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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 the State  
of Washington by:

Dorothy Of Oz, LLC; Alpine Pictures,  
Inc.; Neil Kaufman; Michael Bergh;  
Randy Lacey; Michael Luther; Walter  
Price; Shawn Syre

Respondents.

Order Number S-09-356-10-FO01

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL ORDER  
TO CEASE AND DESIST AS TO RANDY  
LACEY, WALTER PRICE, AND SHAWN SYRE

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THE STATE OF WASHINGTON TO: Randy Lacey;  
Walter Price;  
Shawn Syre

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On May 11, 2010, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, to Charge Costs and to Impose Fines S-09-356-S-SC01, hereinafter referred to as "Statement of Charges, against Respondents Randy Lacey, Walter Price and Shawn Syre. 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 served on Randy Lacey and Walter Price on May 18, 2010, and on Shawn Syre on May 26, 2010.

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The Notice of Opportunity for Hearing advised 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. Respondents Walter Price and Shawn Syre each failed to request an administrative hearing within twenty days

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ENTRY OF FINDINGS OF FACT AND CONCLUSIONS  
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1 of receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the Application for  
2 Hearing provided or otherwise. Respondent Randy Lacey waived the right to a hearing in this matter, and, in  
3 lieu thereof, submitted a written statement for the Security Administrator's consideration. Having considered  
4 that statement, the Securities Administrator finds no grounds to amend the Statement of Charges as to Randy  
5 Lacey.

6 Therefore, the Securities Administrator adopts as final as to Randy Lacey, Walter Price, and Shawn  
7 Syre the Findings of Facts and Conclusions of Law as set forth in the Statement of Charges and enters a final  
8 order against Randy Lacey, Walter Price, and Shawn Syre to cease and desist. The Securities Administrator  
9 finds as follows:

## 10 FINDINGS OF FACT

### 11 Respondents

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13 1. Dorothy of Oz, LLC (Dorothy) is a California limited liability company doing business as  
14 Box Office Productions III. Dorothy's principal place of business is 3033 North Avon Street, Burbank, CA  
15 91504. For much of the period relevant to this Statement of Charges, Dorothy's principal place of business  
16 was 3500 West Magnolia Boulevard, Burbank, CA 91505.

17 2. Alpine Pictures, Inc. (Alpine) is a California corporation. Alpine's principal place of business  
18 is 3500 West Olive Avenue, Suite 300, Burbank, CA 91505. For much of the period relevant to this  
19 Statement of Charges, Alpine's principal place of business was 3033 North Avon Street, Burbank, CA  
20 91504. Alpine produces and distributes films financed by Dorothy.

21 3. Neil Kaufman (Kaufman) is the managing member and a salesperson of Dorothy.

22 4. Michael Bergh is a salesperson of Dorothy.

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24 ENTRY OF FINDINGS OF FACT AND CONCLUSIONS  
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1 Dorothy has sold its interests to Washington residents who did not qualify as accredited investors at the time  
2 of investment. Moreover, many of these non-accredited investors were not sophisticated under Rule  
3 506(b)(2)(ii) of Regulation D as they had minimal investment experience when they invested in Dorothy  
4 and had never made investments similar to their investments in Dorothy.

5 15. Under the terms of Dorothy's PPM, twenty two percent of the offering's gross proceeds were  
6 to be retained by Kaufman as a "management fee." Expenses related to Dorothy's offering were to be borne  
7 by Kaufman, not by Dorothy. The PPM does not address whether Kaufman may use his management fee to  
8 pay expenses related to Dorothy's offering. The remaining seventy eight percent of the offering's gross  
9 proceeds were to be used to co-finance the film's production by payment to Alpine of costs incurred by  
10 Alpine in connection with the film's production.

