

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 Philip Bayley; Bayley Financial Inc.,  
8 Respondents.

Order No.: S-19-2605-19-SC01

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

9 **THE STATE OF WASHINGTON TO:**

**Philip Bayley;**  
**Bayley Financial Inc.**

10 **STATEMENT OF CHARGES**

11 Please take notice that the Securities Administrator of the State of Washington has reason to believe  
12 that Respondents, Philip Bayley and Bayley Financial Inc., have each violated the Securities Act of  
13 Washington. The Securities Administrator believes those violations justify the denial of any future registration  
14 with the Securities Division by Respondents Philip Bayley, Bayley Financial Inc., or any entity under Philip  
15 Bayley's control pursuant to RCW 21.20.110(1), and the entry of an order against Respondent Philip Bayley  
16 to cease and desist from such violations and to charge costs pursuant to RCW 21.20.390, and to impose a fine  
17 pursuant to RCW 21.20.395. The Securities Administrator finds as follows:

18 **TENTATIVE FINDINGS OF FACT**

19 Respondents

20 1. Philip Bayley ("Bayley") is a Washington resident, and was formerly a registered investment  
21 adviser representative and securities salesperson in Washington. Bayley's Central Registration Depository  
22 ("CRD") number is 5409291. Before founding his own investment advisory firm, Bayley worked for multiple

1 established firms in the financial industry, including NYLife Securities from October 2007 to April 2008,  
2 Voya Financial Advisors Inc. from April 2008 to May 2009, and LPL Financial LLC from May 2009 to March  
3 2011.

4 2. Bayley Financial Inc. (“BFI”) was a Washington corporation, originally incorporated on  
5 January 16, 2014, with its principal places of business in Seattle, Washington and Union, Washington.<sup>1</sup> Bayley  
6 voluntarily dissolved BFI on January 31, 2019. BFI was a registered investment advisor in the State of  
7 Washington until December 31, 2018, at which point its registration lapsed due to a failure to renew. BFI’s  
8 Investment Adviser Registration Depository number is 156442. At all times relevant to this action, Bayley  
9 was the sole owner, employee, and investment adviser representative of BFI.

#### 10 Related Parties

11 3. Tahoe Resources, Inc. (“Tahoe”) was a Canadian corporation. Tahoe owned and operated gold  
12 and silver mines operations in several different countries, including Canada, Guatemala, and Peru. Tahoe was  
13 a publicly traded stock under the ticker symbol TAHO until February 2019, when it was purchased by Pan  
14 American Silver Corp., another mining company.

15 4. TD Ameritrade, Inc. (CRD #7870) is a broker-dealer. Bayley and BFI (collectively “the  
16 Respondents”) used TD Ameritrade as the asset custodian and trading platform for clients until late 2018,  
17 when TD Ameritrade terminated their relationship due to the Respondents’ failure to meet margin calls in  
18 client accounts.

#### 19 Background Concepts

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21  
22 <sup>1</sup> BFI was the successor firm to Bayley Financial LLC, which was originally formed on January 17, 2011 and subsequently became  
23 inactive on February 6, 2014, after Bayley moved his business operations to BFI.

1           5.       Suitability is a concept involving whether a given investment or mix of investments is  
2 appropriate for a particular investor. In order to comply with suitability obligations, financial professionals  
3 must generally (a) collect certain information about clients such as their financial status, tax status, and  
4 investment objectives; and (b) have reasonable grounds to believe their investment recommendations are  
5 suitable based on that information. For instance, a portfolio of risky stocks might be suitable for a young  
6 investor who wants high returns and expects to have time to make up any losses, but that same portfolio might  
7 be unsuitable for an investor approaching retirement who would not have time to make up losses, even if the  
8 stocks would be expected to perform better on average than a more conservative portfolio. Failing to gather  
9 suitability information will make it substantially more difficult for an advisor to manage a client's portfolio  
10 in a way that is consistent with their client's goals.

