

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 or the Franchise  
7 Investment Protection Act of Washington by:

8 Robert Binkele;  
9 Estate Planning Team, Inc.  
10 Michael Mariani;  
11 Prestige Investment Management LLC;

12 Respondents

Order No.: S-18-2520-19-SC01

13 **STATEMENT OF CHARGES AND**  
14 **NOTICE OF INTENT TO**  
15 **ENTER ORDER TO CEASE AND DESIST,**  
16 **DENY REGISTRATION,**  
17 **IMPOSE FINES,**  
18 **AND CHARGE COSTS**

19 THE STATE OF WASHINGTON TO:

20 Robert Binkele;  
21 Estate Planning Team, Inc.;  
22 Michael Mariani;  
23 Prestige Investment Management LLC;

24 **STATEMENT OF CHARGES**

25 Please take notice that the Securities Administrator of the State of Washington has reason to believe  
26 that Respondents Robert Binkele; Michael Mariani; and Prestige Investment Management LLC have each  
27 violated the Securitie-s Act of Washington, and that Robert Binkele and Estate Planning Team, Inc. have each  
28 violated the Franchise Investment Protection Act of Washington. The Securities Administrator believes those  
29 violations justify the entry of an order against the Respondents to cease and desist from such violations  
30 pursuant to RCW 21.20.390 to charge costs pursuant to RCW 21.20.390, and to impose fines under RCW  
31 21.20.395. The Securities Administrator finds as follows:

32 //

33 //

34 //

35 //

36 **STATEMENT OF CHARGES AND NOTICE**  
37 **OF INTENT TO ENTER ORDER TO**  
38 **CEASE AND DESIST, DENY REGISTRATION,**  
39 **IMPOSE FINES, AND CHARGE COSTS**

40 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
41 **Securities Division**  
42 **PO Box 9033**  
43 **Olympia, WA 98507-9033**  
44 **360-902-8760**

1 **TENTATIVE FINDINGS OF FACT**

2 **Respondents**

3 1. Robert Binkele (“Binkele”) is a California resident. He has worked in the securities industry  
4 in various capacities since 1993, primarily as a securities salesperson and investment adviser representative.  
5 He is currently registered in both capacities in California, and as a securities salesperson in various other  
6 states, including Washington. His CRD number is 2393598.

7 2. Estate Planning Team, Inc. (“EPT”) is a Nevada corporation. Binkele markets the Deferred  
8 Sales Trust primarily through EPT.

9 3. Prestige Investment Management LLC (“Prestige”) is a Nevada limited liability company. As  
10 described further below, it serves as both the grantor and the trustee in the Deferred Sales Trust transaction at  
11 issue in this case.

12 4. Michael Mariani (“Mariani”) is a California resident and Certified Public Accountant. Mariani  
13 is one of the managers of Prestige.

14 **Related Persons**

15 5. Todd Campbell (“Campbell”) is a Missouri resident and the name partner of Campbell Law –  
16 Campbell CPA, a Missouri-based law and accounting firm.

17 **Nature of the Conduct**

18 **Overview**

19 6. In August 2013, Prestige entered into a Deferred Sales Trust (“DST”) transaction with G.C.  
20 and I.C., a married couple who have resided in Washington at all times relevant to this action. Binkele was  
21 responsible for initial discussion of the trust with G.C. and I.C., and subsequently for making investment  
22 recommendations to the trust.

1 7. As detailed further below, a crucial element of the DST structure is a note, issued to an initial  
2 property seller such as G.C. and I.C., which obligates the trust to make a stream of payments to the property  
3 seller. In this case, however, Prestige operated the trust—with Binkele advising on investments—for  
4 approximately four years without issuing a note to G.C. and I.C.

### 5 **Deferred Sales Trust Overview**

6 8. The DST is a package of services, created by Campbell and largely marketed by Binkele,  
7 through which a DST investor can (a) avoid taxation on the gains from the sale of an asset, and (b) receive a  
8 stream of payments at an agreed-upon interest rate. Generally, the services include the establishment of a trust,  
9 the facilitation of the asset sale, and the management of the proceeds of the sale by Binkele or another financial  
10 professional. Binkele’s associates, including Campbell, Mariani, and Prestige, commonly perform these  
11 services.

12 9. Most commonly, a DST investor holds an asset which has substantially appreciated in value  
13 during their holding period—for instance, a vacation home which was purchased thirty years ago for \$30,000,  
14 and is now worth \$300,000. Ordinarily, the owner of the vacation home would count the \$270,000 increase  
15 as capital gains income for the year of the sale and pay taxes on the gain for that year, which could result in a  
16 substantial tax bill. Binkele, and the persons to whom he licenses the DST, market the DST as a way to defer  
17 taxes on that gain and pay them over a multi-year period rather than up front. In a standard DST transaction,  
18 the DST investor grants the property to a trustee such as Prestige, which subsequently sells the property to a  
19 buyer and places the proceeds of the sale into a trust. The trustee is both the trustee and beneficiary of the  
20 trust, and maintains full legal control over the trust and the assets therein.

