

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
Telephone: (801) 530-6600  
Facsimile: (801) 530-6980

---

**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

---

**IN THE MATTER OF:**

**RICHARD SHANE EWELL, CRD#6216567**

**Respondent.**

**STIPULATION AND CONSENT  
ORDER**

**Docket No. SD-23-0005**

---

The Utah Division of Securities (“Division”), by and through its Senior Compliance Manager, Kenneth O. Barton, and Respondent Richard Shane Ewell (“Ewell” or “Respondent”) hereby stipulate and agree as follows:

1. Respondent has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act (“Act”), Utah Code Ann. § 61-1-1, et seq., as amended.
2. On or about January 26, 2023 the Division initiated an administrative action against Respondent by filing a Petition to Censure and Impose a Fine.
3. Respondent hereby agrees to settle this matter by way of this Stipulation and Consent Order (“Order”). If entered, the Order will fully resolve all claims the Division has against Respondent pertaining to the Petition.

4. Respondent admits that the Division has jurisdiction over him and the subject matter of this action.
5. Respondent hereby waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
6. Respondent has read this Order, understands its contents, and voluntarily agrees to the entry of the Order as set forth below. No promises or other agreements have been made by the Division, nor by any representative of the Division, to induce Respondent to enter into this Order, other than as described in this Order.
7. Respondent understands that he may be represented by legal counsel in this matter, understands the role that counsel would play in defending and representing his interests, and knowingly and of his own will and choice waives his right to have counsel represent him in this proceeding.

#### **I. FINDINGS OF FACT**

8. Ewell is a resident of St. George, Utah, and has been a licensed investment adviser representative ("IAR") of Aspen Capital Management, LLC ("ACM"), CRD#226559, since September 2015. Ewell has worked in the securities industry since January 2014 and has passed the FINRA Series 65 exam. Ewell has never been licensed to sell securities.
9. ACM, a Utah limited liability company, is an investment adviser firm located at 1150 South Bluff Street, Suite 6, in St. George, Utah. ACM has been licensed as an investment adviser in Utah since September 2015. ACM is owned and managed by John R. Crosier ("Crosier"), CRD#2787111, and Chad E. Loveland ("Loveland"), CRD#2837851. According to ACM's Compliance Policies and Procedures Manual

(“Compliance Manual”), Crosier and Loveland are both responsible for general supervision of ACM and its representatives. Crosier is ACM’s Chief Compliance Officer and Loveland is ACM’s Chief Financial Officer.

10. Separate actions against ACM, Crosier, Loveland and others were filed contemporaneously with this action. Those actions are pending.

The Woodbridge Ponzi Scheme Sold by ACM Representatives

11. Woodbridge Group of Companies, LLC (“Woodbridge”) is a defunct Delaware limited liability company registered with the Delaware Division of Corporations on December 11, 2014. Woodbridge and numerous related entities were owned and controlled by Robert H. Shapiro (“Shapiro”) and purported to be in the business of short-term commercial lending secured by commercial real estate.
12. Woodbridge used a nationwide network of sales agents, including Respondent, Crosier, Loveland and others to solicit investors to purchase Woodbridge investments in the form of promissory notes (“Woodbridge notes”) that were allegedly secured by real property.<sup>1</sup> Investors were told their monies would be loaned to third-party borrowers and would earn interest of at least 6% annually. Woodbridge was a safe investment, so the story went, because real estate securing the loans could be foreclosed upon and sold in the event of borrower default. Finally, Woodridge notes were also safe, according to Woodbridge, because it allowed no more than 60% of a property’s appraised value to be encumbered by a loan.

---

<sup>1</sup> Woodbridge offered first-position commercial mortgage (“FPCM”) notes as well as “Mezzanine” notes which paid a higher interest rate. Both were purportedly secured by real estate.

