

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

IN THE MATTER OF DETERMINING) Order No.: S-16-1870-16-FO01
Whether there has been a violation of the)
Securities Act of Washington by:) ENTRY OF FINDINGS OF FACT AND
) CONCLUSIONS OF LAW AND
Travis Moegling;) FINAL ORDER TO CEASE AND DESIST,
Yellowstone Capital, LLC;) TO IMPOSE FINES, AND
Bainbridge Views, LLC;) TO CHARGE COSTS
Imperium Builder, LLC;)
)
)
Respondents.)

THE STATE OF WASHINGTON TO: Travis Moegling
Yellowstone Capital, LLC
Bainbridge Views, LLC
Imperium Builder, LLC

On June 6, 2016, the Securities Administrator of the state of Washington issued Summary Order to Cease and Desist, and Notice of Intent to Impose Fines, and to Charge Costs, Order No. S-16-1870-16-TO01 (hereinafter referred to as "Summary Order"). The Summary Order, together with a Notice of Opportunity to Defend and Opportunity for Hearing, hereinafter referred to as "Notice of Opportunity for Hearing" and an Application for Adjudicative Hearing, hereinafter referred to as "Application for Hearing," were served on Respondents Travis Moegling; Yellowstone Capital, LLC; Bainbridge Views, LLC; and Imperium Building, LLC ("Respondents") on June 9, 2016. The Notice of Opportunity for Hearing advised the 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. The Respondents failed to request an administrative hearing within twenty days of receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the Application for Hearing provided, or otherwise.

The Securities Administrator therefore will adopt as final the following Findings of Fact and Conclusions of Law as set forth in the Statement of Charges and enter a final order against the Respondents

1 to cease and desist from violations of the Securities Act, and impose the fines and costs sought in the
2 Summary Order.

3 The Securities Administrator makes the following Findings of Fact and Conclusions of Law:

4 **FINDINGS OF FACT**

5 **Respondents**

6 1. Yellowstone Capital, LLC (“Yellowstone Capital”) is a Washington limited liability
7 company formed on March 8, 2016, that uses a business address in Sequim, Washington.

8 2. Imperium Builder, LLC (“Imperium Builder”) is a Washington limited liability company
9 formed on March 17, 2015.

10 3. Bainbridge Views, LLC (“Bainbridge Views”) is a Washington limited liability company
11 formed on January 23, 2015.

12 4. Travis Lee Moegling (“Moegling”) is a resident of Washington and is the Manager of
13 Yellowstone Capital, Imperium Builder, and Bainbridge Views.

14 **Nature of the Conduct**

15 *2015 Enforcement Action*

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17 5. On April 29, 2015, the Securities Division entered a Statement of Charges against Moegling
18 and his business, Partner Fund, LLC (“Partner Fund”), alleging that they violated the Securities Act of
19 Washington in the offer and sale of promissory note investments secured by real property. Moegling failed
20 to respond to a subpoena that was issued to him during the investigation. After the Statement of Charges
21 was served on Moegling, he submitted an application for an adjudicative hearing. On July 7, 2015, the
22 Office of Administrative Hearings (OAH) issued an order dismissing the case, after Moegling failed to
23 appear for a prehearing conference. On August 18, 2015, the Director of the Department of Financial
24 Institutions entered a Final Order against Moegling and Partner Fund and ordered them to cease and desist
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1 from violating the Securities Act of Washington. The Final Order also ordered Moegling to pay a \$15,000
2 fine and \$1,000 in investigative costs.

3 *Overview*

4 6. In 2015, Moegling raised \$110,000 through the sale of promissory note investments to
5 investors in Washington and California, and offered another promissory note investment to an Idaho
6 resident. Moegling made a number of false and misleading representations to investors concerning his
7 background, track record, and the properties that would secure the investments. After receiving investor
8 funds, Moegling defaulted on the notes and failed to make monthly payments to the investors. In March
9 2016, Moegling formed Yellowstone Capital, which has offered investments to the public through its
10 website and advertisements on Craigslist.

