

**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:)
Cecil Franklin Smith, Jr., a.k.a. Buz Smith and)
Frank Smith, Upstream Solutions, LLC and)
TrueNorth Tours, Inc., d.b.a. Discover the)
Northwest Tours, Inc.,)
Respondents.)

Order No. S-12-1080-15-FO01

ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF
LAW AND FINAL ORDER TO CEASE AND DESIST, TO
IMPOSE FINES, AND TO CHARGE COSTS AS TO CECIL
FRANKLIN SMITH, JR., A.K.A. BUZ SMITH AND FRANK
SMITH, UPSTREAM SOLUTIONS, LLC AND
TRUENORTH TOURS, INC., D.B.A. DISCOVER THE
NORTHWEST TOURS, INC.

THE STATE OF WASHINGTON TO:

Cecil Franklin Smith, Jr., a.k.a. Buz Smith and Frank Smith,
Upstream Solutions, LLC and TrueNorth Tours, Inc., d.b.a.
Discover the Northwest Tours, Inc.

On March 5, 2015, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intent to Issue an Order to Cease and Desist, Impose Fines, and Recover Costs, S-12-1080-14-SC01 (“Statement of Charges”) against the Respondents Cecil Franklin Smith, Jr., a.k.a. Buz Smith and Frank Smith, Upstream Solutions, LLC and TrueNorth Tours, Inc., d.b.a. Discover the Northwest Tours, Inc. (“the Respondents”).

The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing (“Notice of Opportunity for Hearing”) and an Application for Adjudicative Hearing (“Hearing Application”), was served on the Respondents on approximately March 6, 2015.

The Notice of Opportunity for Hearing advised Respondents 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.

On March 30, 2015, the Respondents submitted Hearing Application forms in which the Respondents stated that they waived their right to a hearing in the matter and, in lieu of a hearing, would be submitting, in sixty days, a written statement for consideration by the Director of the Department of Financial Institutions or the Securities Administrator.

Based on the fact that the Respondents failed to file a written statement with the Director or Securities Administrator within sixty days, the Securities Administrator finds no material grounds for amendment of the Statement of Charges, and will therefore adopt as final the findings of fact and conclusions of law as set forth in the Statement of Charges. The Securities Administrator finds as follows:

FINDINGS OF FACT

Respondents

1
2 1. Cecil Franklin Smith, Jr. (“Smith”), a.k.a. Buz Smith and a.k.a. Frank Smith, a Washington resident,
3 has operated a tour bus business from 2010 to present. Smith was one of the principals and owners of Upstream
4 Solutions, LLC, and the President and owner of TrueNorth Tours, Inc., d.b.a. Discover the Northwest Tours, Inc., and
5 is currently doing business as Northwest All-Inclusive Tours and All-Inclusive Tours, Inc.

6 2. Upstream Solutions, LLC (“Upstream”) was a Washington limited liability company from 2010 to
7 2011 and whose principal place of business was Snohomish, Washington.

8 3. TrueNorth Tours, Inc., d.b.a. Discover the Northwest Tours, Inc. (“DTNWT”), was a Washington
9 corporation from 2010 to 2013 and whose principal place of business was Mill Creek, Washington.

Prior State Enforcement Actions against Cecil F. Smith, Jr.