11 16. After payment of certain costs, Dorothy was to receive from Alpine 120% of all amounts  
12 paid to Alpine to fund production. Dorothy was also to receive fifty percent of "additional revenues"  
13 derived from the film by Alpine and/or any film sales agent or distributor. These "additional revenues"  
14 include anticipated royalties from licensing. Ninety nine percent of these profits due to Dorothy were to be  
15 allocated to investors in proportion to their investment in Dorothy. The remaining one percent was to be  
16 allocated to Kaufman.

17 17. Dorothy solicited sales of interests through unsolicited phone calls to Washington residents  
18 with whom a pre-existing relationship did not exist ("cold calls"). Representatives of both Dorothy and  
19 Alpine made cold calls. Kaufman cold called at least three Washington residents to solicit investment in  
20 Dorothy. Michael Bergh, Randy Lacey, Michael Luther, Walter Price and Shawn Syre each cold called at  
21 least one Washington resident to solicit investment in Dorothy.  
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1 18. The solicitation process varied after the initial cold call. Some Washington investors received  
2 information and advertising packets and offering materials prior to agreeing to invest in Dorothy. These  
3 packets included descriptions of the intended film and the book upon which the film is based, information  
4 about key persons working on the project, and profit projections. These packets also included information  
5 about the prior box office success of certain animated films and the revenue generated by rentals and sales  
6 of DVDs of animated films.

7 19. Other Washington investors did not receive any material until they had agreed to invest in  
8 Dorothy, after which they received a copy of Dorothy's PPM. Some Washington investors had multiple  
9 phone conversations with Dorothy's representatives prior to investing.

10 20. Washington residents invested by submitting personal or cashier's checks to Dorothy, by  
11 wire transfer, and by purchases through their Individual Retirement Accounts (IRAs) at Sterling Trust  
12 Company.

#### 13 Internet Offers

14 21. Dorothy maintained the website, [www.dorothyofthemovie.com](http://www.dorothyofthemovie.com) (website). For a material  
15 portion of the offering, pages on the website concerning investing in Dorothy were available to the general  
16 public. Potential investors were able to view a page on the website from which they could print a copy of  
17 Dorothy's subscription agreement.

18 22. Potential investors could view a page on the website that included instructions on how to  
19 invest in Dorothy. The website advised potential investors that they could invest by personal or cashier's  
20 check, or by "simply utilizing [the potential investor's] existing IRA or 401k without penalty."  
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Enforcement Actions by other Jurisdictions against Dorothy

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2 23. On or around May 30, 2007, the Pennsylvania Securities Commission (PSC) issued a  
3 Summary Order to Cease and Desist against Dorothy. The PSC found that Dorothy had violated the  
4 securities registration provisions of the Pennsylvania Securities Act of 1972. On or around April 15, 2008,  
5 the PSC and Dorothy settled this matter. Dorothy agreed to be barred from offering or selling securities in  
6 Pennsylvania for one year from the date of the settlement and for one additional year if Dorothy did not  
7 retain securities counsel who would either register Dorothy's securities with the PSC or provide an opinion  
8 stating that Dorothy's securities were exempt from registration with the PSC. Dorothy further agreed to pay  
9 the PSC's investigative and legal costs.

10 24. On February 9, 2009, the Texas State Securities Board (TSSB) entered an Agreed Cease and  
11 Desist Order and Order Assessing Administrative Fine against Dorothy and Kaufman. The TSSB found that  
12 Dorothy and Kaufman had violated the Texas Securities Act's securities registration, securities salespersons  
13 registration, and anti-fraud provisions.

14 25. On October 26, 2009, the Alabama Securities Commission (ASC) entered a Cease and Desist  
15 Order against Dorothy and Walter Price. The ASC found that Dorothy and Price had violated the Alabama  
16 Securities Act's securities registration and securities salesperson registration provisions. On December 11,  
17 2009, the ASC issued a Final Order against Dorothy and Price after they failed to respond to the Cease and  
18 Desist Order.  
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20 26. On or around November 23, 2009, the California Department of Corporations (CDC) entered  
21 a Desist and Refrain Order against Dorothy and Kaufman. The CDC found that Dorothy and Kaufman had  
22 violated the California Corporations Code's securities registration and anti-fraud provisions.  
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Enforcement Actions by other Jurisdictions against Alpine

27. In 1999, the California Department of Corporations obtained a permanent injunction against Alpine for violations of the California Corporations Code's securities registration and anti-fraud provisions.