11 *Imperium Builder Promissory Note (Sequim Property)*

12 7. In March 2015, Moegling sold a \$90,000 promissory note investment to an 80-year-old
13 resident of California. The promissory note investment was secured by a first position deed of trust on a
14 home in Sequim, Washington. On March 10, 2015, Moegling sent an email solicitation to the California
15 investor and attached an Investment Memorandum that provided details of what he described as a “High
16 Yield Secured Investment” opportunity. The Investment Memorandum indicated that Imperium Builder,
17 LLC was offering the investment, but failed to disclose that Imperium Builder had not yet been formed as a
18 legal entity, or provide any information about its operating history, management, or track record.

19 8. Moegling made misleading representations concerning the return on the investment, which
20 Moegling repeatedly claimed was “guaranteed.” Moegling represented that the investor would earn 12%
21 interest per year on a one-year promissory note. Moegling claimed that because the home would be sold
22 “well in advance” of a year, he was offering six months of guaranteed interest payments. Moegling failed to
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1 disclose material information regarding the financial condition of Imperium Builder or its ability to
2 guarantee investment returns.

3 9. Moegling made misleading representations concerning the Sequim property that would
4 secure the investment. Moegling described it as a “brand new home”; a “Brand New Single Family Home”;
5 and an “unfinished new home.” In fact, county property records indicate that it was originally constructed
6 in 2000, approximately 15 years earlier, as a garage to store a recreational vehicle (RV). While Moegling’s
7 Investment Memorandum stated that the “home” had three bedrooms, listing records stated that it only had
8 two bedrooms. After investing, the California investor discovered that the property’s septic system will
9 only support a one bedroom apartment.

10 10. Moegling made misleading statements concerning the current value of the property and the
11 “Loan-To-Value” (LTV) ratio of the investment. In the process of approving mortgages, lenders use Loan-
12 To-Value ratios to assess risk, with lower LTV ratios representing less risk. Loan-to-value ratios are
13 generally determined by dividing the loan amount by the lesser of the home’s appraised value or its
14 purchase price. Moegling claimed that a \$90,000 investment would have a “58% Loan to Value” --
15 implying that the property’s value was approximately \$155,000. Moegling failed to disclose that his Loan-
16 to-Value ratio was not based on the appraised value or purchase price of the home, but rather on its possible
17 *future* value. Moegling stated that “My broker has indicated [a] quick sale in \$155,000.00 price range.”
18 Moegling failed to disclose the identity of his broker or provide any additional information regarding the
19 basis for this projected sales price. Moegling failed to disclose that the 2015 tax assessed value of the
20 property was only \$55,383, substantially less than the investment amount. Two days after sending the
21 Investment Memorandum to the California investor, Moegling signed a purchase and sale agreement and
22 agreed to purchase the property for \$65,000. If Moegling had used the purchase price, the LTV ratio of the
23 investment would have been 138%, more than double the 58% figure that Moegling used.
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1 11. Moegling made misleading statements and failed to disclose material information regarding
2 the use of the investor's funds. Moegling's Investment Memorandum indicated that he would use the
3 investor's \$90,000 to pay off the balance of a contract and complete additional renovation work. Moegling
4 failed to specify how much he would need to complete the additional renovation work. Moegling led the
5 investor to believe that Imperium Builder was a construction company and that his "crew" would quickly
6 "finish the home to a very nice quality – ready to be sold." Moegling represented that he would paint and
7 finish the interior by adding new flooring, carpets, tile, and appliances. Moegling stated that he would also
8 add new French doors and a second-floor deck. The California investor later determined that Moegling did
9 not complete any renovation work after receiving the investment funds.