11           6.       Diversification, in the financial industry, refers to investing in a variety of different assets  
12 rather than concentrating them in one asset. Diversification can take several different forms, such as  
13 diversification within a sector (investing in the stock of many different technology companies), diversification  
14 across industries (investing in the stock of technology, retail, and mining companies), and diversification  
15 across asset classes (investing in stocks, corporate bonds, and treasury bills). Financial-industry regulators,  
16 such as the Securities and Exchange Commission and the Financial Industry Regulatory Authority, have  
17 published information on diversification and its potential benefits, along with the risks of overconcentration  
18 in a particular asset or asset class.<sup>2</sup>

19           7.       Margin trading is the practice of borrowing money from a financial firm (generally a broker-  
20 dealer) in order to fund additional transactions in an account. The use of margin can substantially magnify an

21 \_\_\_\_\_  
22 <sup>2</sup> See Securities and Exchange Commission, *Beginners' Guide to Asset Allocation, Diversification, and Rebalancing* (Aug. 28,  
2009), <https://www.sec.gov/reportspubs/investor-publications/investorpubsassetallocationhtm.html>; Financial Industry Regulatory  
23 Authority, *Concentrate on Concentration Risk*, <https://www.finra.org/investors/concentrate-concentration-risk>.

1 investor's gains or their losses. If the value of the investor's margin account falls below a certain level, the  
2 lender may issue a "margin call," which requires the investor to sell some of the assets in the account or  
3 deposit additional funds to bring it back up to a minimum level. The lender for a margin account also generally  
4 requires interest payments, often at very high rates, if an investor uses margin for long periods of time. Due  
5 to the risk of substantial losses from margin trading, it is generally unsuitable for investors with low risk  
6 tolerances and elderly or retired investors who are relying on their investment portfolio to fund their  
7 retirement.

### 8 Summary

9 8. From at least the beginning of 2016 until their termination from the TD Ameritrade platform,  
10 Bayley and BFI violated the suitability requirements of the Securities Act in multiple ways. First, they failed  
11 to collect or update key suitability information from clients. Second, in June 2016, they concentrated client  
12 portfolios in a triple-leveraged inverse exchange-traded fund of mining stocks, which was unsuitably risky  
13 for at least some clients and resulted, for instance, in a retired client losing 17% of her portfolio in one day.  
14 Third, they concentrated their clients entirely in Tahoe stock from late 2016 until their termination from the  
15 TD Ameritrade platform, exposing their clients to unnecessary risk that the Tahoe stock would not perform  
16 well. Fourth, they recommended the use of margin trading to purchase additional Tahoe stock, and failed to  
17 perform any analysis of whether the use of margin trading was appropriate for the clients. Fifth, they  
18 recommended to many clients that they convert their standard IRAs to Roth IRAs so the clients would not  
19 have to pay future taxes on promised gains in the Tahoe stock, which resulted in substantial tax bills for those  
20 clients without the promised gains. Bayley also misrepresented or failed to disclose material information in  
21 recommending that clients maintain or increase their positions in Tahoe stock.

1 9. As a result of Bayley's unsuitable investing decisions, his clients experienced massive  
2 investing losses. Many of his clients lost well over half of their portfolios from late 2016 to late 2018, at a  
3 time when the stock market as a whole was performing extremely well.

4 Bayley's Failure to Collect Suitability Information

5 10. During his initial meetings with clients, Bayley failed to collect key suitability information  
6 from clients, such as their investment objectives, risk tolerance, and investment time horizon. Bayley also  
7 failed to regularly consult with clients to determine whether their goals or risk tolerance had changed. Bayley  
8 was or should have been aware of the need to collect and update suitability information because he had  
9 previously worked for multiple financial firms which collected such information as part of their ordinary  
10 practices, and because his firm's own compliance manual and compliance checklist described the need to do  
11 so.

