STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES

In the Matter of:	**S-09-0076**
ZURCROWNER, P.C. d/b/a ZURCROWNER, SCOTT A. WHITNEY, and RANDY A. GRAY,	**ORDER TO CEASE AND DESIST, ORDER ASSESSING CIVIL PENALTIES, ORDER DENYING EXEMPTIONS, ORDER WITHDRAWING USE OF EXCLUSIONS, BAR FROM FINANCIAL SERVICES BUSINESS ACTIVITIES, AND CONSENT TO ENTRY OF ORDER AS TO ZURCROWNER, P.C. d/b/a ZURCROWNER AND SCOTT A. WHITNEY ONLY**
Respondents.	

WHEREAS the Director of the Department of Consumer and Business Services (hereinafter, "the Director") has investigated the business activities of Zurcrowner, P.C. d/b/a Zurcrowner, Scott A. Whitney, and Randy A. Gray, and the Director has determined that Respondents Zurcrowner, P.C. d/b/a Zurcrowner, Scott A. Whitney, and Randy A. Gray (collectively, "Respondents") conducted investment adviser business in Oregon in violation of the Oregon Securities Law, ORS Chapter 59 and OAR Chapter 441;

WHEREAS Zurcrowner, P.C. d/b/a Zurcrowner and Scott A. Whitney wish to resolve and settle this matter with the Director;

NOW THEREFORE, as evidenced by the authorized signatures subscribed on this Order, Zurcrowner, P.C. d/b/a Zurcrowner and Scott A. Whitney hereby CONSENT to entry of this Order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter.

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350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

FINDINGS OF FACT

The Director FINDS that:

1. Zurcrowner, P.C. was a professional corporation incorporated in Oregon from March 6, 2003, to May 7, 2010. Zurcrowner was registered with the Oregon Secretary of State, Corporation Division, as an assumed business name of Zurcrowner, P.C. from March 13, 2003, to March 14, 2007.

2. Scott A. Whitney ("Whitney") was the president of Zurcrowner, P.C. d/b/a Zurcrowner (hereinafter, "Zurcrowner").

3. Zurcrowner was licensed in Oregon as a state investment adviser by the Department of Consumer and Business Services, Division of Finance and Corporate Securities ("DFCS") from May 30, 2003, to December 31, 2010. Zurcrowner's license number in Oregon is IA-1999. The Investment Adviser Registration Depository number for Zurcrowner is #126640.

4. From June 18, 2003, to December 31, 2010, Whitney was licensed in Oregon to work for Zurcrowner as an investment adviser representative. Whitney's Central Registration Depository ("CRD") number is #2376633.

5. Randy A. Gray ("Gray") was the vice-president and authorized representative of Zurcrowner.

6. Gray was licensed in Oregon to work for Zurcrowner as an investment adviser representative from May 30, 2003, to December 31, 2010. Gray's CRD number is #4661082.

7. Zurcrowner's principal place of business was located at 1650 Waverly Drive SE, Albany, Oregon 97321. Around July 2009, Zurcrowner's office on Waverly Drive closed, and Zurcrowner's principal place of business moved to 2010 Marten Ave SW, Albany, Oregon 97321.

8. On or about November 19, 2009, DFCS examiners conducted an examination of Zurcrowner's business activities. Prior to the exam, Whitney told a DFCS examiner that the Zurcrowner records were at Gray's residence in Eugene. The examiners met with Whitney and Gray at Gray's residence in Eugene, Oregon.

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9. During the examination, DFCS examiners reviewed the Zurcrowner client files and copies of client contracts. At least two client files, concerning "Client N" and "Client E", were missing a copy of a signed agreement between Zurcrowner and those clients.

10. During the examination, DFCS examiners requested documentation supporting the suitability of recommendations to Zurcrowner clients concerning the purchases, sales, or exchanges of securities. Respondents produced records reflecting date of birth information, but no additional documentation of any reasonable inquiry concerning each client's investment objectives, financial situation and needs.

11. Neither Gray nor Whitney adequately disclosed their outside business activities on required forms filed with the IARD and DFCS. During the examination on November 19, 2009, DFCS examiners inquired about Gray and Whitney's outside business activities. Gray disclosed to the examiners that he is a builder and has a company called R & D Gray, Inc. R & D Gray, Inc. incorporated in Oregon in July 2003 and is registered as an active corporation with the Oregon Secretary of State, Corporation Division. Gray is the president and registered agent of R & D Gray, Inc. Gray's outside business, including but not limited to, his role at R & D Gray, Inc., was not disclosed on forms filed with the IARD and DFCS.

