

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
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**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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IN THE MATTER OF:

DALE DENNIS ROGERS,  
  
Respondent.

STIPULATION AND CONSENT ORDER

Docket No. SD-23-0004

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The Utah Division of Securities (“Division”), by and through its Chief of Enforcement Elizabeth Blaylock and Respondent Dale Dennis Rogers (“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 (securities fraud), § 61-1-3(1) (unlicensed activity), and § 61-1-7 (sale of unregistered security) while engaged in the offer and/or sale of securities in or from Utah.
2. On or about January 24, 2023, the Division initiated an administrative action against Respondent by filing an Order to Show Cause.
3. On March 15, 2023, the Division filed a First Amended Order To Show Cause.
4. Respondent hereby agrees to settle this matter with the Division 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 Order to Show Cause including the First Amended Order to Show Cause.

5. Respondent admits that the Division has jurisdiction over him and the subject matter of this action.
6. Respondent hereby waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
7. 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.
8. Respondent has obtained counsel and is represented by Robert Cummings of Snow, Christensen and Martineau.

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

9. Rogers was a Utah resident at all times relevant to the allegations contained herein. Rogers has never been licensed in the securities industry. Rogers owns mining rights to a mine located near the Utah-Nevada border approximately thirty-five miles southwest of Callao, Utah (the "Mine" or "Pleasant Valley Mine") and has been purportedly working to prepare the Mine to extract marble from it. Previously, Rogers worked in the stone quarry industry where he extracted various types of stone and sold it to vendors.

#### **GENERAL ALLEGATIONS**

10. The Division's investigation of this matter revealed that, from approximately May 2016 to August 2017, while conducting business in the state of Utah, Respondent offered and

sold investment opportunities to at least three investors within the state of Utah, raising approximately \$270,000 in connection therewith.

11. The investment opportunity offered and sold by Respondent is an Investment Contract, which is defined as a security under §61-1-13 of the Utah Uniform Securities Act.
12. In connection with the offer and/or sale of securities, Respondent, either directly or indirectly, made material omissions and/or misrepresentations of material facts.
13. The securities offered and/or sold by Respondent were not registered with the Division, were not exempt from registration, and were not federal covered securities for which any notice filing had been made.
14. Rogers was not licensed to sell securities.
15. To date, investors are owed \$160,000 in principal alone.

#### **THE SOLICITATIONS**

16. From approximately May 2016 to approximately August 2017, Respondent, directly and/or indirectly, solicited at least three investors residing in Utah, two of whom cooperated with the Division's investigation.

#### **INVESTOR T.M.**

17. In May 2016, while shopping at a Whole Foods grocery store in Cottonwood Heights, Utah, Respondent encountered T.M. and solicited her to invest in the Mine for the purposes of mining marble. On July 23, 2016, Respondent and T.M. communicated over the phone. And, on July 27, 2016, T.M. and Respondent had an in-person meeting to discuss the investment in the Mine.
18. T.M. had no role in the investment opportunities, other than providing investment funds.
19. During the solicitations, Respondent made numerous statements and representations to T.M. regarding the investment opportunity, including, but not limited to, the following:

- a. T.M. would receive a 20% interest in net profits from the mining operation;
  - b. Upon the sale of the Mine, T.M. would receive 20% of the net proceeds of the sale;
  - c. T.M.'s investment would be used to set up the mining operation and to prepare to sell it;
  - d. Respondent had buyers lined up to purchase the Mine; and
  - e. Respondent had another investor in the Mine, investor T.G.
20. Based the predicate statements mentioned herein, T.M. provided three checks totaling \$70,000 to Rogers pursuant to Rogers' instructions. T.M.'s first check in the amount of \$35,000 was made payable to Pleasant Valley, LLC and was dated August 9, 2016. T.M.'s second check in the amount of \$5,000 was made payable to "Dale Rogers" and was dated September 15, 2016. T.M.'s third check in the amount of \$30,000 was made payable to "Dale Rogers" and was dated October 11, 2016. The second and third checks were deposited into Rogers' personal checking account at Chase Bank.
21. T.M. made several attempts to get her money back, however she has not received any of her money back. T.M. is still owed \$70,000 in principal alone.

#### **INVESTOR T.H.**

22. T.H. is a lifelong resident of Millard County, Utah where he operated an automotive shop that Respondent regularly patronized.
23. In June 2017 Respondent visited T.H.'s automotive shop, where he approached T.H. with a "once in a lifetime" investment opportunity.
24. On June 28, 2017, Respondent visited investor T.H.'s personal residence to convince him to invest in the Mine.
25. T.H. had no role in the investment opportunities, other than providing investment funds.