12 11. Specifically, BFI's compliance manual provided that "[d]uring BF, INC's initial Client  
13 meeting, we will gather information relative to the Client's Risk Tolerance and have them complete a Client  
14 Agreement . . . BF, INC will attempt to contact its Clients no less than annually to review current investments,  
15 any changes in Clients financial or risk tolerance condition [all sic]." BFI's compliance calendar also indicated  
16 the need to "[c]onfirm clients' investment objectives and restrictions" at the beginning of their relationship  
17 with BFI, and "[u]pdate clients' investment objectives and restrictions" at least once every three years. In  
18 testimony before the Securities Division, Bayley indicated that he had purchased these materials from a  
19 compliance consultant when establishing BFI, and did not establish any method for ensuring that the policies  
20 and procedures in the manual were followed. Despite having a compliance manual which provided that he  
21 was the Chief Compliance Officer and was "responsible for all compliance and supervisory functions," and a  
22 checklist which described his responsibilities, Bayley testified that he was under the impression that TD

1 Ameritrade was responsible for BFI's compliance responsibilities. Bayley also claimed, in a letter to the  
2 Securities Division, that he had never heard of the Securities Act of Washington, the laws which govern his  
3 conduct as an investment adviser, and did not recall having read the section of his compliance manual which  
4 described the need to review applicable state laws as part of the investment process. Additionally, before  
5 founding BFI in 2011, Bayley worked for several established financial firms for a combined total of  
6 approximately three and a half years. As a result of working for these firms, Bayley was or should have been  
7 aware of standard practices in the financial industry, such as collecting and updating suitability information  
8 from clients.

9 12. Rather than tailoring his investment strategy to his individual clients' needs (for instance, by  
10 making safer investments for older clients), Bayley took an identical or near-identical approach for all of his  
11 clients. From at least the beginning of 2016 until his termination from the TD Ameritrade platform, Bayley  
12 generally bought the same asset for every client's portfolio, and concentrated his clients' portfolios almost  
13 entirely in the same asset. Bayley generally attempted to find assets which he believed were undervalued  
14 based on the fundamentals of the company, although he also sought to profit from market momentum on at  
15 least one trade.

#### 16 Bayley's Unsuitable Trades in DUST

17 13. On at least one occasion, Bayley's failure to collect the required suitability information led to  
18 him making unsuitably risky investments in the accounts of a retired client who, if Bayley had asked them,  
19 would likely have indicated that they had a conservative or moderate risk tolerance. In particular, Bayley  
20 made unsuitable investments in at least one client account in the Direxion Daily Gold Miners Index Bear 3x  
21 exchange-traded fund (hereinafter "DUST," its ticker symbol). DUST is a fund which tracks the performance  
22 of a basket of mining company stocks, and is designed to return three times the inverse of the performance of  
23

