

DOB OPINION 99-001

Date: December 14, 1999

From: John L. Bley,

Director, Department of Financial Institutions

Subject:

Out-of-state banks providing fiduciary services to Washington residents through a local office

This letter is your approval by the Department of Financial Institutions for Your Client to engage in certain trust and financial service activities in the State of Washington without being considered to be engaged in trust business in Washington. Your Client is a national bank with its main office in California. It wishes to provide its fiduciary and other financial services to Washington residents through a representative office.

An out-of-state fiduciary has full power to conduct trust activities specified in RCW 30.08.150 as long as the trust administration and decisions take place outside the State of Washington. Maintaining a sales force in the State of Washington, engaging in client contact, advertising, providing applications and other pertinent documentation, and administering real property located in Washington are not considered by the Department of Financial Institutions to rise to the level of trust administration or decision-making.

We understand that Your Client will open an office and maintain a sales force in the State of Washington, which employees will solicit the appointment of Your Client as trustee, executor or custodian under trusts, wills and similar fiduciary instruments. These employees may meet periodically with clients and potential clients in Washington to explain the services Your Client can provide and/or explain the decisions that Your Client has made with respect to the account or estate at its home office in California. Your Client would administer these trusts, estates and other accounts from its California office. Your Client's home office would provide core fiduciary functions, including accepting new accounts, reviewing and approving discretionary matters, conducting periodic annual reviews, providing any investment management of managed accounts, maintaining records regarding the accounts and generating periodic account statements. California will also be the principal location for officers having direct supervisory authority over the individual accounts Your Client administers for Washington residents. Of course, a number of the instruments pursuant to which Your Client will be acting in Washington, including, but not limited to, serving as an executor under a will, a beneficiary under a deed of trust, a custodian under a custodial agreement, or a trustee under a trust agreement, may be governed by Washington or California or other state laws, as the situation dictates, but irrespective of the choice of law, the core fiduciary activities as to such services will be performed in California.

We understand that Your Client may, in addition, provide various investment management and advisory services to Washington residents in a similar manner. This may involve Your Client's employees located in the State of Washington soliciting Washington residents to appoint Your Client as their investment manager or advisor. All administration of these accounts, including acceptance, review, record keeping, statement rendering, etc., would take place outside of

Washington. Finally, Your Client's employees may at various times solicit Washington residents with regards to other financial services or products that Your Client may be marketing at the time. Again, all administration and decision-making with regards to these future activities would be handled outside of the state.

Such activities do not rise to the level of establishment of a branch engaging in core banking or trust activities. As such, these activities are not prohibited by Washington law and these activities will not subject Your Client to regulation by the Washington State Department of Financial Institutions. The fact that Your Client is a national bank is irrelevant to the conclusions of law concerning representative offices stated herein and therefore your reference to an OCC interpretive letter is respectfully ignored.

With regard to the investment management and advisory services, as long as the Washington employees are employees of Your Client and not a subsidiary or affiliate, those employees are not subject to regulation by the Washington State Department of Financial Institutions, Securities Division.

Different sets of facts may lead to different conclusions. Should you have any questions, please contact the undersigned.