10 4. On August 3, 2011, the Oregon State Department of Consumer and Business Services (“DCBS”) issued an Order to Cease and Desist, Order Assessing Civil Penalties, Order Denying Exemptions and Consent to
11 Entry of Order (“Consent Order”) against and with Cecil F. Smith, Jr., a.k.a. “Buz” Smith and Church Ministries
12 Distribution, Inc. d.b.a. Church Ministries Distribution for violations of Oregon State securities laws. The DCBS
13 alleged that Smith sold investments in the form of stock, investment contracts, and promissory notes. The DCBS
14 alleged that one of Smith’s investment schemes involved Smith convincing investors to allow Smith to use their
15 personal credit cards to be used for Smith’s business purposes. The DCBS alleged that Smith committed securities
16 fraud against investors by failing to disclose investment risks, omitting to state material facts about investments, using
17 investor funds for his own personal benefit, failing to disclose a 1998 bankruptcy and failing to disclose prior failed
18 business ventures. The DCBS ordered Smith to cease and desist from violating Oregon state securities laws and
19 assessed a \$440,000 civil penalty against him. The DCBS agreed to suspend the civil penalty as long as Smith made
20 restitution to investors through monthly payments for a total of \$264,833.22. On April 16, 2012, the DCBS reinstated
21 the \$440,000 in civil penalties against Smith for violating the terms of the Consent Order.

22 5. On September 6, 2012, the Oregon State Department of Consumer and Business Services issued a
23 Final Order to Cease and Desist, Final Order Denying Exemptions, and Final Order Assessing Civil Penalties Entered
24 by Default against Respondents, TrueNorth Productions, LLC and Cecil F. Smith Jr., for violations of Oregon State
25 securities laws. The DCBS alleged that for approximately two years ending in May 2009, Cecil F. “Buz” Smith Jr.,
through TrueNorth Productions, LLC, obtained \$205,000 from ten Oregon investors to establish a tourism business
offering bus tours of the Oregon Columbia River Gorge to senior citizens. Smith promised the investors an 8 percent
to 20 percent return on their investments. The DCBS alleged that Smith committed securities fraud against investors
by failing to adequately disclose investment risks, omitting to state material facts about investments, failing to
disclose a 1998 bankruptcy, failing to disclose the facts relating to 2011 DCBS action against him, and that he was

1 using funds for his own personal benefit. The DCBS alleged that Smith made an untrue statement of material fact by
2 informing investors that he had “spent the past fifteen years successfully managing people and business,” when he had
3 at least two prior failed business ventures. The DCBS ordered Smith to cease and desist from offering unregistered
4 securities, from offering securities without a license and from violating the anti-fraud provisions of the Oregon
5 securities laws. The DCBS assessed Smith \$400,000 in civil penalties for violations of the Oregon securities laws.

6 **Nature of the Offering**

7 6. From 2010 to 2012, Cecil “Buz” Smith solicited a number of Washington residents and at least one
8 out of state resident for investments in the form of loans to finance his tour bus business that has operated under a
9 variety of names, including Upstream Solutions, LLC and Discover the Northwest Tours, Inc. Smith told prospective
10 investors that the investments would be used in business operations or to expand and market his business. Smith
11 offered the investment opportunities to individuals through personal meetings, telephone, and e-mail. Smith had
12 several of his employees contact their mothers about making investment loans to him. Smith also talked with several
13 individuals, who had made “personal loans” to him, about another investment opportunity to earn a percentage share
14 of the income from the tickets that Smith’s tour business sold. Smith obtained money from investors by wire transfer,
15 checks or by investors allowing Smith to use an investor’s personal credit card to pay Smith’s business debts. Smith
16 borrowed at least \$74,500 from three investors for his business and is believed to have repaid less than \$10,000 of that
17 amount.

18 *Investor A*

19 7. In or about 2010, Investor A, of Woodland, Washington, met Buz Smith through her daughter who
20 worked with Smith operating a tour bus business. Smith and the daughter were doing business as Upstream Solutions,
21 LLC. Investor A had been on state disability for approximately nine years after a work related accident. Investor A’s
22 daughter arranged a meeting with Smith, who told Investor A that he needed money for his bus. Smith told Investor A
23 that “the bus needed air conditioning, a windshield and some other things.” Smith promised Investor A 5% interest on
24 her money. Smith told Investor A that there was “absolutely no risk” with the loan. Smith guaranteed her money back,
25 but did not put the guarantee in writing. Smith did not disclose to Investor A any specific risks of the investment, any
prior bankruptcies, or any financial information about his current business such as financial statements.