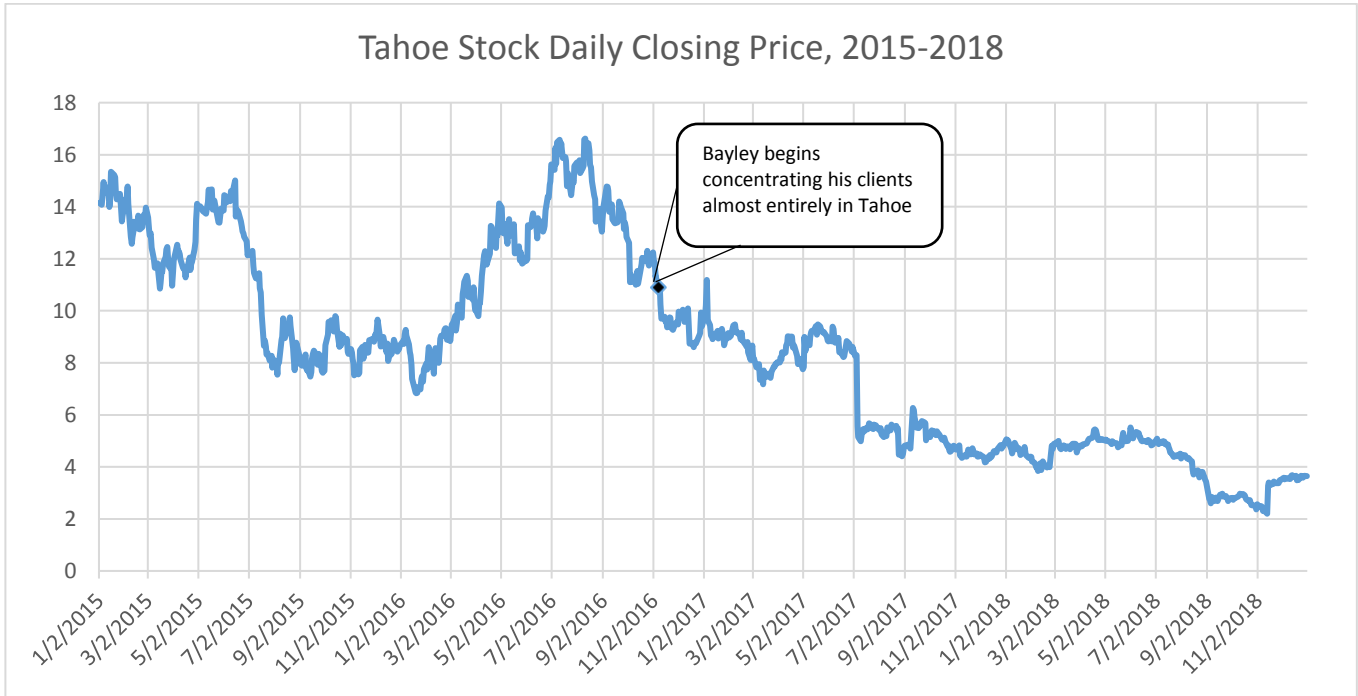
1 that basket. For instance, if the mining stock basket gains 1% in a particular trading day, DUST will lose 3%  
2 of its value, but it will gain 3% in value if the basket declines by 1%. Because it involves the use of high  
3 leverage and risks substantial losses if the market performs well in a given day, DUST and similar investments  
4 are often unsuitable for investors with conservative or moderate risk tolerances who cannot afford significant  
5 losses—particularly when the entire portfolio is concentrated in such investments.

6 14. Bayley's trades in DUST were wholly unsuitable for at least some of his clients, who were  
7 often retired or approaching retirement. For example, P.C. is a retired Washington resident and a former client  
8 of BFI, whose entire retirement portfolio was managed by Bayley. P.C. stated in an interview with the  
9 Division that her preference for Bayley's investing strategy was to avoid losing money. In June 2016, Bayley  
10 made two purchases of DUST in P.C.'s account, buying a combined total of 62,937 shares for \$863,205.48.  
11 These represented approximately 92.5% of the total value of P.C.'s account at the time. Bayley then sold all  
12 of the shares the following day for \$714,854.32, which represented a loss of approximately 17.2% on the  
13 investment and 15.9% of the total value of the account in a single day. When asked about this transaction in  
14 testimony, Bayley did not recall having incurred such massive losses in a client's account.

#### 15 The Respondents' Unsuitable Tahoe Activity

16 15. Throughout most of 2015, the Respondents purchased substantial amounts of Tahoe stock for  
17 their clients' accounts. They then sold it from November 2015 to January 2016, earning a reasonable profit  
18 on the trade. After the Respondents sold the Tahoe stock, it continued to rise, and Bayley faced criticism from  
19 some clients who thought that he had sold the stock too early. As a result, Bayley decided to buy Tahoe again  
20 once it had dropped in price, with the expectation that it would rise again after that.

1 16. On November 7, 2016, the Respondents began purchasing substantial amounts of Tahoe stock  
2 for their clients' portfolios. The closing price on that day was \$10.91. Below is a chart of Tahoe's daily closing  
3 prices from the beginning of 2015 to the end of 2018.



14 17. As of the end of 2016, almost all of the Respondents' client portfolios were almost entirely  
15 concentrated in Tahoe stock. The concentration of client portfolios in the stock of one mining company was  
16 unsuitable in multiple ways. First, concentrating a client entirely in one company's stock unnecessarily  
17 exposes them to various risks, such as the company underperforming, the stock price not significantly  
18 climbing even if the company performs well, or the advisor incorrectly evaluating the company's prospects.  
19 Second, for clients who are retired or approaching retirement and cannot afford major losses, it is often  
20 unsuitable to concentrate their portfolios entirely in stock because stock is generally considered the riskiest of  
21 the major asset classes.