13. In reality, Woodbridge operated as a Ponzi scheme.<sup>2</sup> The Woodbridge notes were not secured, so investors never actually held any lien or legally enforceable interest on the properties. Woodbridge collapsed in December 2017 when it stopped making payments to investors and declared bankruptcy.<sup>3</sup> According to a civil action filed by the United States Securities and Exchange Commission (“SEC”)<sup>4</sup> Shapiro used a web of more than 275 limited liability companies he owned and controlled (“Shapiro entities”) to perpetrate the scheme. Despite receiving more than \$1 billion from investors, only \$13.7 million in interest income was generated by Woodbridge from truly unaffiliated third-party borrowers. Instead, nearly all of the so-called third-party borrowers were actually Shapiro entities with no revenue or bank accounts, which never paid any interest on the loans. Shapiro misappropriated investor monies for personal use, to fund a lavish lifestyle, pay interest to earlier investors and pay commissions to sales agents, including Respondent and other ACM investment adviser representatives.
14. In April 2019, Shapiro was indicted and charged with conspiracy to commit mail fraud and wire fraud, conspiracy to commit money laundering, mail fraud, wire fraud, and evasion of payment of federal income taxes, all of which are federal felony crimes.<sup>5</sup> In August 2019, Shapiro entered into a plea agreement and was sentenced to 25 years in

---

<sup>2</sup> A Ponzi scheme is an investment fraud where existing investors are paid purported returns with monies invested by later investors.

<sup>3</sup> On December 4, 2017, Woodbridge filed a Chapter 11 bankruptcy in the United States Bankruptcy Court for the District of Delaware, Case No. 17-12560 (JKS).

<sup>4</sup> See *SEC v. Robert H. Shapiro et al.*, Case Number 1:17-cv-24624, filed in the United States District Court for the Southern District of Florida.

<sup>5</sup> See *United States v. Shapiro*, Case Number 19-20178-CR, filed in the United States District Court for the Southern District of Florida.

federal prison. In settling the SEC civil case, Woodbridge and Shapiro agreed to a court order to pay more than \$1 billion in restitution, civil penalties and interest.

15. The Division's examination into the sales of Woodbridge notes in Utah revealed that in selling Woodbridge investments, Respondent acted as an unlicensed agent and sold unregistered securities.

#### Woodbridge Notes

16. In sales materials Woodbridge promoted itself as a well-established, successful company with "35 years of real estate and investment experience." The Woodbridge investments sold by ACM included 12-month FPCM promissory notes and 18-month Mezzanine promissory notes paying annual interest between 6.5 and 7%, paid monthly, with investors' principal returned at the end of the term. In the event of a borrower default, the notes were allegedly secured by real property which was appraised at a value higher than the amount of the loan.
17. In practice, however, the notes were not secured by real property, making the Woodbridge notes unsecured promissory notes for which investors had no legal, enforceable interest in the event of borrower default. The Woodbridge notes are promissory notes and investment contracts, both of which are securities under Section 61-1-13 of the Act.

#### Ewell's Sale of Woodbridge

18. Ewell learned about Woodbridge from Crosier and Loveland. Crosier claimed to have conducted extensive due diligence on Woodbridge, and said both Crosier and Loveland had clients who had previously invested at that time. Ewell also had telephone calls with

Kim Tavares (“Tavares”),<sup>6</sup> a Woodbridge “Associate Consultant” who was the primary Woodbridge contact for ACM representatives. Tavares provided Ewell with marketing information and Woodbridge brochures, which he used when soliciting investors.

19. Ewell conducted no personal due diligence on Woodbridge. He told the Division he relied on Crosier and Loveland’s experience in deciding to sell it. Neither Crosier nor Loveland told Ewell that between 2015 and 2016 the states of Massachusetts, Texas and Arizona all had filed regulatory actions against Woodbridge for securities fraud, the sale of unregistered securities and unlicensed agent activities.
20. Ewell’s understanding of Woodbridge was that it used investors’ monies to make real estate loans that were fully collateralized by real property, but he never took steps to verify that investors’ names were actually recorded on the property deeds. He never requested or saw audited financial statements or other documentation about Woodbridge’s financial condition.
21. Ewell believed Woodbridge was an investment overseen by the SEC and that he was appropriately licensed to sell it. He did not disclose it as an outside business activity (“OBA”)<sup>7</sup> because he believed that it was a product sold through ACM as an investment adviser.