10 12. Moegling made misleading statements concerning the amount of time that it would take to
11 complete the renovations. Moegling claimed that the home was "85% completed" and that "When floors
12 are installed all [that] is left is painting." Moegling indicated that he would need "less than 30 days to
13 complete work on the home to ready for immediate sale." Moegling represented that the home required
14 "very little work to finish" and that there would be a "very quick turnaround on the sale." Moegling
15 represented that the home would "sell quickly" after "basic work" was completed to "finish the home."
16 While Moegling noted that an occupancy permit had not yet been issued for the home, he failed to disclose
17 that this posed substantial risks of additional costs and delays, as detailed below.

18 13. Moegling directed the California investor to wire \$90,000 to an escrow company in
19 Washington. Moegling subsequently executed a promissory note on behalf of Imperium Builder and
20 recorded a deed of trust to secure the note. Moegling used \$65,000 of the investor's funds to purchase the
21 property. Moegling received a check for most of the remaining funds, which totaled approximately
22 \$24,000. Under the terms of the note, Imperium Builder was required to make monthly payments to the
23 investor beginning in April 2015.
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1 14. Contrary to his promises of “guaranteed” interest payments, Moegling made no payments to
2 the investor. The California investor had to initiate costly and time-consuming foreclosure proceedings to
3 secure ownership of the property. The California investor later determined that prior renovation work on
4 the property (converting it from an RV garage) had not been permitted or approved by county authorities,
5 which impaired his ability to sell the property. Contrary to Moegling’s claims about an “immediate sale” in
6 less than 30 days, the California investor had to spend several months and thousands of dollars on
7 permitting and engineering plans, and will have to spend more than \$30,000 to bring the property into
8 compliance with building codes.

9 *Yellowstone Capital Offer (Tacoma Property)*

10 15. On November 2, 2015, Moegling sent an e-mail to an Idaho resident and offered a \$15,000
11 promissory note investment that would be secured by a first position deed of trust on a two-bedroom home
12 near Tacoma, Washington. The next day, Moegling e-mailed an Investment Memorandum that provided
13 additional details of a “Secured High Yield” investment that was being offered by his business, Yellowstone
14 Capital. The Investment Memorandum indicated that the owner of the property was going to renovate the
15 home and sell it. The Investment Memorandum represented that the investor would earn a 12% return as
16 part of a one-year promissory note. Moegling failed to specify how the investor’s funds would be used or
17 what Moegling’s compensation would be for his role in the transaction.

18 16. Moegling made a number of misleading representations about the present and future value of
19 the home that would secure the investment. Moegling misleadingly represented that in its present condition,
20 the home had a value in the “\$100k range” (\$100,000) and that a \$15,000 investment would have a “Loan to
21 Value” of 15%. Moegling claimed the home would be worth \$140,000 after the homeowner completed a
22 “rehab.” Moegling failed to disclose the basis and assumptions for this projected future value, and failed to
23 disclose that the 2015 tax assessed value of the home was only \$63,000. While Moegling provided several
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1 photos in his Investment Memorandum, he failed to include any photographs of the interior of the home.
2 Moegling failed to disclose that according to Pierce County property records, the home is “Uninhabitable.”
3 The Idaho resident declined to invest.

4 *Bainbridge Views Promissory Note (Bainbridge Island Property)*

5 17. In November 2015, Moegling sold a \$20,000 promissory note investment to a 63-year old
6 resident of Spokane, Washington, who invested through a self-directed individual retirement account (IRA).
7 The promissory note investment was secured by a first position deed of trust on a waterfront home on
8 Bainbridge Island. The Spokane investor first learned of Moegling after the Idaho resident forwarded a
9 copy of the Investment Memorandum for the Tacoma property described above. After Moegling informed
10 the Spokane investor that the Tacoma investment opportunity was no longer available, he solicited her
11 regarding an investment in the Bainbridge Island property, which he purchased in January 2015 through
12 Bainbridge Views. Moegling stated that he was going to renovate the home and keep it long-term as a
13 rental property, but was leveraging it to raise funds for another home that he was purchasing to “fix and
14 sell.”