23



1 18. During the summer of 2017, Tahoe was forced to close one of its mines, a silver mine in  
2 Guatemala, due to legal issues with indigenous tribes in the area. Although the mine was not necessarily  
3 permanently closed and could reopen depending on the outcome of court proceedings, Tahoe stock  
4 substantially declined after the closure. This decline illustrates another major risks of overconcentrating a  
5 portfolio in one stock: unexpected events at a company can rapidly reduce the value of the portfolio in ways  
6 that a more diversified portfolio could easily withstand.

7 19. When clients expressed concerns about declines in the value of Tahoe, or about having their  
8 entire portfolio in one stock, Bayley repeatedly told them that the stock would go up and blamed various  
9 causes for the stock's underperformance. For instance, at various times in emails to clients, Bayley blamed  
10 corruption in the Guatemalan government, short-sellers, and George Soros funding protests against the  
11 Guatemalan mine. Bayley repeatedly told clients, particularly throughout 2018, that Tahoe was a \$20 stock  
12 and that the stock price was going to double, triple, or even quadruple. Bayley wrote the following to clients  
13 at various points in 2017 and 2018:

- 14 a. “[Tahoe] is still a minimum \$12-17 stock when the mine reopens (remember gold output  
15 is increasing 40% later this year) and \$20-22 stock if a little enthusiasm returns to the sector  
16 by the end of the year”
- 17 b. “[Client should] buy more Tahoe for a short-term 50-70% pop . . . It's a \$20 stock you can  
18 buy for \$4.40.”
- 19 c. “In 2016 [Tahoe] went from \$6 to \$17 in less than 6 months so it can and will happen  
20 again.”
- 21 d. “[Tahoe] should be going up 50+% next month when the court rules to reopen one of its  
22 mines. Later this year I expect it to go up to \$20+ for a 400% gain (if not this year then

1 2019 for sure). If you have any extra funds this is the time to front-load your Roth IRA  
2 funding for this year before the stock jumps. My friend recently borrowed from his 401k  
3 so he and his wife could max fund his Roth for 2017 and 2018 (\$22k minus their previous  
4 contributions). Then he will pay back his 401k plus interest that gets credited 100% to his  
5 own 401k. When Tahoe goes up into the \$20s, they will have a \$70k gain plus their \$22k  
6 initial investment.”

7 e. “300-500% gains over the next couple of years would get you in the driver’s seat to retire  
8 whenever you want. That’s why I’m staying course for you and my other clients. History  
9 repeats and that’s the average expectation coming out of a bear market. It’s worth the wait  
10 . . . history shows we will be heavily rewarded with substantial triple digit gains.”

11 f. “When [Tahoe]’s back to \$10, you’ll have a 35% gain. I anticipate Tahoe going to \$20+  
12 later this year resulting in a 171% gain and liquidation value of \$146,000 off an initial  
13 investment around \$54,000.”

14 g. “Since the stock is valued upon its cash flow, expect it to go up 100-150% by year end. If  
15 some interest returns to the sector, like in 2016, then expect 400% by year end.”

16 h. “I got a message that you called in to liquidate your account. Please do not do that because  
17 [Tahoe] stock is going up 50-100% very soon when a mine is allowed to reopen. The stock  
18 price changes on how much cash it generates so when their big silver mine one reopens the  
19 stock will jump up 50-60% immediately and that is expected to occur next week . . . The  
20 court should rule next week and the company should immediately jump into the \$8, or 60%  
21 higher and then slowly go up to \$20 sometime later this year or early next year. The  
22

1 company plans to turn its dividend back on that is nearly 5% yield that you can take for  
2 income.”

