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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:

Goldman, Sachs & Co.;

Respondent.

Order Number S-10-086-10-CO01

CONSENT ORDER

WHEREAS, Goldman, Sachs & Co. (“Goldman Sachs” or “Respondent”) is a broker-dealer registered in the state of Washington; and

WHEREAS, the Securities Division of the Washington State Department of Financial Institutions has been a part of coordinated investigations into Goldman Sachs’ activities in connection with the marketing and sale of auction rate securities (“ARS”); and

WHEREAS, Goldman Sachs has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations; and

WHEREAS, Goldman Sachs has advised regulators of its agreement to resolve the investigations relating to its marketing and sale of ARS to individual investors; and

WHEREAS, Goldman Sachs agrees to take certain actions described herein and to make certain payments; and

WHEREAS, Goldman Sachs admits to the jurisdiction of the Securities Division of the Washington State Department of Financial Institutions and consents to the entry of this Administrative Consent Order (the “Order” or “Consent Order”); and

WHEREAS, Goldman Sachs waives compliance with the provisions of the Administrative Procedure Act, RCW 34.05; and

CONSENT ORDER

1 5. These representations were misleading as to certain investors. Auction rate securities were
2 in fact different from cash and money market funds. As discussed above, the liquidity of an auction rate
3 security relied on the successful operation of the Dutch auction process. In the event of a failed auction,
4 investors cannot sell their auction rate securities in that auction and are potentially stuck holding long-term
5 investments, not money market instruments. As discussed below, starting in the Fall of 2007, the auction
6 rate securities market faced dislocation and an increased risk of auction failure.

7 6. Since it began participating in the auction rate securities market, Goldman Sachs submitted
8 “cover” bids, purchase orders for the entirety of an auction rate security issue for which it acted as the sole
9 or lead auction manager. Such “cover” bids were Goldman Sachs proprietary orders that would be filled, in
10 whole or in part, if there was otherwise insufficient demand in an auction. When Goldman Sachs purchased
11 auction rate securities through “cover” bids, those auction rate securities were then owned by Goldman
12 Sachs and the holdings were recorded on Goldman Sachs’ balance sheet. For risk management purposes,
13 Goldman Sachs imposed limits on the amounts of securities its Municipal Money Markets unit could hold
(which included Goldman Sachs’ auction rate securities holdings).

14 7. Because many investors could not ascertain how much of an auction was filled through
15 Goldman Sachs “cover” bids, those investors could not determine if auctions were clearing because of
16 normal marketplace demand, or because Goldman Sachs was making up for the lack of demand through
17 “cover” bids. Many investors were also not aware that the liquidity of the auction rate securities was
18 dependent upon Goldman Sachs’ continued use of “cover” bids. While Goldman Sachs could track its own
19 inventory as a measure of the supply and demand for its auction rate securities, many investors had no
20 comparable ability to assess the operation of the auctions. There was no way for those investors to monitor
21 supply and demand in the market or to assess when broker-dealers might decide to stop supporting the
22 market, which could cause its collapse.

1 8. In August of 2007, the credit crisis and other deteriorating market conditions began to strain
2 the auction rate securities market. Some institutional investors withdrew from the market, decreasing
3 demand for auction rate securities.

4 9. The resulting market dislocation should have been evident to Goldman Sachs. When client
5 demand for its auction rate securities declined, Goldman Sachs' "cover" bids filled the increasing shortfall,
6 thereby sustaining the impression for certain investors that auctions managed by Goldman Sachs were
7 functioning. As a result, Goldman Sachs' auction rate securities inventory grew significantly, requiring
8 Goldman Sachs to raise its risk management limits for its Municipal Money Markets business (which
9 included auction rate securities) several times.

10 10. From the Fall of 2007 through early February of 2008, demand for auction rate securities
11 continued to erode and Goldman Sachs' auction rate securities inventory increased significantly. Goldman
12 Sachs was aware of the increasing strains in the auction rate securities market, and increasingly questioned
13 the viability of the auction rate securities market. Goldman Sachs did not disclose these increasing risks of
14 owning or purchasing auction rate securities to all of its clients.