8. Investor A gave her daughter a check for \$8,500 to be given to Smith. Smith provided Investor A a
copy of a promissory note to sign. The promissory note identified Upstream as the “Borrower” and stated that the note
was for a term of twelve months at 5% interest and due on June 21, 2011. After signing the promissory note
agreement, Investor A gave the note to her daughter to give to Smith to sign. Smith never returned a signed copy of
the note to Investor A. Smith made some monthly installments on the loan to Investor A, but stopped after Investor A
was repaid approximately \$4,000 of the \$8,500 that she loaned to Smith.

Investor B

1 9. In 2011, Buz Smith solicited the use of the personal credit card of Investor B, a Minnesota resident,
2 through Investor B's daughter, an employee and then girlfriend of Smith. Investor B's daughter told her that Buz
3 Smith needed money in order to get his company in Washington started. Investor B's daughter explained to her that if
4 Investor B would allow Smith to use her credit card for his business, Smith would pay all of the monthly charges on
5 the card and that Investor B would benefit by earning airline miles based on Smith's use of the card. Neither Buz
6 Smith nor Investor B's daughter provided Investor B with written and material information about Smith's tour
7 business such as the risks of the loan, the specific intended use of the card, prior bankruptcy filing of Smith and
8 financial information about Smith's business and his ability to repay the loan.

9 10. Investor B provided her daughter with a credit card for use by Smith. Approximately one month after
10 Investor B provided the use of her credit card, she found out that Smith had maxed out her credit card by charging
11 \$16,000 against the card. Investor B also discovered that about \$6,000 of the charges incurred on her card represented
12 cash withdrawals by Smith. Smith failed to pay off the balance of the credit card and Investor B was forced to cancel
13 her card and repay the outstanding balance over the next several years. Smith has represented to the Securities
14 Division that the amount owed Investor B is due in 2019 at 10% interest.

Investor C

15 11. In 2012, Smith met with Investor C, a widow in her eighties and resident of Port Townsend,
16 Washington, to discuss a loan to help him with marketing his business in the Seattle area. Investor C's daughter
17 worked part-time for Smith's tour bus company, DTNWT, and had told her mother about the opportunity to invest
18 money with Smith's business. Smith told Investor C that he needed money for marketing his business. Smith
19 promised Investor C 10% interest on the loan. Smith did not disclose to Investor C any specific risks of the
20 investment, any prior bankruptcies, any regulatory actions against him and any financial information about his current
21 business such as financial statements.

22 12. After hearing Smith's plans for his business, Investor C loaned Smith \$50,000. Smith gave Investor C
23 a promissory note dated May 22, 2012 that stated that Smith would make monthly interest payments, at 10% per
24 annum, beginning on June 22, 2012 and that the principal and accrued interest would be paid on June 22, 2015. Smith
25 failed to make the first monthly interest payment and subsequent interest payments to Investor C.

Investor Pool

 13. On or about August 6, 2012, Smith, as President of Discover the Northwest Tours, Inc., emailed
Investor C an opportunity to invest in an "Investor Pool." In the email, Smith explained that for every bus tour ticket
DTNWT sold, \$20 would be put into the Investor Pool along with other investors who had loaned Smith money. Each
prospective investor would be entitled to a percentage of the ticket revenue of the Investor Pool. Smith told Investor C
that, based on the \$50,000 she had already loaned Smith, she would have the opportunity to purchase a 19% interest

1 in the Investor Pool. As a result, Smith told Investor C that she would get 19% or \$3.90 of each \$20 deposited into the
2 Pool. In addition to receiving a percentage of the ticket revenue from the “Investor Pool,” Smith promised to pay
3 \$52,000 to Investor A if she agreed to extend her \$50,000 loan from June 22, 2015 to January 1, 2016. Investor A and
4 no other prospective investor chose to invest in the “Investor Pool.”