28. The securities regulators of Delaware, Indiana, and Michigan have each entered cease and desist orders against Alpine. These regulators found that Alpine had violated each state's securities registration provisions.

29. In 1999, the Australian Securities and Investments Commission obtained court orders restraining a representative of Alpine from offering securities in Australia. The representative had been cold calling Australians to solicit investments.

Misrepresentations and Omissions

30. At least one Washington investor received profit projections forecasting a minimum return on investment of 162%. This investor also received materials featuring the covers of DVDs of highly successful animated films such as *Toy Story*, *Finding Nemo*, and *The Incredibles*, and headed "Dorothy of Oz Box Office Productions III LLC. presents..." These materials did not include or refer to any disclaimer about the projections' accuracy. The materials did not provide a reasonable basis for such projections or comparisons or include the assumptions on which the projections and comparisons were made.

31. At least one Washington investor received an email from Shawn Syre prior to investing. The e-mail stated that "digital animation" had been the top performing genre in the film industry, "averaging over \$280 million across the board," and that DVDs of digitally animated films had been "top sellers" among DVDs for the preceding five years. The email also stated that investing in Dorothy provided

1 “unlimited upside potential” and “quarterly distributions in perpetuity.” The e-mail did not include any  
2 disclaimer about the accuracy of these projections, provide a reasonable basis for the projections, explain  
3 that there were no assurances that *Dorothy of Oz* would perform as well as the films referenced in the e-  
4 mail, or explain that most of the animated films referenced in the email were produced and distributed by  
5 major film studios with resources considerably greater than those available to Dorothy, such as the Disney  
6 Company and DreamWorks.

7 32. In the e-mail described in paragraph thirty one of the Findings of Fact, Syre also stated that  
8 investments in Dorothy were “100% Tax Deductible” under the Independent Film Small Business Job  
9 Creation Act of 2004 (Act). The e-mail did not list or refer to the requirements that a film production must  
10 meet for its investors to claim the tax deduction afforded by the Act and codified at 26 USC 181. The e-mail  
11 also did not discuss the risk that *Dorothy of Oz* might not qualify as an eligible film production under 26  
12 USC 181 and that investors therefore might not be able to write off their investments in Dorothy.

13 33. A page on Dorothy’s website headed “Top 10 Animation Films” listed ten animated films,  
14 each of which earned at least \$403,476,931 worldwide. The page indicated that Dorothy’s “creative team”  
15 had been involved in “7 of these top 10 animated films.” This page did not explain how members of  
16 Dorothy’s creative team had been involved in the seven successful films, nor did it explain that there was no  
17 assurance that *Dorothy of Oz* would be similarly successful.

18 34. A page on Dorothy’s website headed “Marketing & Merchandising” featured information  
19 about retail sales figures achieved by the Disney Company. The page explained that, in 2007, Disney and its  
20 licensees were likely to earn \$13 billion in retail sales. The page further explained that a “top-selling  
21 franchise” can easily earn \$100 million in licensing deals and that the *Star Wars* films had earned \$9 billion  
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1 from merchandising. The page did not explain that there was no assurance that *Dorothy of Oz* would have  
2 similar success in merchandising.

3 35. Respondents failed to disclose the enforcement actions taken against Dorothy and others  
4 described in paragraphs twenty three, twenty five, and twenty six of the Findings of Fact. Each of these  
5 enforcement actions was not disclosed to at least one investor prior to his or her investment in Dorothy.

6 36. Respondents failed to disclose the enforcement actions taken against Alpine described in  
7 paragraphs twenty seven through twenty nine of the Findings of Fact to at least two investors prior to their  
8 investments in Dorothy.