12. Whitney's IARD record discloses that Whitney was a partner in an accounting and tax firm called "JSA" in Albany, Oregon, beginning around November 1998. While this might have been true at one time, Whitney's outside business disclosure was not complete, and it was not updated. Whitney's other outside businesses, including but not limited to, his role at MTC, Inc., were not disclosed on forms filed with the IARD and DFCS. For instance, Whitney was the president and secretary of an Oregon corporation called MTC, Inc., which was an Oregon corporation from June 18, 2008, to August 20, 2010. MTC, Inc.'s principal place of business was 2010 Marten Ave SW, Albany, Oregon 97321, which is the same address for Zurcrowner.

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13. Zurcrowner, Gray, and Whitney did not timely file amendments to required forms, including Form U-4, ADV Part I and ADV Part II, within 30 days of material changes. The material changes include, but are not limited to, change of address, both business and residential; and change of location of the Zurcrowner books and records.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

14. At times material to this Order, Zurcrowner was licensed with DFCS as a "state investment adviser" as defined by ORS 59.015(20)(a).

15. At times material to this Order, Whitney and Gray were each licensed with DFCS as an "investment adviser representative" as defined by ORS 59.015(8)(a).

16. Respondents, by failing to maintain a copy of a signed client agreement between Zurcrowner and "Client N", and Zurcrowner and "Client E", violated the books and records requirements of ORS 59.195 and OAR 441-195-0040(1)(j).

17. Respondents did not conduct a reasonable inquiry concerning each client's investment objectives, financial situation and needs, in violation of OAR 441-205-0145(1)(a).

18. Respondents made recommendations to their investment adviser clients regarding purchases, sales or exchanges of securities, without reasonable grounds to believe the recommendations were suitable for the clients, in violation of OAR 441-205-0145(1)(a).

19. Respondents did not adequately disclose Whitney and Gray's outside business activities, in violation of ORS 59.175(6), OAR 441-175-0105, and ORS 59.195(2), which requires licensed state investment advisers and investment adviser representatives to promptly amend any document filed with the director which is or becomes incomplete or inaccurate in any material respect.

20. Respondents did not promptly amend U-4 and ADV forms filed with the Director and the IARD concerning material changes, such as address changes, and location of required

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books and records, in violation of ORS 59.195(2), ORS 59.175(6), and OAR 441-175-0105.

ORDER

21. Pursuant to ORS 59.245(4), Zurcrowner and Whitney must CEASE AND DESIST from:

A. failing to maintain a copy of client agreements, in violation of the books and records requirements of ORS 59.195 and OAR 441-195-0040(1)(j);

B. violating the suitability requirements of OAR 441-205-0145(1)(a);

C. failing to adequately disclose outside business activities, in violation of ORS 59.195(2);

D. failing to promptly amend required documents filed with the Director and the IARD concerning material changes, in violation of ORS 59.195(2) , ORS 59.175(6), and OAR 441-175-0105; and

E. violating any provision of the Oregon Securities Law.

22. The Director, pursuant to ORS 59.045(2), hereby DENIES Zurcrowner and Whitney the use of the securities and transactions exemptions that would otherwise be available to them under ORS 59.025, and ORS 59.035, respectively.

23. This Order precludes Zurcrowner and Whitney from the following definitions under the Oregon Securities Law, that would otherwise be available to them:

A. The Director, pursuant to the authority under ORS 59.015(20) and OAR 441-175-0030(8), hereby WITHDRAWS from Zurcrowner and Whitney the exclusions from the definition of "state investment adviser" under OAR 441-175-0030;

B. The Director, pursuant to the authority under ORS 59.015(1) and OAR 441-175-0020(5), hereby WITHDRAWS from Zurcrowner and Whitney the exclusions from the definition of "broker-dealer" under OAR 441-175-0020;

C. The Director, pursuant to the authority under ORS 59.015(8) and

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OAR 441-175-0041(3), hereby WITHDRAWS from Zurcrowner and Whitney the exclusions from the definition of "investment adviser representative" under OAR 441-175-0041; and

D. The Director, pursuant to the authority under ORS 59.015(18) and OAR 441-175-0040(8), hereby WITHDRAWS from Zurcrowner and Whitney the exclusions from the definition of "salesperson" under OAR 441-175-0040.