15 11. In February of 2008, Goldman Sachs and other firms stopped supporting auctions. Without
16 the benefit of "cover" bids, the auction rate securities market collapsed, leaving certain investors who had
17 been led to believe that these securities were liquid, safe investments appropriate for managing short-term
18 cash needs, holding long-term or perpetual securities that could not be sold at par value until and if the
19 auctions cleared again.

Failure to Supervise

20 12. Goldman Sachs did not adequately supervise certain of its salespeople to ensure that all of
21 the firm's clients would be sufficiently apprised of ARS, the mechanics of the auction process, and the
22 potential illiquidity of ARS, including the fact that Goldman Sachs may stop submitting "cover" bids, as
23 discussed above.

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II.

CONCLUSIONS OF LAW

13. The Securities Division of the Washington State Department of Financial Institutions has jurisdiction over this matter pursuant to the Securities Act of Washington, RCW 21.20.

14. The Securities Division of the Washington State Department of Financial Institutions finds that the above conduct subjects Goldman Sachs to sanctions under RCW 21.20.110(1)(g) (unethical practice in the offer and sale of securities), and RCW 21.20.110(1)(j) (failure to supervise) of the Act.

15. Nothing in this Order shall be construed as a finding or admission of fraud.

16. The Securities Division of the Washington State Department of Financial Institutions finds the following relief appropriate and in the public interest.

III.

ORDER

On the basis of the Findings of Fact, Conclusions of Law, and Goldman Sachs' consent to the entry of this Order, for the sole purpose of settling this matter, prior to a hearing and without admitting or denying any of the Findings of Fact or Conclusions of Law,

IT IS HEREBY ORDERED:

17. This Order concludes the investigation by the Securities Division of the Washington State Department of Financial Institutions and any other action that the Securities Division of the Washington State Department of Financial Institutions could commence under applicable Washington law on behalf of the state of Washington as it relates to Goldman Sachs' marketing and sale of auction rate securities to Goldman Sachs' Eligible Investors, as defined below.

18. This Order is entered into solely for the purpose of resolving the investigation into Goldman Sachs' marketing and sale of auction rate securities, and is not intended to be used for any other purpose.

1 19. This Order shall be binding upon Respondent Goldman Sachs and its successors and assigns
2 as well as to successors and assigns of relevant affiliates with respect to all conduct subject to the provisions
3 above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions,
4 events, and conditions.

5 20. Goldman Sachs shall cease and desist from violating the Act and will comply with RCW
6 21.20.110(1)(g) and RCW 21.20.110(1)(j) of the Act in connection with the marketing and sale of ARS.

7 21. Goldman Sachs shall pay the sum of \$285,652.04 to the state of Washington as a civil
8 monetary penalty, to be deposited in the Securities Prosecution Fund, which amount constitutes the state of
9 Washington's proportionate share of the state settlement amount of twenty-two million, five hundred
10 thousand dollars (\$22,500,000.00), which shall be payable to the state of Washington within ten (10) days
of the date on which this Order is entered.

11 22. In the event another state securities regulator determines not to accept Goldman Sachs'
12 settlement offer, the total amount of the payment to the state of Washington shall not be affected.

13 **Requirement to Repurchase ARS from Retail ARS Investors**

14 23. Goldman Sachs shall have provided liquidity to Eligible Investors by offering to buy back
15 Eligible ARS that since February 11, 2008, have not been auctioning, at par, in the manner described below.

16 24. "Eligible ARS," for the purposes of this Order, shall mean auction rate securities purchased
17 from Goldman Sachs on or before February 11, 2008.

18 25. "Eligible Investors," for the purposes of this Order, shall mean:

19 i. Natural persons (including their IRA accounts, testamentary trust and estate accounts,
20 custodian UGMA and UTMA accounts, and guardianship accounts);

21 ii. Legal entities forming investment vehicles for closely related individuals including
22 but not limited to IRA accounts, Trusts, Family Limited Partnerships, and other legal entities
performing a similar function;

1 iii. Charities and non-profits with Internal Revenue Code Section 501(c) status that
2 purchased Eligible ARS from Goldman Sachs; and

3 iv. Small Businesses that purchased Eligible ARS from Goldman Sachs. For purposes of
4 this provision, "Small Businesses" shall mean Goldman Sachs clients not otherwise covered in
5 paragraphs 25(i) and (ii) above that had \$10 million or less in assets in their accounts with Goldman
6 Sachs, net of margin loans, as determined by the client's aggregate household position(s) at
7 Goldman Sachs as of August 31, 2008, or, if the client was not a client of Goldman Sachs as of
8 August 31, 2008, as of the date that the client terminated its client relationship with Goldman Sachs.
9 Notwithstanding any other provision, "Small Businesses" does not include broker-dealers or banks
10 acting as conduits for their customers.

