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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

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IN THE MATTER OF DETERMINING)	Order No. S-12-1080-14-SC01
Whether there has been a violation of the)	
Securities Act of Washington by:)	STATEMENT OF CHARGES AND NOTICE OF INTENT
Cecil Franklin Smith, Jr., a.k.a. Buz Smith and)	TO ENTER ORDER TO CEASE AND DESIST, TO
Frank Smith, Upstream Solutions, LLC and True)	IMPOSE FINES AND TO CHARGE COSTS
North Tours, Inc., d.b.a. Discover the Northwest)	
Tours, Inc.,)	
Respondents.)	
)	

THE STATE OF WASHINGTON TO: Cecil Franklin Smith, Jr., a.k.a. Buz Smith and Frank Smith, Upstream Solutions, LLC and True North Tours, Inc., d.b.a. Discover the Northwest Tours, Inc.

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondents, Cecil Franklin Smith, Jr., a.k.a. Buz Smith and a.k.a. Frank Smith, Upstream Solutions, LLC and True North Tours, Inc., d.b.a. Discover the Northwest Tours, Inc., have violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against them to cease and desist from such violations and to charge costs, and under RCW 21.20.395 to impose a fine. The Securities Administrator finds as follow:

TENTATIVE FINDINGS OF FACT

I.

Respondents

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

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

3. True North Tours, Inc., d.b.a. Discover the Northwest Tours, Inc. ("DTNWT"), was a Washington corporation from 2010 to 2013 and whose principal place of business was Mill Creek, Washington.

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II.

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

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

5. On September 6, 2012, the Oregon State Department of Consumer and Business Services issued a Final Order to Cease and Desist, Final Order Denying Exemptions, and Final Order Assessing Civil Penalties Entered by Default against Respondents, True North Productions, LLC and Cecil F. Smith Jr., for violations of Oregon State securities laws. The DCBS alleged that for approximately two years ending in May 2009, Cecil F. “Buz” Smith Jr., through True North 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 using funds for his own personal benefit. The DCBS alleged that Smith made an untrue statement of material fact by informing investors that he had “spent the past fifteen years successfully managing people and business,” when he had at least two prior failed business ventures. The DCBS ordered Smith to cease and desist from offering unregistered securities, from offering securities without a license and from violating the anti-fraud provisions of the Oregon securities laws. The DCBS assessed Smith \$400,000 in civil penalties for violations of the Oregon securities laws.

III.
Nature of the Offering

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

Investor A

7. In or about 2010, Investor A, of Woodland, Washington, met Buz Smith through her daughter who worked with Smith operating a tour bus business. Smith and the daughter were doing business as Upstream Solutions, LLC. Investor A had been on state disability for approximately nine years after a work related accident. Investor A’s daughter arranged a meeting with Smith, who told Investor A that he needed money for his bus. Smith told Investor A that “the bus needed air conditioning, a windshield and some other things.” Smith promised Investor A 5% interest on her money. Smith told Investor A that there was “absolutely no risk” with the loan. Smith guaranteed her money back, 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

9. In 2011, Buz Smith solicited the use of the personal credit card of Investor B, a Minnesota resident, through Investor B’s daughter, an employee and then girlfriend of Smith. Investor B’s daughter told her that Buz Smith needed money in order to get his company in Washington started. Investor B’s daughter explained to her that if Investor B would allow Smith to use her credit card for his business, Smith would pay all of the monthly charges on

1 the card and that Investor B would benefit by earning airline miles based on Smith's use of the card. Neither Buz
2 Smith nor Investor B's daughter provided Investor B with written and material information about Smith's tour
3 business such as the risks of the loan, the specific intended use of the card, prior bankruptcy filing of Smith and
4 financial information about Smith's business and his ability to repay the loan.

5 10. Investor B provided her daughter with a credit card for use by Smith. Approximately one month after
6 Investor B provided the use of her credit card, she found out that Smith had maxed out her credit card by charging
7 \$16,000 against the card. Investor B also discovered that about \$6,000 of the charges incurred on her card represented
8 cash withdrawals by Smith. Smith failed to pay off the balance of the credit card and Investor B was forced to cancel
9 her card and repay the outstanding balance over the next several years. Smith has represented to the Securities
10 Division that the amount owed Investor B is due in 2019 at 10% interest.

11 *Investor C*

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

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

23 *Investor Pool*

24 13. On or about August 6, 2012, Smith, as President of Discover the Northwest Tours, Inc., emailed
25 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
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
Pool. In addition to receiving a percentage of the ticket revenue from the "Investor Pool," Smith promised to pay
\$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
no other prospective investor chose to invest in the "Investor Pool."

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2 **V.**

3 **Registration Status**

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

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

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

10 **CONCLUSIONS OF LAW**

11 **I.**

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

14 **II.**

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

17 **III.**

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

20 **IV.**

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

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

25 Pursuant to RCW 21.20.390(1) and based upon the above Tentative Findings of Fact and Conclusions of Law,
the Securities Administrator intends to order that Respondents Cecil Franklin Smith, Jr., Upstream Solutions and True
North Tours, Inc. shall each cease and desist from violations of RCW 21.20.140 and RCW 21.20.010 and that
Respondent Smith shall cease from violations of RCW 21.20.040.

1 **NOTICE OF INTENT TO IMPOSE A FINE**

2 Pursuant to RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions of Law,
3 the Securities Administrator intends to order that Respondents Cecil Franklin Smith, Jr., Upstream Solutions and True
4 North Tours, Inc. shall each be jointly and severally liable for and shall pay a fine of \$10,000.

5 **NOTICE OF INTENT TO CHARGE COSTS**

6 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law, the
7 Securities Administrator intends to order that Respondents Cecil Franklin Smith, Jr., Upstream Solutions and True
8 North Tours, Inc. shall be jointly and severally liable for and shall pay investigative costs of \$8,000.

9 **AUTHORITY AND PROCEDURE**

10 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject to the
11 provisions of Chapter 34.05 RCW. The Respondents Cecil Franklin Smith, Jr., Upstream Solutions, LLC and True
12 North Tours, Inc. each may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
13 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If a respondent does not make a
14 hearing request in the time allowed, the Securities Administrator intends to adopt the above Tentative Findings of Fact
15 and Conclusions of Law as final and to enter a permanent order to cease and desist as to that respondent, to impose
16 any fines sought against the respondent, and to charge any costs sought against the respondent.

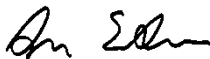
17 Signed and Entered this 5th day of March, 2015.

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19 William M. Beatty
Securities Administrator

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21 Martin Cordell
Financial Legal Examiner

22 

23 Suzanne Sarason
Chief of Enforcement

24 

25 Jack McClellan
Financial Legal Examiner Supervisor