21 10. During the process of the property sale or shortly thereafter, the DST investor completes an  
22 EPT-provided document styled as a “Risk Tolerance Questionnaire,” which provides information such as their  
23 income, net worth, investment objectives, investing history, and the time they anticipate needing the funds.

1 Based largely on the investor's answers to this questionnaire, Campbell drafts a promissory note with a  
2 proposed interest rate, payment schedule, and payback period. The DST investor can seek to negotiate the  
3 terms of the note. For instance, depending on their goals and anticipated needs, they might seek a higher or  
4 lower interest rate, a longer or shorter term, or a balloon payment at the end of the note term instead of gradual  
5 amortization. The note is the only instrument which gives the trust any legal obligations to the investor.

6 11. The DST, based on advice from Binkele, then invests the proceeds from the sale of the asset.  
7 The trustee generally attempts to invest the assets in a way which will maximize their chances of being able  
8 to make payments on the note. For instance, for a note with a relatively high interest rate, the trustee will seek  
9 to invest in riskier assets with the potential for higher returns. If the investments perform poorly and the trust's  
10 assets are depleted before it has made all of the payments on the note, the trust is not obligated to make any  
11 additional payments. Conversely, if the investments perform well and the trust is able to make all of the  
12 payments on the note, the trustee keeps any funds left over after the payments are made. The DST investor  
13 has little or no control over the success of the note, and is mostly or entirely dependent on Prestige to manage  
14 the trust appropriately, and on Binkele to make appropriate investment recommendations.

15 **DST Transaction with G.C. and I.C.**

16 12. In mid-2013, with assistance from Campbell, Prestige and Mariani established the L.C. Trust,  
17 funding it with the proceeds from the sale of G.C. and I.C.'s vacation home. From approximately August 2013  
18 to the end of 2017, Prestige and Mariani managed the trust, and Binkele provided investment  
19 recommendations to the trust, without the trust issuing the promissory note which would have obligated it to  
20 make payments to G.C. and I.C. During this time, Prestige, Mariani, and Binkele knew, or were reckless in  
21 not knowing, that the trust had not issued a note to G.C. and I.C. These practices deprived G.C. and I.C. of  
22 the potential for substantial gains from approximately the beginning of 2014 to late 2017.

23

1           13.     G.C. and I.C. first learned of the DST program through their financial adviser, who referred  
2 them to Binkele. At the time, they owned a vacation home, originally purchased for \$15,000 in 1976, which  
3 they wanted to sell to their neighbors on either side of the property. After an initial conversation with Binkele  
4 about the possible tax implications of the sale and the benefits of the DST, G.C. and I.C. decided to participate  
5 in the DST program.

6           14.     On or about August 7, 2013, Mariani, on behalf of Prestige, established the L.C. Trust as a  
7 Missouri business trust, with Campbell preparing the relevant documents for the transaction. These documents  
8 included a draft proposed note; the parties discussed in subsequent emails over the next several weeks but did  
9 not finalize it.

10          15.     On or about October 14, 2013, G.C. and I.C. transferred the vacation home to the trust; the  
11 trust sold the vacation home to G.C. and I.C.'s neighbors eight days later. In exchange, the trust received an  
12 upfront \$50,000 payment, plus an additional \$188,000 to be paid over the next several years. The funding for  
13 the trust came entirely from the sale of the vacation home.

14          16.     As described above, the parties' intent was to have the trust invest these proceeds, with the  
15 contract specifying that Prestige would keep any money beyond what G.C. and I.C. were to be paid under the  
16 note. Prestige also received approximately \$1,850 annually in fees for administering the trust and preparing  
17 its tax returns. Binkele received compensation in the form of sales charges for the assets he recommended to  
18 the trust.<sup>1</sup>

19          17.     On or about December 5, 2013, Campbell sent Binkele and his staff an email indicating that  
20 they needed to finalize the terms of the note. Campbell sent another email to Binkele's staff on or about  
21

22 \_\_\_\_\_  
23 <sup>1</sup> Because J.P. Turner & Company, Binkele's broker-dealer at the time of the original transaction, is now defunct, the Securities  
Division has been unable to obtain complete records. The Securities Division estimates, however, that Binkele was paid at least  
\$10,000 in commissions for these sales.