11 26. Goldman Sachs shall have offered to purchase, at par plus accrued and unpaid
12 dividends/interest, from Eligible Investors their Eligible ARS that since February 11, 2008, have not been
13 auctioning ("Buyback Offer"), and explain what Eligible Investors must do to accept, in whole or part, the
14 Buyback Offer. The Buyback Offer shall have remained open until at least November 12, 2008 ("Offer
15 Period"). Goldman Sachs may extend the Offer Period beyond this date.

16 27. Goldman Sachs shall have undertaken its best efforts to identify and provide notice to
17 Eligible Investors who invested in Eligible ARS that since February 11, 2008, have not been auctioning, of
18 the relevant terms between Goldman Sachs and the Securities Division of the Washington State Department
19 of Financial Institutions.

20 28. Eligible Investors may have accepted the Buyback Offer by notifying Goldman Sachs at any
21 time before midnight, Eastern Time, November 12, 2008, or such later date and time as Goldman Sachs may
22 extend the Offer Period. For Eligible Investors who accepted the Buyback Offer within the Offer Period,
23 Goldman Sachs shall have purchased the Eligible ARS on or before November 17, 2008 (or a later date if an
24 offer period is extended). For Eligible Investors who accepted the Buyback Offer within the Offer period

1 but custodied their Eligible ARS away from Goldman Sachs, Goldman Sachs shall repurchase the Eligible
2 ARS upon receipt of assurance reasonably satisfactory to Goldman Sachs from the Eligible Investor's
3 current financial institution that the bidding rights associated with the Eligible Auction Rate Securities will
4 be transferred to Goldman Sachs and transfer of the Eligible ARS.

5 29. No later than December 31, 2009, any Eligible Investor who for good cause (including but
6 not limited to incapacity or failure to receive the notice provided for in paragraph 27) did not accept the
7 Buyback Offer pursuant to paragraph 28 above, shall be entitled to sell their Eligible ARS, at par, to
8 Goldman Sachs for (30) days after establishing such good cause, and Goldman Sachs shall purchase such
9 Eligible Investor's Eligible ARS promptly.

10 30. No later than October 20, 2008, Goldman Sachs shall have established a dedicated toll-free
11 telephone assistance line, with appropriate staffing, to provide information and to respond to questions from
12 clients concerning the terms of the settlement between Goldman Sachs and the Securities Division of the
13 State of Washington Department of Financial Institutions.

14 **Review of Client Accounts**

15 31. For a period of two years from the date of this Order, upon request from any firm that is
16 repurchasing auction rate securities, upon receipt from the repurchasing firm of (i) the names of any
17 Goldman Sachs clients that may hold ARS subject to the repurchasing firm's repurchase offer, (ii) the
18 CUSIPs of the Eligible ARS, (iii) the clients' Goldman Sachs' account number(s) (if known to the
19 repurchasing firm), and (iv) the date those ARS were transferred to Goldman Sachs (if known to the
20 repurchasing firm), Goldman Sachs shall take reasonable steps to provide notice to those clients of the
21 repurchasing firm's repurchase offer.

22 **Relief for Investors Who Sold Below Par**

23 32. By November 12, 2008, Goldman Sachs shall have undertaken its best efforts to identify any
24 Eligible Investor who sold Eligible ARS below par between February 11, 2008, and August 21, 2008, and
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1 shall have paid any such Eligible Investor the difference between par and the price at which the Eligible
2 Investor sold the Eligible ARS.