---

<sup>6</sup> In 2018, counsel to the Debtors and Debtors in Possession in the Woodbridge bankruptcy filed an Adversary Proceeding (a lawsuit) against Tavares seeking to recover monies paid to Tavares by Woodbridge “for activities that advanced the Ponzi scheme”. *See Woodbridge v. Tavares*, Case No. 18-50821 (KJC), United States Bankruptcy Court for the District of Delaware. In January 2019, counsel to the Debtors and Debtors in Possession in the Woodbridge bankruptcy obtained a default judgement against Tavares in the amount of \$472,957.56.

<sup>7</sup> To become licensed as an IAR in Utah, a person must electronically file FINRA Form U4, Uniform Application for Securities Registration or Transfer, with the Division through the Central Registration Depository (“CRD”). Form U4 requires the disclosure of *all* business activities conducted by licensed individuals, irrespective of whether the activities are related to

22. In September 2017, Ewell client JH invested \$89,500 in a Woodbridge Mezzanine note paying 7% annual interest using qualified retirement monies, from which Ewell received a 5% commission of \$4,475.00.<sup>8</sup> JH received two interest payments totaling \$713.51 before Woodbridge collapsed, resulting in a near-total loss of \$88,786.49.
23. The first time Ewell knew of any issues with Woodbridge was shortly before Woodbridge's bankruptcy. A second client had completed paperwork to invest, and sent a check for \$25,000 to Woodbridge. The check was fortunately returned. Several days later Ewell and ACM learned Woodbridge had collapsed.

## **II. CONCLUSIONS OF LAW**

### **Unlicensed Agent under Section 61-1-3(1) of the Act**

24. It is unlawful under Section 61-1-3(1) for a person to transact business in this state as an agent unless the person is licensed. Ewell was not licensed as an issuer-agent or broker-dealer agent to sell Woodbridge at any time. Ewell acted as an unlicensed agent by conducting securities transactions through and receiving transaction-based compensation from Woodbridge, in violation of Section 61-1-3(1) of the Act.

### **Sale of Unregistered Securities under Section 61-1-7 of the Act**

25. The Woodbridge investments offered and sold by Ewell are securities as defined under Section 61-1-13 of the Act. Section 61-1-7 of the Act prohibits the sale of securities unless they are "registered under this chapter," "exempted under Section 61-1-14," or "federal covered securit[ies] for which a notice filing has been made...". The

---

securities or advisory services. ACM also had its own OBA form for IARs to sign and attest to each year, but Woodbridge was not disclosed by Ewell or other ACM IARs.

<sup>8</sup> The fact that Woodbridge was paying out 12%, comprised of 7% interest and 5% sales commission should have been a huge red flag given low interest rates in September 2017, when 30-year mortgage rates averaged 3.8%.

Woodbridge securities were not registered with the Division, do not qualify for any exemption from registration, and are not federal covered securities for which any notice filing was made, in violation of Section 61-1-7 of the Act.

### **III. REMEDIAL ACTION/SANCTIONS**

26. Respondent neither admits nor denies the Division's Findings and Conclusions, but consents to the sanctions below being imposed by the Division.
27. Respondent agrees to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in this state.
28. Respondent agrees to provide truthful testimony and cooperation to the Division, including production of documents and providing information informally without the necessity of a subpoena or other process, in any Division action involving ACM, Crosier and Loveland, and any individuals under investigation as a result of their affiliation with ACM.
29. Respondent agrees to disgorge his compensation of \$4,475.00 directly to investor JH, by making monthly payments of at least \$400.00 until paid in full. The first payment shall be due within 30 days following entry of this Order. Respondent shall provide proof of such payments to the Division by submitting copies of canceled checks or bank wire information. Pursuant to Utah Code Ann. Section 61-1-6 and in consideration of the factors contained in Utah Code Ann. Section 61-1-31, the Division imposes a fine of \$2,000.00, to be paid within one year after the final disgorgement payment is made.

