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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

JACK MCDONOUGH,
Petitioner,

NO. 07-2-01712-4

v.

~~[PROPOSED]~~
ORDER AFFIRMING FINAL ORDER
OF DIRECTOR ON REVIEW

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS, SCOTT JARVIS
(DIRECTOR),
Respondent.

This matter came before the Court for trial on June 13, 2008, on the Petition for Judicial Review ("Petition") filed by counsel for Petitioner Jack McDonough ("Petitioner"), which sought review of the Final Order of Director on Review Affirming the Initial Order, dated July 25, 2007. The Respondent, the Washington State Department of Financial Institutions ("Department"), was represented by Charles E. Clark, Assistant Attorney General, and the Petitioner was represented by Jon A. Payne, of Carney Badley Spellman, P.S.

The Court, having considered Petitioner's Brief in support of judicial review, the Respondent's Brief, the Petitioner's Reply, supporting papers, the administrative record on file in this matter, and the argument of counsel, hereby makes the following:

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I. FINDINGS OF FACT

1.1 The Director of the Department of Financial Institutions entered a final administrative order on July 25, 2007, against Petitioner titled Final Order of Director on Review Affirming the Initial Order (“Final Order”).

1.2 The Final Order affirmed findings of fact and conclusions of law as issued by Administrative Law Judge Gail G. Mauer in his Findings of Fact, Conclusions of Law, and Initial Order issued on February 9, 2007.

1.3 The Final Order’s findings of fact, including Finding of Fact No. 5 and No. 7, were not incomplete, not misleading, and were supported by the evidence.

II. CONCLUSIONS OF LAW

2.1 The Court has jurisdiction, pursuant to Chapter 34.05 RCW, over the parties and subject matter.

2.2 Petitioner’s offering of his tax niche system to attorneys constituted the offering of a “business opportunity” under RCW 19.110.020(1) of Chapter 19.110 RCW, the Business Opportunity Fraud Act.

2.3 Petitioner’s activities of offering his tax niche system to attorneys are subject to the registration requirements for the offering of “business opportunities” under the Business Opportunity Fraud Act, including RCW 19.110.050.

2.4 The Department properly ordered Petitioner, his agents and employees, to cease and desist from offering or selling unregistered business opportunities in violation of the registration requirements of RCW 19.110.050.

2.4 The Final Order is supported by substantial evidence and is within the proper exercise of discretion of the Director of the Department of Financial Institutions.

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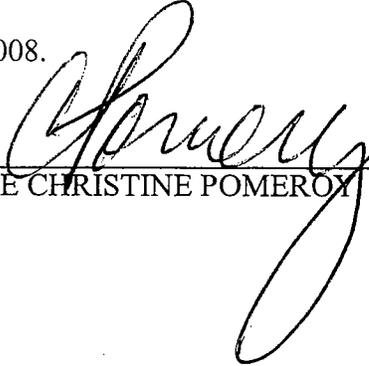
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III. ORDER

IT IS ORDERED, ADJUDGED AND DECREED that the final decision as set forth in the Final Order of the Washington State Department of Financial Institutions made in the above-entitled matter is affirmed and this appeal is dismissed.

DATED this 5th day of September, 2008.



JUDGE CHRISTINE POMEROY

Presented by:
ROBERT M. MCKENNA
ATTORNEY GENERAL of WASHINGTON

By: 

CHARLES E. CLARK, WSBA No. 28918
Assistant Attorney General
Attorneys for Respondents
(360) 586-3650

Approved as to form; notice of presentation waived:
CARNEY BADLEY SPELLMAN, P.S.

By: _____
JON PAYNE, WSBA No. 26541
Attorney for Petitioner
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