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16 18. Moegling e-mailed an Investment Memorandum to the Spokane investor and provided
17 additional details of what Moegling described as a “High Yield Investment” and “Secured High Yield”
18 investment. Moegling stated that he was originally going to send the Investment Memorandum to “our pool
19 of investors” but wanted to give the Spokane investor the “first shot” at the investment because she was
20 unable to invest in the Tacoma property. According to the Investment Memorandum, a \$20,000 investment
21 would earn a 12% annual return that would be paid through monthly interest payments. The Investment
22 Memorandum indicated that the investment was being offered by Yellowstone Capital, which according to
23 its letterhead had been in operation “Since 2000.” In fact, Moegling did not form Yellowstone Capital, LLC
24 until several months later, in March 2016.

1 19. Moegling made misleading representations concerning the current value of the home that
2 secured the investment. Moegling misleadingly stated that the home had a “Zillow value” of \$350,000,
3 while failing to disclose that the 2015 tax assessed value of the property was only \$9,980. Moegling failed
4 to disclose that since at least 2010, the tax assessed value of the building structure was only \$1,000. The
5 Investment Memorandum misleadingly stated that a \$20,000 investment would have a Loan-To-Value
6 (LTV) ratio of only 5%. Moegling failed to disclose that his LTV ratio was not calculated using the
7 appraised value or purchase price. Earlier that year, Moegling purchased the property for \$31,500. If
8 Moegling had used the purchase price, the LTV ratio of the investment would have been more than 60%,
9 rather than 5%.

10 20. Moegling made misleading representations concerning the future value of the home on the
11 property. Moegling stated that the home had been “boarded up” for the winter, but that he would complete
12 a “full remodel” in the spring of 2016. Moegling claimed that after the renovations were completed, the
13 property would be worth \$600,000. Moegling stated that his projected future value was based on a
14 “neighboring home” of the “same size” that been sold “earlier this year.” Moegling failed to provide any
15 other specifics for the purportedly comparable property, including its address, sale price, or sale date.
16 Moegling failed to disclose the risk that the proposed renovations would never be completed, or would be
17 substantially delayed by permitting requirements and other legal requirements, including shoreline laws.

18 21. Moegling failed to disclose material facts concerning access to the property. In his
19 Investment Memorandum, Moegling stated that the home had “direct drive access from the north via City
20 Street.” When Moegling attempted to obtain title insurance for the property, the title company declined
21 coverage after conducting a preliminary underwriting review. A subsequent title report from another title
22 company stated that access to the property “appears to be pedestrian, not vehicular” and it found no
23 recorded easement. Moegling failed to disclose the risk that the lack of access could adversely affect the
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1 property's value. Moegling failed to disclose how the lack of access could impede the proposed renovations
2 and impair the investor's ability to sell the property, in the event that Moegling defaulted on the note.

3 22. Moegling failed to disclose material information regarding his background and financial
4 condition. Moegling failed to disclose that a few months earlier, in August 2015, he filed a Chapter 7
5 bankruptcy petition and declared that he had no current employment or any source of income in the previous
6 six months. Moegling failed to disclose that in August 2015, he was subject to a Final Order by the
7 Department of Financial Institutions for registration and anti-fraud violations in connection with the sale of
8 similar promissory note investments. Moegling failed to disclose that in August 2015, he was also the
9 subject of an eviction action for failing to pay the rent on his residential home lease. Moegling failed to
10 disclose that in April 2015, a \$22,998.88 judgment was entered against him in Pierce County Superior
11 Court. Finally, Moegling failed to disclose any information regarding his prior investment performance,
12 and the fact that he had previously failed to repay investors who had made similar promissory note
13 investments with him.