3 20. In making these representations about the Tahoe stock price, in particular his high degree of  
4 certainty that the stock would rise, Bayley failed to disclose a variety of material information which would  
5 have been relevant to investors’ level of trust in his recommendation. In particular, Bayley failed to disclose  
6 that his price target for Tahoe stock was more than double that of independent analysts, which to Bayley’s  
7 recollection were approximately \$9 per share as of early 2018. Bayley also failed to disclose that he had no  
8 knowledge of the Guatemalan legal system and the laws involved in the proceeding. Bayley further failed to  
9 disclose that he was planning to leave the investment adviser profession and felt a need to make a profit for  
10 his clients before doing so, which had the potential to cause him to make unreasonably risky investments to  
11 seek quick profits. Bayley also owned substantial amounts of Tahoe stock himself, but failed to disclose in  
12 writing the material conflict of interest that resulted from his ownership, such as the possibility that selling  
13 his clients’ positions could cause the value of his own stock to decrease. By representing that the stock price  
14 was certain to increase, Bayley was able to convince most of his clients to continue investing in Tahoe, or  
15 even to increase their investments, leading to further losses in their portfolio.

16 Bayley’s Unsuitable Recommendation of Roth IRA Conversions

17 21. Bayley also convinced approximately eight clients to convert their IRAs to Roth IRAs, on the  
18 grounds that the Tahoe stock would go up significantly and they would not have to pay taxes on the gains  
19 thereafter. Converting an IRA to a Roth IRA is allowed by tax laws, but requires the investor to count the  
20 converted amount in their income for the year and pay taxes on it. For example, an investor with \$100,000 of  
21 taxable salary income who converted a \$200,000 IRA to a Roth IRA would have \$300,000 in taxable income  
22 for the year of the conversion.

1           22. In recommending the Roth conversion, Bayley failed to obtain sufficient information to  
2 determine whether the conversion was appropriate for the customer, such as their tax status and available  
3 liquid funds. In particular, Bayley failed to analyze whether the clients had sufficient liquid assets to pay their  
4 tax bills if the stock did not go up. Bayley also based his recommendation partly on his belief that his clients  
5 could change the Roth IRAs back to standard IRAs, but was unaware that the 2017 changes to the tax laws  
6 prohibited this reconversion.<sup>3</sup>

7           23. The Tahoe stock did not go up as Bayley had predicted, and many of the clients are currently  
8 facing substantial tax bills for the 2018 tax year. For example, Bayley recommended the Roth conversion to  
9 B.S., a 75-year-old client who had been retired since 2003. As a result, B.S.'s tax bill this year was  
10 approximately \$34,000. Due to the Roth conversion and Bayley's mismanagement of her account, B.S. has  
11 been forced to return to work to cover her expenses.

#### Bayley's Unsuitable Use of Margin Trading

13           24. In January 2018, Bayley contacted his clients with non-IRA or Roth IRA accounts and  
14 recommended that they buy even more Tahoe stock on margin. Based on these discussions, Bayley bought  
15 Tahoe stock on margin in the account of three different clients throughout early 2018.

16           25. Bayley did not perform any suitability analysis for recommending the use of margin to  
17 purchase Tahoe stock. In particular, Bayley failed to analyze the risks associated with margin trading, the  
18 potential impact of interest payments on the borrowed margin funds, the potential consequences for his clients  
19

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20  
21 <sup>3</sup> Bayley claimed in testimony that his understanding was based on a phone conversation with a TD Ameritrade employee, but he  
22 did not document that conversation in any way. The repeal of the Roth recharacterization had been publicized in multiple outlets  
well before Bayley made his recommendations. *See, e.g.,* Dan Caplinger, *The Roth IRA Trick Congress Is Planning to Take Away*,  
The Motley Fool (Dec. 17, 2017, 4:17 PM), <https://www.fool.com/taxes/2017/12/17/the-roth-ira-trick-congress-is-planning-to-take-aw.aspx>.

1 if the stock went down or stayed flat, and whether the use of margin was appropriate at all for his retired and  
2 elderly clients.

3 26. The use of margin trading was unsuitable for at least one of the Respondents' clients. For  
4 example, P.C. (the retired client discussed in the above section on DUST) was one of the clients Bayley  
5 convinced to buy additional Tahoe stock on margin. Because P.C. was retired and could not afford significant  
6 losses, the use of margin to concentrate her account even further in Tahoe stock—thereby exposing her to  
7 even greater risk than Bayley's other clients—was unsuitable.