5 **Registration Status**

6 14. Respondents Cecil Franklin Smith, Jr., Upstream Solutions and TrueNorth Tours, Inc. are not
7 currently registered to sell securities in the state of Washington and have not previously been so registered. There is
8 no notification of exemption on file with the state of Washington.

9 15. Respondent Cecil Franklin Smith, Jr., is not currently registered currently registered as a broker-
10 dealer or as a securities salesperson in the state of Washington and has not previously been so registered.

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

12 **CONCLUSIONS OF LAW**

13 **I.**

14 The offer or sale of securities of promissory notes, investment contract, and “investor pool” as described
15 above constitute the offer and/or sale of a security as defined in RCW 21.20.005(14) and (17).

16 **II.**

17 The offer and/or sale of said securities are in violation of RCW 21.20.140 because no registration for such
18 offers and/or sales is on file with the Securities Administrator, state of Washington.

19 **III.**

20 Respondent Cecil Franklin Smith, Jr. violated RCW 21.20.040(1) by offering and/or selling said securities
21 while not being registered as a broker-dealer or securities salesperson in the state of Washington.

22 **IV.**

23 The offer and/or sale of said securities were in violation of RCW 21.20.010 because Respondents Smith,
24 Upstream Solutions and TrueNorth Tours, Inc. failed to disclose materials facts to investors, including, but not limited
25 to investment risks, Smith’s business and regulatory history and financial condition of the issuers.

26 **FINAL ORDER**

27 Based on the foregoing and finding it in the public interest:

28 IT IS HEREBY ORDERED that the Respondents Cecil Franklin Smith, Jr., Upstream Solutions and
29 TrueNorth Tours, Inc. shall each cease and desist from offering or selling securities in violation of RCW 21.20.140,
30 the securities registration section of the Securities Act of Washington.

1 IT IS HEREBY ORDERED that the Respondent Cecil Franklin Smith, Jr., shall cease and desist from
2 offering or selling securities in violation of RCW 21.20.040, the broker-dealer and securities salesperson registration
3 section of the Securities Act of Washington.

4 IT IS HEREBY ORDERED that the Respondents Cecil Franklin Smith, Jr., Upstream Solutions and
5 TrueNorth Tours, Inc. shall each cease and desist from offering or selling securities in violation of RCW 21.20.010,
6 the anti-fraud section of the Securities Act of Washington.

7 IT IS HEREBY ORDERED that the Respondents Cecil Franklin Smith, Jr., Upstream Solutions and
8 TrueNorth Tours, Inc. shall be jointly and severally liable for and shall pay a fine of \$10,000.

9 IT IS HEREBY ORDERED that the Respondents Cecil Franklin Smith, Jr., Upstream Solutions and
10 TrueNorth Tours, Inc. shall be jointly and severally liable for and shall pay investigative costs of \$8,000.

11 **AUTHORITY AND PROCEDURE**

12 This Order is entered pursuant to the provisions of Chapter 21.20 RCW and is subject to the provisions of
13 RCW 21.20.440 and RCW 34.05. The Respondents may petition the superior court for judicial review of this agency
14 action under the provisions of RCW 34.05. For the requirements for filing a Petition for Judicial Review, see RCW
15 34.05.510 and sections following. Pursuant to RCW 21.20.395, a certified copy of this order may be filed in Superior
16 Court. If so filed, the clerk shall treat the order in the same manner as a Superior Court judgment as to the fine and
17 the fine may be recorded, enforced, or satisfied in like manner.

18 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.


19 Dated and Entered this 1st day of July, 2015.


20 

21 William M. Beatty
22 Securities Administrator

23 

24 Martin Cordell
25 Financial Legal Examiner

26 
27 Suzanne Sarason
28 Chief of Enforcement

29 
30 Jack McClellan
31 Financial Legal Examiner Supervisor