14 23. After the Spokane investor arranged for \$20,000 to be wired to an escrow company in
15 Washington, more than \$18,500 was disbursed to Moegling's business, Bainbridge Views. After receiving
16 the investor's funds, Moegling failed to make any interest payments and attempted to lull the investor by
17 repeatedly promising that repayment was imminent. In January 2016, Moegling stated that he would send a
18 cashier's check for the overdue interest payments. After no payment was received, the Spokane investor
19 informed Moegling that foreclosure proceedings would be initiated. In March 2016, Moegling represented
20 to the investor that he was "getting ready to do [a] payoff" of the entire investment, including 12 months of
21 interest payments "for the trouble." In April 2016, after no payment was made, Moegling stated that he
22 would pay off the investment by wiring funds directly to the Spokane investor's IRA account. To date,
23 Moegling has made no payments to the Spokane investor.
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Yellowstone Capital Website Offerings

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3 24. Since at least March 2016, Yellowstone Capital has maintained a website, ystonecapital.com,
4 that offers investment opportunities to the general public. The website states that Yellowstone Capital is a
5 “private company based in Seattle” and includes a photograph of the Seattle skyline. In fact, Yellowstone
6 Capital’s business address is more than 120 miles away in Sequim, Washington. The website allows
7 investors to subscribe to an Investor List and receive copies of offering memoranda. The website indicates
8 that Yellowstone Capital offers investments that are secured by first position deeds of trust, as well as
9 fractional interests in deeds of trust.

10 25. The Yellowstone Capital website includes false and misleading statements concerning its
11 track record and experience. The website states that Yellowstone Capital is the “premier Pacific NW
12 private lending firm serving Washington, Oregon & Idaho...with [e]xperience that borrowers have trusted
13 for over 15 years.” The website further states that Yellowstone Capital “has been involved with originating
14 and placed many millions of dollars in trust deed investments with investors throughout the Pacific NW.”
15 Similarly, on the “Passive Income” section of the website, Yellowstone Capital claims that it has been
16 assisting “investors with their investments for over fifteen years.” In truth, Yellowstone Capital was not
17 formed until March 8, 2016. In a March 2016 e-mail to the Securities Division, Moegling stated:
18 “Yellowstone Capital is a recently established LLC. Less than two weeks old.”
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20 26. Yellowstone Capital’s website has contained misleading statements concerning the risks and
21 returns of the investments. Yellowstone Capital claims that its investors are “Currently earning 9% to 12%
22 Annually” with lower risk and higher rates of return than other investments. Yellowstone Capital states that
23 its investments provide “the ultimate risk adjusted strategy” and that it offers “a more secure investment
24 with much lower risk.” The website states that if a borrower defaults, an investor can foreclose and that its
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1 clients have “earned many hundreds of thousands of dollars on liquidating assets post foreclosure.” The
2 website fails to disclose the substantial costs, fees, and expenses associated with foreclosure, as well as the
3 costs to maintain and sell property, including insurances and taxes. When Moegling defaulted on the
4 \$20,000 promissory note investment described above, the Spokane investor notified Moegling that
5 foreclosure proceeding would be initiated against him. In response, Moegling sent an email that stated:

6 “Let me just remind you that foreclosure law is very complicated. ... I will sue you for lender
7 fraud so fast, stay the foreclosure and promise (guarantee) before our case is slightly heard your
8 attorney cost will be over \$20k” [\$20,000]

9 *Yellowstone Capital Craigslist Offering*

10 27. On March 9, 2016, Moegling offered real estate related investment opportunities to the
11 general public through Craigslist, an online classified advertisements website. Moegling placed the
12 advertisement in the portion of the Craigslist website that is dedicated to residents of the Puget Sound region
13 of Washington. The advertisement contained the following caption: “**INVESTOR ALERT**LOOKING
14 FOR 100% SECURED PASSIVE INCOME? L@@k Here!” The advertisement included an email address
15 for Yellowstone Capital, provided instructions on how to receive an offering memorandum, and directed
16 investors to visit Yellowstone Capital’s website. The advertisement misleadingly stated that clients of
17 Yellowstone Capital “have grown millions of dollars in wealth over the years!” In fact, Yellowstone
18 Capital was formed as a Washington limited liability company the day before, on March 8, 2016.