8 27. Additionally, Bayley's long-term use of margin trading was unsuitable due to the substantial  
9 required interest payments. For instance, at the beginning of January 2018, P.C. held 78,850 shares of Tahoe  
10 stock, at \$4.79 per share, for a total of \$377,691.50. Bayley took out margin loans in January, March, and  
11 April of 2018 to fund additional Tahoe purchases in P.C.'s account. The interest rate on the loan was initially  
12 7.75%, but rose to 8% for the later loans. By the end of April 2018, P.C. owned 162,700 shares of Tahoe stock  
13 at \$5.03 per share, but owed \$445,187.13 to TD Ameritrade on the margin loan, for a total account value of  
14 \$373,193.87. Thus, even though the Tahoe stock had risen slightly during the year, P.C. had lost money in  
15 her account, due largely to the margin interest payments. From January 2018 until the closure of her account  
16 in October 2018, P.C. paid a total of \$21,500—over 5% of the value of her account at the beginning of the  
17 year—in margin interest payments alone, even before accounting for losses on the value of the Tahoe stock.  
18 Bayley failed to perform any analysis of the potential impact of margin interest payments on his client  
19 accounts if Tahoe stock did not rise immediately.

20 28. Tahoe's stock price stayed largely flat in May and June 2018, but declined slightly near the  
21 end of July. As a result of the stock price decline and the high concentration of Tahoe in the accounts, TD  
22 Ameritrade issued repeated margin calls in July and August 2018 for all three of Bayley's margin-using client

1 accounts. Bayley failed to respond to the margin calls for several weeks, forcing TD Ameritrade to sell stock  
2 in client accounts on multiple occasions. Bayley also failed to notify at least one client of the margin calls.

3 29. As a result of these failures to meet margin calls, TD Ameritrade notified Bayley in August  
4 2018 that he would be terminated from the platform in October 2018, at which point his clients would be  
5 converted to ordinary retail accounts. Bayley did not tell his clients that TD Ameritrade had terminated him  
6 from the platform.

7 30. In November 2018, Tahoe was purchased by another mining company, Pan American Silver  
8 Corporation. Tahoe shareholders could elect to receive \$3.40 per share in cash, or 0.2403 shares of Pan  
9 American Silver Corporation per Tahoe share, plus additional shares contingent on the reopening of the  
10 Guatemalan mine. With the contingent payment, the total value of the buyout was \$4.10 per share,  
11 approximately a 62% decline from the value of Tahoe stock at the time Bayley began concentrating his client  
12 accounts in it.

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

#### 14 **CONCLUSIONS OF LAW**

15 1. Prior to December 31, 2018, Bayley was a registered investment adviser representative in the  
16 State of Washington, and was subject to the dishonest-and-unethical-practices regulations of WAC 460-24A-  
17 220, the fraud prohibitions of RCW 21.20.020, and the suitability requirements of RCW 21.20.702.

18 2. Prior to December 31, 2018, BFI was a registered investment adviser in the State of  
19 Washington, and was subject to the dishonest-and-unethical-practices regulations of WAC 460-24A-220, the  
20 fraud prohibitions of RCW 21.20.020, and the suitability requirements of RCW 21.20.702.

21 3. The Respondents, as described above, engaged in one or more dishonest or unethical practices  
22 in the securities business, as defined by WAC 460-24A-220(11) and (17), by (a) failing to disclose in writing

1 their material conflicts of interest their material conflicts of interest relating to Bayley's ownership of Tahoe  
2 stock, and (b) failing to enforce BFI's written policies and procedures. Such practice is grounds for the denial  
3 of their investment adviser, investment adviser representative, securities salesperson, or broker-dealer  
4 registration, pursuant to RCW 21.20.110(1)(g).

