

1 B, San Clemente, California 92673. On August 16, 2000 this mailing was signed for
2 by a "D Vance."

3 Respondent **SAN CLEMENTE SECURITIES** has not made a written request
4 for a contested case hearing in this matter and the time to do so has expired.

5 **NOW THEREFORE**, after consideration of the Investigation Report and
6 accompanying exhibits submitted in this matter by David T. Weiss, Securities
7 Compliance Officer, the Director hereby issues the following Findings of Fact,
8 Conclusions of Law, and Final Order:

9

10

FINDINGS OF FACT

11

12 The Director **FINDS** that:

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14 1. Respondent **STANLEY R. STEARNS** (hereafter "Stearns") was, at
15 all times material herein, a broker-dealer salesperson in the employ of San
16 Clemente Securities. **STEARNS'** CRD number is #2465836. **STEARNS'** last
17 known address is 10866 Wilshire Boulevard, Los Angeles, California 90024.

18 2. Respondent **SAN CLEMENTE SECURITIES** (hereafter "San
19 Clemente") was, at all times material herein, a broker-dealer firm. The firm's CRD
20 number is #21895. **SAN CLEMENTE'S** last known address is 1031 Calle
21 Recodo, Suite B, San Clemente, California 92673.

22 3. David Y. Wilson (hereafter "Wilson"), an Oregon resident, was a
23 customer of **STEARNS** and **SAN CLEMENTE**.

24 4. American Savings Bank of Hawaii is, on information and belief, a
25 federally chartered banking institution.

26 5. **STEARNS** was licensed to sell securities as a broker-dealer



1 salesperson by the NASD (National Association of Securities Dealers).

2 **STEARNS** has never been licensed to sell securities by the State of Oregon.

3 6. **SAN CLEMENTE** was licensed to sell securities as a broker-dealer
4 by the State of Oregon during 1998 and 1999.

5 7. Wilson, an eighty seven year old Oregonian, purchased three
6 certificates of deposit in various amounts from **SAN CLEMENTE** in 1988.

7 8. In September, 1999 Wilson was interested in purchasing another
8 certificate of deposit, this time in the amount of one hundred thousand
9 (\$100,000.00) dollars.

10 9. Wilson discussed the possible purchase of the certificate of deposit
11 with **STEARNS** over the telephone. During these telephone conversations,
12 Wilson was a resident of and was physically located in the State of Oregon.

13 10. **STEARNS** and Wilson discussed such matters as the duration of
14 the certificate and the interest rate the certificate would bear. However, at no
15 point in time did the parties discuss the amount of the certificate after Wilson
16 initially mentioned that it was to be in the amount of one hundred thousand
17 (\$100,000) dollars. In addition, at no point in time did the parties discuss whether
18 or not the certificate would have a commission attached to it and, if so, what the
19 amount of that commission would be.

20 11. At no point in their discussions did **STEARNS** tell Wilson that he
21 was not licensed to sell securities in the State of Oregon and, in point of fact, had
22 never held an Oregon securities license.

23 12. **STEARNS** did not present Wilson with any writings to explain or
24 memorialize the terms of the purchase prior to the date of purchase.
25 Furthermore, Wilson was not asked to complete documentation prior to the
26 purchase that could stand as evidence of his knowlege of the exact terms of the



1 transaction, including the existence of a commission and the amount of a
2 commission.

3 13. After much discussion, Wilson finally consented to purchase what
4 he thought was a one hundred thousand dollar (\$100,000) five (5) year certificate
5 paying interest at the rate of six and three quarters percent (6.75%) per annum,
6 with interest payments to be made on a monthly basis.

7 14. Wilson followed instructions and mailed a bank check (#6691) in
8 the amount of one hundred thousand dollars (\$100,000) dated September 27,
9 1999 to **SAN CLEMENTE**.

10 15. **STEARNS** purchased a ninety five thousand dollar (\$95,000) five
11 year certificate of deposit issued by the American Savings Bank of Hawaii
12 (certificate #01-0671469) with a maturity date of September 7, 2004 and an
13 effective yield of six and three quarters percent (6.75%) per annum for Wilson.

14 16. Wilson expected routine written confirmation of this simple
15 transaction to follow. Instead, he received a telephone call from **SAN**
16 **CLEMENTE** stating that "we are returning a few dollars to you." It was only after
17 receipt of the "refund" did Wilson learn that a certificate of deposit that he
18 assumed was in the amount of one hundred thousand dollars (\$100,000) was
19 actually only in the amount of ninety five thousand dollars (\$95,000).

20 17. Equally disturbing to this investor was the fact that **SAN**
21 **CLEMENTE** had charged him a commission of two thousand two hundred eighty
22 eight dollars and eighty one cents (\$2,288.81) for the purchase of a single
23 certificate of deposit. Wilson would never have entered into the purchase if he
24 had known there was any commission, not to mention one of this size, when he
25 could easily have obtained a no commission CD at any bank or financial
26 institution.



1 commission attached to it; and when it failed to tell Wilson the exact amount of
2 said commission.

3
4 **ORDER**

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6 Therefore, the Director **ORDERS**

7 1. That **STEARNS** and **SAN CLEMENTE** shall cease and desist
8 from offering and/or selling securities to persons in the State of Oregon in
9 violation of ORS Chapter 59 or OAR Chapter 441.

10 2. That Respondent **STEARNS** is ordered to pay the sum of Three
11 Thousand Five Hundred Dollars (\$3,500.00) as a civil penalty for violations
12 described herein.

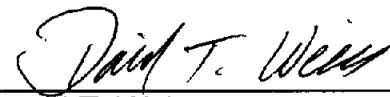
13 3. That Respondent **SAN CLEMENTE SECURITIES** shall pay the
14 sum of Ten Thousand Dollars (\$10,000.00) as a civil penalty for violations
15 described herein.

16 **IT IS SO ORDERED.**

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18 Dated this 11th day of September, 2000 NUNC PRO TUNC August 11, 2000 at
19 Salem, Oregon.

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21 **MARY C. NEIDIG, DIRECTOR**
22 **DEPARTMENT OF CONSUMER & BUSINESS SERVICES**
STATE OF OREGON

23 **APPROVED AS TO FORM:**

24 
25 **David T. Weiss**
26 **Securities Compliance Officer**
Division of Finance and Corporate Securities
State of Oregon Department of Consumer and Business Services

Dated: 9-11-00