3 **Reimbursement for Related Loan Expenses**

4 33. Goldman Sachs shall have made best efforts to identify Eligible Investors who took out loans
5 from Goldman Sachs, between February 11, 2008, and March 19, 2010, that were secured by Eligible ARS
6 that were not successfully auctioning at the time the loan was taken out from Goldman Sachs, and paid
7 interest associated with the auction rate securities based portion of those loans in excess of the total interest
8 and dividends received on the auction rate securities during the duration of the loan. Goldman Sachs shall
9 have reimbursed such clients for the excess expense, plus reasonable interest thereon. Such reimbursement
10 shall have occurred no later than March 31, 2010.

11 **Claims for Consequential Damages**

12 34. Goldman Sachs shall consent to participate in a special arbitration (“Arbitration”) for the
13 exclusive purpose of arbitrating any Eligible Investor’s consequential damages claim arising from their
14 inability to sell Eligible ARS. Goldman Sachs shall have provided written notice to Eligible Investors of
15 the terms of the Arbitration process on or before November 12, 2008.

16 35. The Arbitration shall be conducted by a single public arbitrator (as defined by section
17 12100(u) of the NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16, 2007), under
18 the auspices of FINRA. Goldman Sachs will pay all applicable forum and filing fees. Any Eligible
19 Investors who choose to pursue such claims in the Arbitration shall bear the burden of proving that they
20 suffered consequential damages and that such damages were caused by their inability to access funds
21 invested in Eligible Auction Rate Securities.

22 36. In the Arbitration, Goldman Sachs shall be permitted to defend itself against such claims;
23 provided, however, that Goldman Sachs shall not contest in these arbitrations liability related to the sale of

1 auction rate securities, or use as part of its defense any decision by an Eligible Investor not to borrow money
2 from Goldman Sachs.

3 37. Eligible Investors seeking consequential damages who elect to use the special arbitration
4 process provided for herein shall not be eligible for punitive or special damages.

5 38. Eligible Investors who elect to utilize the special arbitration process set forth above are
6 limited to the remedies available in that process and may not bring or pursue a claim against Goldman Sachs
7 or in any case where Goldman Sachs is an underwriter relating to Eligible Auction Rate Securities in
8 another forum.

9 **Institutional Investors**

10 39. Goldman Sachs shall endeavor to work with issuers and other interested parties, including
11 regulatory and governmental entities, to expeditiously provide liquidity solutions for institutional investors
12 not covered by paragraph 23 above that purchased auction rate securities from Goldman Sachs prior to
13 February 11, 2008 (“Institutional Investors”).

14 40. Beginning November 12, 2008, and within 45 days of the end of each Goldman Sachs fiscal
15 quarter thereafter, Goldman Sachs shall have submitted a written report to the Illinois Securities Department
16 or other representative specified by the North American Securities Administrators Association (“NASAA”)
17 outlining Goldman Sachs’ progress with respect to its obligations pursuant to this Order. Goldman Sachs
18 shall have, at the option of the Illinois Securities Department or other representative specified by NASAA,
19 conferred with such representative on a quarterly basis to discuss Goldman Sachs’ progress to date. Such
20 quarterly reports and conferences shall have continued until December 31, 2009. Following every quarterly
21 report, the representative shall have advised Goldman Sachs of any concerns regarding Goldman Sachs’
22 progress, and, in response, Goldman Sachs shall have discussed how Goldman Sachs plans to address such
23 concerns. The reporting or meeting deadlines may be amended with written permission from the Illinois
24 Securities Department or other representative specified by NASAA.

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Relief for Municipal Issuers

41. Goldman Sachs shall promptly refund to municipal issuers refinancing fees paid to Goldman Sachs for the refinancing or conversion of their auction rate securities that occurred between February 11, 2008, and the date of this Order, where Goldman Sachs acted as underwriter for the initial primary offering of the auction rate securities between August 1, 2007, and February 11, 2008. Nothing in this Order precludes the Securities Division of the Washington State Department of Financial Institutions from pursuing any other civil action that may arise with regard to auction rate securities other than the marketing and sale of auction rate securities to retail investors.

42. Goldman Sachs agrees to waive any right to indemnification and/or claims of contribution, and/or other similar remedies with respect to any costs, expenses, or losses in connection with this Order that Goldman Sachs may have against any municipal issuers that issued securities through Goldman Sachs in the primary market, including any student loan authority.