24. Zurcrowner and Whitney are permanently BARRED from all of the following financial services business activities in Oregon:

A. applying for, holding, or renewing any investment adviser, investment adviser representative, broker-dealer or securities salesperson license in the State of Oregon;

B. applying to register or renew any securities registration in the State of Oregon; and

C. applying for, holding, or renewing any license or registration required by the Director in Oregon, including but not limited to insurance, consumer finance, collection agency, manufactured structure dealer, or mortgage lending. Zurcrowner and Whitney are further BARRED from acting as a mortgage loan originator or mortgage loan processor in Oregon.

25. The Director, pursuant to ORS 59.995, hereby ASSESSES the following civil penalties against Zurcrowner and Whitney, jointly and severally:

A. $10,000 (ten thousand dollars) for suitability violations of OAR 441-205-0145(1)(a);

B. $1,000 (one thousand dollars) for failure to maintain required books and records, in violation of ORS 59.195 and OAR 441-195-0040(1)(j);

C. $1,000 (one thousand dollars) for failure to disclose Whitney and Gray's outside business activities, in violation of ORS 59.195(2); and

D. $1,000 (one thousand dollars) for failure to promptly amend U-4 and ADV forms filed with the Director and the IARD concerning material changes of address and location of

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required books and records, in violation of ORS 59.195(2), ORS 59.175(6), and OAR 441-175-0105.

26. The Director will SUSPEND the civil penalties assessed in paragraph 25 so long as Zurcrowner and Whitney comply with all terms of this Order; PROVIDED HOWEVER, the civil penalties will be immediately due and payable upon a determination by the Director that either Zurcrowner or Whitney has violated any term of this Order, or any provision of the Oregon Securities Law.

The entry of this Order in no way limits further remedies which may be available to the Director under Oregon law.

IT IS SO ORDERED and ENTERED this 28th day of November, 2012.

PATRICK M. ALLEN, Director
Department of Consumer and Business Services

/s/ David Tatman
David C. Tatman, Administrator
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Consent of Scott A. Whitney to Entry of Order

I, Scott A. Whitney, state that I am a resident of the State of Oregon, that I have read the foregoing Order and that I know and fully understand the contents hereof; that I have been advised of the right to a hearing, and that I am represented by counsel in this matter; that without admitting or denying the factual allegations herein, I voluntarily consent to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter; that I understand that the Director reserves the right to take further actions against me to enforce this Order or to take appropriate action upon discovery of other violations of Oregon law by me; and that I will fully comply with the terms and conditions stated herein.

I understand that this Order is a public document.

/s/ Scott A Whitney
SCOTT A. WHITNEY

State of: _____

County of:_____

SUBSCRIBED AND SWORN to before me this 27 day of Nov, 2012.

/s/ CRBispham
Signature of Judge Circuit Court

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Corporate Consent to Entry of Order for Scott A. Whitney

on behalf of Zurcrowner, P.C. d/b/a Zurcrowner

I, Scott A. Whitney, state that I was the president of Zurcrowner, P.C. d/b/a Zurcrowner (hereinafter, "Zurcrowner") and I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents hereof; that Zurcrowner and I have been advised of the right to a hearing and are represented by counsel in this matter; that Zurcrowner, voluntarily and without any force or duress, consents to the entry of this Order without admitting or denying the factual allegations herein, expressly waiving any right to a hearing in this matter; that Zurcrowner understands that the Director reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the Oregon Securities Law; and that Zurcrowner will fully comply with the terms and conditions stated herein.

Zurcrowner further assures the Director that neither Zurcrowner nor its members, officers, directors, employees or agents will engage in the activities of a broker-dealer, state investment adviser, mortgage broker, or act as a salesperson for any of these.

Zurcrowner understands that this Order is a public document.

By: /s/ Scott A Whitney
SCOTT A. WHITNEY, President
Zurcrowner, P.C. d/b/a Zurcrowner

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State of: _____

County of:_____

Corporate Acknowledgment

There appeared before me this _____ day of _____, 2012, Scott A. Whitney, who was first duly sworn on oath, and stated that he was the president of Zurcrowner, P.C. d/b/a Zurcrowner (hereinafter, "Zurcrowner") and that he is authorized and empowered to sign this Corporate Consent to Entry of Order on behalf of Zurcrowner, and to bind Zurcrowner to the terms hereof.

_____
Signature of Notary Public

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