### **IV. FINAL RESOLUTION**

30. Respondent acknowledges that this Order, upon approval by the Utah Securities Commission ("Commission"), shall be the final compromise and settlement of this



matter. Respondent acknowledges that the Commission is not required to approve this Order, in which case the Order shall be null and void and have no force or effect. In the event the Commission does not approve this Order, however, Respondent expressly waives any claims of bias or prejudgment of the Commission, and such waiver shall survive any nullification.

31. If Respondent materially violates any term of this Order, after notice and an opportunity to be heard before an administrative law judge solely as to the issue of a material violation, Respondent consents to entry of an order in which:

- a. Respondent admits the Division's Findings and Conclusions as set forth in this Order; and
- b. Any unpaid amount of disgorgement or the fine becomes immediately due and payable.

Notice of the violation will be sent to Respondent's last known address. If Respondent fails to request a hearing within ten (10) days following notice there will be no hearing and the order granting relief will be entered. In addition, the Division may institute judicial proceedings against Respondent in any court of competent jurisdiction and take any other action authorized by the Act or under any other applicable law to collect monies owed by Respondent or to otherwise enforce the terms of this Order. Respondent further agrees to be liable for all reasonable attorneys' fees and costs associated with any collection efforts pursued by the Division, plus the judgment rate of interest.

32. Respondent acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against him arising in whole or in part from his actions,

and that the Order does not affect any criminal causes of action that may arise as a result of the conduct referenced herein. Respondent also acknowledges that any civil, criminal, arbitration or other causes of actions brought by third-parties against him have no effect on, and do not bar, this administrative action by the Division against him.

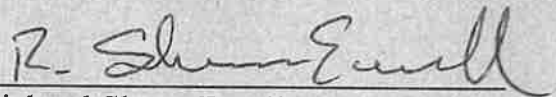
33. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way. Upon entry of the Order, any further scheduled hearings are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 23 day of May, 2023

Dated this 23 day of May, 2023

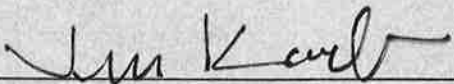


Kenneth O. Barton  
Senior Compliance Manager  
Utah Division of Securities



Richard Shane Ewell

Approved:



Jennifer Korb  
Stephen Gillies  
Mark Holliday  
Assistant Attorneys General  
Utah Attorney General's Office  
Counsel for Division

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Division's Findings and Conclusions, which Respondent neither admits nor denies, are hereby entered.
2. Respondent shall cease and desist from violating the Act and comply with the requirements of the Act in all future business in the State of Utah.
3. Respondent shall provide truthful testimony and cooperation to the Division, including production of documents and providing information informally without the necessity of a subpoena or other process, in any Division action involving ACM, Crosier and Loveland, and any individuals under investigation as a result of their affiliation with ACM.
4. Respondent shall disgorge \$4,475.00 in compensation to JH according to the terms set forth in paragraph 29. Pursuant to Utah Code Ann. §61-1-6, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Respondent shall pay a fine of \$2,000.00 according to the terms set forth in paragraph 29.

**BY THE UTAH SECURITIES COMMISSION:**

DATED this day of August 10<sup>th</sup>, 2023

  
Dawn Dachenhausen

  
Lyndon L. Ricks

  
Lyle White

  
Mark Zimbelman

Certificate of Mailing

I certify that on the 11<sup>th</sup> day of August, 2023, I sent a true and correct copy of the Stipulation and Consent Order to:

Richard Shane Ewell  
Aspen Capital Management, LLC  
1173 SOUTH 250 WEST  
SUITE#105  
SAINT GEORGE, UT 84770

Certified Mail # 7019 2970 0006 5343 4402

  
Executive Secretary