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Additional Considerations

43. Nothing herein shall preclude the state of Washington, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than the Securities Division of the Washington State Department of Financial Institutions and only to the extent set forth in paragraph 17 above (collectively, "State Entities"), and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against Goldman Sachs in connection with certain auction rate securities practices at Goldman Sachs.

44. This Order shall not disqualify Goldman Sachs or any of its affiliates or current or former employees from any business that they otherwise are qualified or licensed to perform under applicable state law and this Order is not intended to form the basis for any disqualification.

1 45. To the extent applicable, this Order hereby waives any disqualification from relying upon the
2 registration exemptions or registration safe harbor provisions that may be contained in the federal securities
3 laws, the rules and regulations thereunder, the rules and regulations of self regulatory organizations or any
4 states' or U.S. Territories' securities laws. In addition, this Order is not intended to form the basis for any
5 such disqualifications. In addition, this Order is not intended to form the basis of a statutory disqualification
6 under Section 3(a)(39) of the Securities Exchange Act of 1934.

7 46. Except in an action by the Securities Division of the Washington State Department of
8 Financial Institutions to enforce the obligations of Goldman Sachs in this Order, this Order may neither be
9 deemed nor used as an admission of or evidence of any alleged fault, omission, or liability of Goldman
10 Sachs in any civil, criminal, arbitration, or administrative proceeding in any court, administrative agency, or
11 tribunal. For any person or entity not a party to this Order, this Order does not limit or create any private
12 right against Goldman Sachs including, without limitation with respect to the use of any e-mails or other
13 documents of Goldman Sachs or of others concerning the marketing and/or sales of auction rate securities,
14 limit or create liability of Goldman Sachs, or limit or create defenses of Goldman Sachs to any claims.

15 47. This Order and any dispute related thereto shall be construed and enforced in accordance
16 with, and governed by, the laws of the state of Washington without regard to any choice of law principles.

17 48. Evidence of a violation of this Order proven in a court of competent jurisdiction shall
18 constitute prima facie proof of a violation of the Act in any civil action or proceeding hereafter commenced
19 by the Securities Division of the Washington State Department of Financial Institutions against Goldman
20 Sachs.

21 49. Should the Securities Division of the Washington State Department of Financial Institutions
22 prove in a court of competent jurisdiction that a material breach of this Order by Goldman Sachs has
23 occurred, Goldman Sachs shall pay to the Securities Division of the Washington State Department of

1 Financial Institutions the cost, if any, of such determination and of enforcing this Order including without
2 limitation legal fees, expenses, and court costs.

3 50. If Goldman Sachs fails to make the payment specified in paragraph 21, the Securities
4 Division of the Washington State Department of Financial Institutions, at its sole discretion, pursue any
5 legal remedies, including but not limited to initiating an action to enforce the Order, revoking Goldman
6 Sachs' registration within the state, or terminating this Order.

7 51. If in any proceeding, after notice and opportunity for a hearing, a court of competent
8 jurisdiction, including an administrative proceeding by a state securities administrator, finds that there was a
9 material breach of this Order, the Securities Division of the Washington State Department of Financial
10 Institutions, at its sole discretion, may terminate the Order. If Goldman Sachs defaults on any other
11 obligation under this Order, the Securities Division of the Washington State Department of Financial
12 Institutions may, at its sole discretion, pursue legal remedies to enforce the Order or pursue an
13 administrative action, including but not limited an action to revoke Goldman Sachs' registration within the
14 state. Goldman Sachs agrees that any statute of limitations or other time related defenses applicable to the
15 subject of the Order and any claims arising from or relating thereto are tolled from and after the date of this
16 Order. In the event of such termination, Goldman Sachs expressly agrees and acknowledges that this Order
17 shall in no way bar or otherwise preclude the Securities Division of the Washington State Department of
18 Financial Institutions from commencing, conducting, or prosecuting any investigation, action, or
19 proceeding, however denominated, related to the Order, against Goldman Sachs, or from using in any way
20 any statements, documents, or other materials produced or provided by Goldman Sachs prior to or after the
21 date of this Order, including, without limitation, such statements, documents, or other materials, if any,
22 provided for purposes of settlement negotiations, except as may otherwise be provided in a written
23 agreement with the Securities Division of the Washington State Department of Financial Institutions.