19 **Failure to Comply with DFI Warning Letter and Subpoena**

20 28. On March 15, 2016, the Securities Division sent a letter to the e-mail address provided in
21 Yellowstone Capital’s Craigslist ad. The letter directed Yellowstone Capital to provide certain documents
22 and information relating to its investments. Later that day, Moegling sent an e-mail response and stated that
23 Yellowstone Capital has “private investors” that are “primarily personal contacts of mine.” Moegling failed
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1 to provide any documents or names of investors, claiming that he was exempt from the securities laws under
2 the Consumer Loan Act. The next day, Moegling filed an amended report with the Washington Secretary of
3 State's Office, and added himself as the Manager of Yellowstone Capital. Approximately two weeks later,
4 on April 5, 2016, Yellowstone Capital posted a new advertisement on Craigslist that was similar to the
5 March 9 advertisement. The advertisement directed investors to visit the Yellowstone Capital website and
6 to contact the company by e-mail to receive an offering memorandum.

7 29. On April 20, 2016, the Securities Division served a subpoena on Moegling, which required
8 him to produce documents relating to Bainbridge Views, Yellowstone Capital, and Imperium Builder by
9 May 6, 2016. The subpoena also required Moegling to testify under oath at the Securities Division's offices
10 on May 12, 2016. The following day, the Securities Division emailed a copy of the subpoena to Moegling.
11 Moegling failed to respond in any way to the subpoena or appear for testimony.

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

13 **CONCLUSIONS OF LAW**

14 1. The offer and/or sale of the promissory notes and investments described above constitute the
15 offer and/or sale of a security as defined in RCW 21.20.005(14) and (17).

16 2. Travis Moegling; Yellowstone Capital, LLC; Imperium Builder, LLC; and Bainbridge
17 Views, LLC; and Travis Moegling have each violated RCW 21.20.010, because, as set forth in the Tentative
18 Findings of Fact, they made untrue statements of material fact or omitted to state material facts necessary in
19 order to make the statements made, in light of the circumstances in which they were made, not misleading.
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21 Based upon the foregoing and finding it in the public interest:

22 **FINAL ORDER**

1 IT IS HEREBY ORDERED that Respondents Travis Moegling; Yellowstone Capital, LLC;
2 Imperium Builder, LLC; and Bainbridge Views, LLC; and their agents, employees, and representatives,
3 shall each cease and desist from violating RCW 21.20.010, the anti-fraud section of the Securities Act.

4 IT IS FURTHER ORDERED that the Respondent Travis Moegling shall be liable for and shall pay a
5 fine of \$40,000.

6 IT IS FURTHER ORDERED that the Respondent Travis Moegling shall be liable for and pay costs
7 in the amount of \$5,000.

8 IT IS FURTHER ORDERED that Respondent Yellowstone Capital, LLC shall be liable for and shall
9 pay a fine of \$10,000.

10 IT IS FURTHER ORDERED that Respondent Imperium Builder, LLC shall be liable for and shall
11 pay a fine of \$10,000.

12 IT IS FURTHER ORDERED that Respondent Bainbridge Views, LLC shall be liable for and shall
13 pay a fine of \$10,000.

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15 **AUTHORITY AND PROCEDURE**

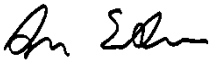
16 This FINAL ORDER is entered pursuant to the provisions of RCW 21.20.390, and is subject to the
17 provisions of RCW 21.20.440 and Chapter 34.05 RCW. Respondents have the right to petition the superior
18 court for judicial review of this agency action under the provisions of RCW 34.05. For the requirements for
19 Judicial Review, see RCW 34.05.510 and sections following. Pursuant to RCW 21.20.395, a certified copy
20 of this Order may be filed in Superior Court. If so filed, the clerk shall treat the Order in the same manner
21 as a Superior Court judgment as to the fine, and the fine may be recorded, enforced, or satisfied in like
22 manner.

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24 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

1 SIGNED and ENTERED this 5th day of July 2016.

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5 _____
6 William M. Beatty
7 Securities Administrator

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9 _____
10 Suzanne Sarason
11 Chief of Enforcement

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13 _____
14 Robert Kondrat
15 Financial Legal Examiner Supervisor