9 Registration Status

10 37. On November 14, 2006, the Securities Division received a Notice of Exempt Offering of  
11 Securities filed on behalf of Dorothy pursuant to Section 18(b)(4)(D) of the Securities Act of 1933 and  
12 WAC 460-44A-506. Pursuant to WAC 406-44A-506, Respondents were required to comply with the  
13 conditions of Regulation D.

14 38. Alpine Pictures is not currently registered as a broker-dealer in the State of Washington and  
15 has not previously been so registered.

16 39. Neil Kaufman, Michael Bergh, Randy Lacey, Michael Luther, Walter Price and Shawn Syre  
17 are not currently registered as securities salespersons or broker-dealers in the State of Washington and have  
18 not previously been so registered.  
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21 **CONCLUSIONS OF LAW**

22 Based on the Findings of Fact, the following Conclusions of Law are made:  
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24 ENTRY OF FINDINGS OF FACT AND CONCLUSIONS  
25 OF LAW AND FINAL ORDER TO CEASE AND  
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1           1.       The offer or sale of limited liability company interests in Dorothy of Oz, LLC in the State of  
2 Washington described above constitutes the offer or sale of a security as defined at RCW 21.20.005(10) and  
3 (12).

4           2.       The unsolicited phone calls and website described above violate the prohibition of general  
5 solicitation and general advertising of Regulation D, Rule 502(c). Therefore, Respondents failed to meet the  
6 requirements to claim the exemption available under Rule 506 of the Securities Act of 1933 and WAC 460-  
7 44A-506.

8           3.       The offer or sale of said securities are in violation of RCW 21.20.140 because no registration  
9 for such offer or sale is on file with the Securities Administrator and no valid claim of exemption under  
10 WAC 460-44A-506 exists.

11           4.       Alpine has violated RCW 21.20.040 by offering or selling said securities while not registered  
12 as a broker-dealer in the State of Washington.

13           5.       Neil Kaufman, Michael Bergh, Randy Lacey, Michael Luther, Walter Price and Shawn Syre  
14 have violated RCW 21.20.040 by offering or selling said securities while not registered as securities  
15 salespersons or broker-dealers in the State of Washington.

16           6.       Respondents violated RCW 21.20.010 because, as set forth paragraphs thirty through thirty  
17 six of the Findings of Fact, Respondents, in connection with the offer or sale of securities, made  
18 misstatements of material facts or omitted to state material facts necessary in order to make the statements  
19 made, in light of the circumstances under which they were made, not misleading.  
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**FINAL ORDER**

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2 It is hereby ORDERED that Randy Lacey; Walter Price; Shawn Syre, their agents, and employees  
3 each cease and desist from violation of RCW 21.20.140, the securities registration section of the  
4 Securities Act.

5 It is further ORDERED that Randy Lacey, Walter Price, Shawn Syre, their agents, and employees  
6 each cease and desist from violation of RCW 21.20.010, the anti-fraud section of the Securities Act of  
7 Washington.

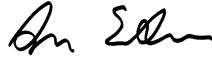
8 It is further ORDERED that Randy Lacey; Walter Price; Shawn Syre, their agents, and employees  
9 each cease and desist from violation of RCW 21.20.040, the broker-dealer and securities salesperson  
10 registration section of the Securities Act.  
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12 **AUTHORITY AND PROCEDURE**

13 This Final Order is entered pursuant to the provisions of RCW 21.20.110 and 21.20.390, and is  
14 subject to the provisions of RCW 21.20.120 and Chapter 34.05 RCW. Respondents have the right to  
15 petition the superior court for judicial review of this agency action under the provisions of chapter 34.05  
16 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.50.510 and sections  
17 following.  
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19 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**  
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2 DATED AND Entered this 7<sup>th</sup> day of July 2010.  
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5 \_\_\_\_\_  
6 Suzanne Sarason  
7 Chief of Enforcement  
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9 Presented by:

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12 Edward R. Thunen  
13 Financial Legal Examiner  
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