1 January 14, 2014, alerting them that the note was not yet finalized. To the Securities Division’s knowledge,  
2 neither Binkele nor his staff responded to these emails about the need to finalize the note to G.C. and I.C. At  
3 the time of these discussions, the most recently exchanged draft note carried an interest rate of 6%.

4 18. On or about December 31, 2014, Prestige sent G.C. a document which misleadingly implied  
5 that Prestige had a completed note. The document stated that G.C. was the “Note Holder,” and that the  
6 “Amount of Note” was \$238,000. Prestige did not explain at this time that the note was actually not completed,  
7 or that without the note, the trust had no obligation to make any payments to G.C. and I.C.

8 19. On or about November 11, 2015, Prestige moved the account for the L.C. Trust from J.P.  
9 Turner & Company to Centaurus Financial, Binkele’s new broker-dealer. Mariani, on behalf of Prestige,  
10 completed a standard profile form for the trust, describing its investment objectives, time horizon, liquidity  
11 needs, and risk tolerance. Mariani and Prestige did not check for a note in order to ensure that this information  
12 was consistent with it.

13 20. Later in November 2015, in preparation for a vacation, G.C. and I.C. contacted Binkele and  
14 Campbell to inquire whether they could make withdrawals from the trust. Campbell subsequently contacted  
15 Binkele to inquire whether “all the payments [had] been made to date in accordance with the previously agreed  
16 to schedule,” and indicated that they could draft new documents to accommodate G.C. and I.C., if needed.  
17 Binkele told G.C. and I.C. that “the trustee would need to approve this only if the dollar amount requested  
18 exceeded their agreed installment plan.” Prestige and Mariani authorized the withdrawal, but did not check to  
19 see if the withdrawal was consistent with any payment schedule listed in the note or if the withdrawals could  
20 potentially impair the trust’s ability to make future payments. Due in part to the lack of a note, G.C. and I.C.  
21 were misled about the trust’s obligations to them, believing that they could make withdrawals from the trust  
22 at their discretion rather than on a specified payment schedule.



1                   **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

2                   Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
3 Administrator intends to order, pursuant to RCW 21.20.390(1), that:

- 4                   • Respondents Robert Binkele, Prestige Investment Management LLC, and Michael Mariani, and their  
5 agents and employees, each shall cease and desist from violations of RCW 21.20.010.
- 6                   • Respondent Michael Mariani, and his agents and employees, each shall cease and desist from  
7 violations of RCW 21.20.040.
- 8                   • Respondents Prestige Investment Management LLC and Michael Mariani, and their agents and  
9 employees, each shall cease and desist from violations of RCW 21.20.140;

10                   **NOTICE OF INTENT TO DENY REGISTRATION**

11                   Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
12 Administrator intends to order, pursuant to RCW 21.20.110(1), that any application by Respondent Robert  
13 Binkele to be licensed as a securities salesperson or investment adviser representative in Washington shall be  
14 denied for a period of one year.

15                   **NOTICE OF INTENT TO IMPOSE FINES**

16                   Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of Law,  
17 the Securities Administrator intends to order that:

- 18                   a.           Respondents Robert Binkele and Estate Planning Team Inc. shall be liable for and shall pay a  
19 fine of \$20,000; and
- 20                   b.           Respondents Prestige Investment Management LLC and Michael Mariani shall be liable for  
21 and shall pay a fine of \$20,000.

22 //

23 //



1 **NOTICE OF INTENT TO CHARGE COSTS**

2 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law,  
3 the Securities Administrator intends to order that Respondents Robert Binkele, Estate Planning Team Inc.,  
4 Michael Mariani, and Prestige Investment Management LLC shall be liable for and shall pay the costs, fees,  
5 and other expenses incurred in the administrative investigation and hearing of this matter, in an amount not  
6 less than \$15,000.

7 **AUTHORITY AND PROCEDURE**

8 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject  
9 to the provisions of Chapter 34.05 RCW. The Respondents Robert Binkele, Estate Planning Team Inc.,  
10 Prestige Investment Management LLC, and Michael Mariani, may each make a written request for a hearing  
11 as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING  
12 accompanying this Order. If a Respondent does not make a hearing request in the time allowed, the Securities  
13 Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and to  
14 enter a permanent order to cease and desist as to that Respondent, to impose any fines sought against that  
15 respondent, and to charge any costs sought against that Respondent.

16  
17  
18  
19 Signed and Entered this 6th day of October, 2020.

20  
21 


22  
23 

---

William M. Beatty  
Securities Administrator

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

Approved by:



\_\_\_\_\_  
Suzanne Sarason  
Chief of Enforcement

Presented by:



\_\_\_\_\_  
Adam N. Yeaton  
Financial Legal Examiner

Reviewed by:



\_\_\_\_\_  
Jack McClellan  
Financial Legal Examiner Supervisor