5 4. The Respondents, as described above, violated the suitability requirements of RCW 21.20.702  
6 by (a) failing to collect information from clients about their financial status and investment objectives; (b)  
7 making unsuitable trades in DUST in at least one client account; (c) making unsuitable recommendations to  
8 concentrate their clients' entire portfolio in one stock; and (d) recommending Roth IRA conversions without  
9 first making reasonable inquiry to determine whether the recommendation was appropriate. Such practices  
10 are grounds for the denial of the Respondents' investment adviser, investment adviser representative, broker-  
11 dealer, or securities salesperson registration pursuant to RCW 21.20.110(1)(b).

12 5. The Respondents, as described above, violated RCW 21.20.020(1)(b) by repeatedly  
13 misrepresenting to clients that the Tahoe stock would go up, while failing to provide the clients with material  
14 information which would cause them to question Bayley's valuation of Tahoe stock and management of their  
15 accounts.

16 6. The Respondents, as described above, violated RCW 21.20.020(1)(c) by engaging in dishonest  
17 and unethical practices as defined by:

18 a. WAC 460-24A-220(1), by making unsuitable recommendations of Tahoe and DUST to clients  
19 and failing to make reasonable inquiry concerning clients' investment objectives, financial  
20 situation and needs; and

21 b. WAC 460-24A-220(17), by failing to enforce BFI's written policies and procedures.

23

1           7.       The Respondents, as described above, violated WAC 460-24A-200 by failing to maintain  
2 written information about investment advisory clients that formed the basis for making recommendations and  
3 providing investment advice to such clients, and by failing to annually make reasonable efforts to confirm or  
4 update such information.

5                   **NOTICE OF INTENT TO ORDER THE RESPONDENTS TO CEASE AND DESIST**

6           Pursuant to RCW 21.20.390(1) and based upon the above Tentative Findings of Fact and Conclusions  
7 of Law, the Securities Administrator intends to order that Respondents Philip Bayley and Bayley Financial  
8 Inc. each shall cease and desist from violations of RCW 21.20.020, RCW 21.20.702, WAC 460-24A-220(1),  
9 and WAC 460-24A-220(17).

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

11           Pursuant to RCW 21.20.110(1), and based upon the above Tentative Findings of Fact and Conclusions  
12 of Law, the Securities Administrator intends to order that any future application for investment adviser,  
13 investment adviser representative, broker-dealer, or securities salesperson registration by Philip Bayley and  
14 Bayley Financial Inc., or any other entity under Philip Bayley's effective control, shall be denied.

15                   **NOTICE OF INTENT TO IMPOSE FINES**

16           Pursuant to RCW 21.20.110(1) and RCW 21.20.395, and based upon the above Tentative Findings of  
17 Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent Philip Bayley  
18 shall be liable for and pay a fine of \$100,000.

19                   **NOTICE OF INTENT TO CHARGE COSTS**

20           Pursuant to RCW 21.20.110(1) and RCW 21.20.395, and based upon the above Tentative Findings of  
21 Fact and Conclusions of Law, the Securities Administrator intends to order that Respondent Philip Bayley  
22



1 shall be liable for and shall pay the costs, fees, and other expenses incurred in the administrative investigation  
2 and hearing of this matter, in an amount not less than \$2,500.

3 **AUTHORITY AND PROCEDURE**

4 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject  
5 to the provisions of Chapter 34.05 RCW. The Respondents, Philip Bayley and Bayley Financial Inc., may  
6 each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND  
7 AND OPPORTUNITY FOR HEARING accompanying this Order. If a Respondent does not make a hearing  
8 request in the time allowed, the Securities Administrator intends to adopt the above Tentative Findings of Fact  
9 and Conclusions of Law as final and to enter a permanent order to cease and desist as to that respondent, to  
10 impose any fines sought against that respondent, and to charge any costs sought against that respondent.

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13 Signed and Entered this 21st day of June, 2019.

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16 \_\_\_\_\_  
17 William M. Beatty  
18 Securities Administrator

19 Presented by:

18 Approved by:

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21 \_\_\_\_\_  
22 Suzanne Sarason  
23 Chief of Enforcement

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22 Adam N. Yeaton  
23 Financial Legal Examiner

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Reviewed by:



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Jack McClellan  
Financial Legal Examiner Supervisor