND NOTICE OF
INTENT TO ENTER ORDER TO CEASE AND
DESIST, DENY FUTURE REGISTRATIONS,
IMPOSE FINES, AND RECOVER COSTS

1 **TENTATIVE FINDINGS OF FACT**

2 Respondent

3 1. David Waldemar Asplund Jr. (“Asplund”) is an individual residing in Redmond,
4 Washington. Asplund was first employed in the securities industry in 1996, as a securities salesperson
5 for John Hancock Distributors, Inc. Asplund was next employed with Financial Services International
6 Corp. (“FSIC”) from January 1998 until June 2010. Asplund was registered with the Washington State
7 Securities Division as a securities salesperson from November 1996 to June 2010, and as an investment
8 adviser representative from March 1999 to June 2010. He is not currently registered with the
9 Washington State Securities Division in any capacity. Asplund has a Central Registration Depository
10 number of 2803177. Asplund has been a Washington State licensed insurance agent from May 1996 to
11 present.

12 Nature of the Conduct

13 *Introduction*

14 2. While employed as a securities salesperson and investment adviser representative at
15 FSIC, Respondent Asplund engaged in several prohibited activities with respect to two of his
16 Washington resident customers, “Resident A” and “Resident B,” as discussed below. He did not
17 disclose these activities to his employing firm. In approximately February 2006, FSIC discovered that
18 Respondent Asplund was acting as attorney-in-fact for Resident A. In response, FSIC put Respondent
19 Asplund on probation. Subsequently, in approximately June 2010, FSIC discovered that Respondent
20 Asplund had borrowed funds from Resident B. Respondent Asplund was permitted to resign from the
21 firm at that time.

Resident A

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

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

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

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

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

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

7 9. Respondent Asplund was attorney-in-fact for Resident A until February 25, 2006. After
8 FSIC discovered that he was acting in this capacity, he was told to resign as attorney-in-fact.
9 Respondent Asplund notified Resident A, per a letter, that he was no longer able or willing to serve as
10 his attorney-in-fact.

11 10. Resident A passed away on November 23, 2006, at the age of 83. His death certificate
12 lists his immediate cause of death as "Alzheimer's dementia." It is believed that shortly after, a trust
13 beneficiary requested through her attorney that Respondent Asplund resign as trustee, and that
14 Respondent Asplund complied with this request.

15 11. In April 2008, the administrator of Resident A's estate commenced a Trust and Estate
16 Dispute Resolution Act ("TEDRA") proceeding against Respondent Asplund in King County Superior
17 Court, seeking recovery of funds for the estate. It is believed that the administrator of the estate alleged
18 that Respondent Asplund borrowed money from Resident A and that he converted the proceeds from
19 the sale of Resident A's house.

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

4
5 *Resident B*

6 13. In 2000, Resident B and his wife became customers of Respondent Asplund, when
7 Respondent Asplund was employed with FSIC. Resident B and his wife together had three non-
8 discretionary IRA accounts with Respondent Asplund. Resident B and his wife maintained the
9 accounts with Respondent Asplund until approximately April 2009, when they transferred the accounts
10 to another firm.

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

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

1 Form U-4

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

9 17. Pursuant to RCW 21.20.350, it is unlawful for any person to make or cause to be made, in
10 any document filed with the director, any statement which is, at the time and in the light of the
11 circumstances under which it is made, false or misleading in any material respect. While Respondent
12 Asplund served as co-trustee, he contacted FSIC twice in 2005 to notify the firm of events that had
13 occurred that caused his Form U-4 to be inaccurate. In response, the firm filed amendments to
14 Respondent Asplund's Form U-4. When notifying the firm of these events, Respondent Asplund failed
15 to disclose his position as co-trustee, thus causing the firm to make on his behalf filings which
16 contained statements that were false or misleading in respect to a material fact.

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18 **CONCLUSIONS OF LAW**

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20 1. Respondent David Waldemar Asplund Jr., as described above, failed to comply with
21 FINRA Rule 2010, Standards of Commercial Honor and Principals of Trade, by acting as attorney-in-

1 fact and co-trustee for a customer, accepting gifts from a customer, and entering into a personal
2 financial transaction with a customer. Such conduct is a dishonest or unethical practice as defined by
3 WAC 460-22B-090(19), and is grounds for the denial of his future securities registration applications
4 pursuant to RCW 21.20.110(1)(g).

5 2. Respondent David Waldemar Asplund Jr., as described above, engaged in one or more
6 dishonest or unethical practices in the securities business, as defined by WAC 460-22B-090(1), by
7 borrowing money from a customer. This conduct is also a violation of FINRA Rule 3240, and is a
8 dishonest or unethical practice as defined by WAC 460-22B-090(19). Such conduct is grounds for the
9 denial of his future securities registration applications pursuant to RCW 21.20.110(1)(g).

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

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

1 **NOTICE OF INTENT TO ISSUE AN ORDER TO CEASE AND DESIST**

2 Pursuant to RCW 21.20.390(1), and based upon the above Tentative Findings of Fact and
3 Conclusions of Law, the Securities Administrator intends to order that the Respondent David Waldemar
4 Asplund Jr. shall cease and desist from violations of RCW 21.20.350.

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6 **NOTICE OF INTENT TO DENY FUTURE REGISTRATIONS**

7 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
8 Conclusions of Law, the Securities Administrator intends to order that any future securities registration
9 applications of the Respondent David Waldemar Asplund Jr. as an investment adviser, broker-dealer,
10 investment adviser representative, or securities salesperson shall be denied.

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12 **NOTICE OF INTENT TO IMPOSE FINES**

13 Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and
14 Conclusions of Law, the Securities Administrator intends to order that the Respondent David Waldemar
15 Asplund Jr. shall be liable for and pay a fine of \$30,000.

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17 **NOTICE OF INTENT TO CHARGE COSTS**

18 Pursuant to RCW 21.20.110(7) and RCW 21.20.390(5), and based upon the above Tentative
19 Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that the
20 Respondent David Waldemar Asplund Jr. shall be liable for and shall pay the costs, fees, and other
21 expenses incurred in the conduct of the investigation of this matter in an amount not less than \$2,000.

1 **AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 21.20.390 and RCW
3 21.20.395, and is subject to the provisions of RCW 34.05. The Respondent may make a written request
4 for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY
5 FOR HEARING accompanying this Statement of Charges.

6 If the Respondent does not request a hearing, the Securities Administrator intends to adopt the
7 above Tentative Findings of Fact and Conclusions of Law as final, and as described above, enter an order
8 denying the Respondent's future securities registration applications, and imposing the fines and costs
9 sought.

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11 DATED AND ENTERED this 6th day of October, 2011.

12 By:

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15 _____
16 William M. Beatty
17 Securities Administrator

18 Approved by:

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20 _____
21 Suzanne Sarason
22 Chief of Enforcement

Presented by:

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24 _____
Bridgett Fisher
Enforcement Attorney