1 52. Goldman Sachs shall cooperate fully and promptly with the Securities Division of the
2 Washington State Department of Financial Institutions and shall use its best efforts to ensure that all the
3 current and former officers, directors, trustees, agents, members, partners, and employees of Goldman Sachs
4 (and of any of Goldman Sachs' parent companies, subsidiaries, or affiliates) cooperate fully and promptly
5 with the Securities Division of the Washington State Department of Financial Institutions in any pending or
6 subsequently initiated investigation, litigation, or other proceeding relating to auction rate securities and/or
7 the subject matter of the Order. Such cooperation shall include, without limitation, and on a best efforts
8 basis:

9 (a) production, voluntarily and without service of subpoena, upon the request of the
10 Securities Division of the Washington State Department of Financial Institutions, of all documents
11 or other tangible evidence requested by the Securities Division of the Washington State Department
12 of Financial Institutions and any compilations or summaries of information or data that the
13 Securities Division of the Washington State Department of Financial Institutions requests that
14 Goldman Sachs (or the Goldman Sachs' parent companies, subsidiaries, or affiliates) prepare, except
15 to the extent such production would require the disclosure of information protected by the attorney-
16 client and/or work product privileges;

17 (b) without the necessity of a subpoena, having the current (and making all reasonable
18 efforts to cause the former) officers, directors, trustees, agents, members, partners, and employees of
19 Goldman Sachs (and of any of the Goldman Sachs' parent companies, subsidiaries, or affiliates)
20 attend any Proceedings (as hereinafter defined) in Washington or elsewhere at which the presence of
21 any such persons is requested by the Securities Division of the Washington State Department of
22 Financial Institutions and having such current (and making all reasonable efforts to cause the
23 former) officers, directors, trustees, agents, members, partners, and employees answer any and all
24 inquiries that may be put by the Securities Division of the Washington State Department of
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1 Financial Institutions to any of them at any proceedings or otherwise, except to the extent such
2 production would require the disclosure of information protected by the attorney-client and/or work
3 product privileges; "Proceedings" include, but are not limited to, any meetings, interviews,
4 depositions, hearings, trials, grand jury proceedings, or other proceedings;

5 (c) fully, fairly, and truthfully disclosing all information and producing all records and
6 other evidence in its possession, custody, or control (or the possession, custody, or control of the
7 Goldman Sachs parent companies, subsidiaries, or affiliates) relevant to all inquiries made by the
8 Securities Division of the Washington State Department of Financial Institutions concerning the
9 subject matter of the Order, except to the extent such inquiries call for the disclosure of information
10 protected by the attorney-client and/or work product privileges; and

11 (d) making outside counsel reasonably available to provide comprehensive presentations
12 concerning any internal investigation relating to all matters in the Order and to answer questions,
13 except to the extent such presentations or questions call for the disclosure of information protected
14 by the attorney-client and/or work product privileges.

15 53. In the event Goldman Sachs fails to comply with paragraph 23 of the Order, the Securities
16 Division of the Washington State Department of Financial Institutions shall be entitled to specific
17 performance, in addition to any other available remedies.

18 54. The Securities Division of the Washington State Department of Financial Institutions has
19 agreed to the terms of this Order based on, among other things, the representations made to the Securities
20 Division of the Washington State Department of Financial Institutions by Goldman Sachs, its counsel, and
21 the Securities Division of the Washington State Department of Financial Institutions' own factual
22 Investigation. To the extent that any material representations are later found to be materially inaccurate or
23 misleading, this Order is voidable by the Securities Division of the Washington State Department of
24 Financial Institutions in its sole discretion.

1 DATED and ENTERED this 28th day of April, 2010.

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4 _____
5 SUZANNE SARASON
6 Chief of Enforcement

7 Presented by:

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9 _____
10 Jack McClellan
11 Enforcement Attorney

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SUBSCRIBED AND SWORN TO before me this 22nd day of April, 2010.

/s/ Norma A Gerald

Notary Public

My commission expires:

08/15/2012