26. During the solicitations, Respondent made numerous statements and representations to T.H. regarding the investment opportunity in the Mine, including, but not limited to, the following:
- a. Respondent owned the mine;
  - b. The Mine would soon be profitable or sold for a profit;
  - c. Respondent would use T.H.'s investment to get the Mine up and
  - d. running specifically, to purchase an industry saw;
  - e. Respondent already had contracts in place to sell extracted marble from the Mine;
  - f. Respondent had buyers lined up to buy the Mine; and
  - g. T.H. would get an \$80,000 return on his investment of \$200,000 in the first year, with the return increasing in the following years.
27. Respondent failed to provide T.H. with any risk disclosures.
28. On June 28, 2017, taking his instruction from Respondent, T.H. executed a promissory note and agreement that were both prepared by Respondent. T.H. signed the note as the "Maker" and promised to pay Rogers (the "Holder") a principal sum of \$200,000 within 60 days. The agreement included with the note is signed by Rogers and TH and provides that "[T.H.] shall receive twenty-five (25%) of all proceeds from the sale of materials from the mine ... Dale Rogers shall receive seventy-five (75%) of the proceeds from the sale of the material from the mine." The note and the agreement were both signed and witnessed by a notary public.
29. From June 30, 2017, to August 25, 2017, based on the predicate statements mentioned herein, T.H. invested \$200,000 with Rogers. T.H. gave Rogers \$500 cash and made three transfers totaling \$199,500 to Rogers' personal bank account at Chase Bank, pursuant to

Rogers' instructions. The funds T.H. used to invest were largely derived from funds T.H. received after the death of his wife.

30. T.H. sought a return of his investment from Respondent on numerous occasions, and on May 29, 2020, Respondent informed T.H.'s counsel that T.H. should sue Respondent if he wants his money back.
31. Pursuant to the terms of a settlement agreement in civil court, Respondent agreed to pay T.H. a total settlement of \$240,000 to be paid in four installments by the end of 2023.
32. T.H. has confirmed that he received the first installment of \$50,000, which was due June 30, 2022, and the second installment of \$60,000, which was due December 31, 2022.
33. T.H. is still owed a total of \$90,000 of his original \$200,000 investment.

#### **FRAUDULENT CONDUCT: USE OF INVESTOR FUNDS**

34. Of the \$270,000 in investments funds, \$35,000 of T.M.'s funds are untraceable and \$500 of T.H.'s is untraceable because the funds were provided to Respondent in cash or cashier's checks and Respondent has not disclosed how those funds were spent.
35. The remaining traceable investor funds (\$234,500) were spent in the following manner:
  - a. approximately \$205,937.69 was used to fund Roger's personal lifestyle; and
  - b. approximately \$28,562.31 was ostensibly used for business purposes.

#### **MISSTATEMENTS AND OMISSIONS**

##### **INVESTOR T.M.**

36. In connection with the offer and/or sale of securities to T.M., Rogers made material misstatements including, but not limited to, the following:

- a. Respondent would use T.M.'s investment to set up a mining operation and prepare to sell the Mine, when in fact, he used a significant amount of T.M.'s funds for personal expenses; and
  - b. Respondent knew how to operate a profitable mining business, when in fact, under the direction of Respondent, the Mine was generating no profits.
37. In connection with the offer or sale of securities, Respondent failed to disclose material information to investors including, but not limited to, the following:
- a. Respondent was not licensed to sell securities;
  - b. The Pleasant Valley Mine investment opportunity was not registered with the state of Utah;
  - c. Rogers would use a significant amount of funds from T.M.'s investment on personal expenses;
  - d. It would take several years before the Mine could be listed for sale;
  - e. It would take several years before the Mine could become profitable;
  - f. 10% of all proceeds generated from the Mine would go to T.G.;
  - g. T.M. could lose some or all of her principal investment; and
  - h. Some or all of the information typically provided in an offering circular or prospectus relevant to the investment opportunity, such as:
    - i. Business and operating history;
    - ii. Financial statements;
    - iii. Information regarding principals involved in the company;
    - iv. Conflicts of interest;
    - v. Risk factors;

- vi. Suitability factors for investment; and
- vii. Whether the securities offered were registered in the state of Utah.

**INVESTOR T.H.**

38. In connection with the offer and/or sale of securities to T.H., Rogers made material misstatements including, but not limited to, the following:
- a. Respondent would use T.H.'s investment to get the Mine up and running, when in fact the vast majority of T.H.'s investment funds were spent on personal expenses, and only a tiny fraction was spent on items that could be categorized as business-related;
  - b. Respondent would use T.H.'s investment to purchase an industry saw for the Mine, when in fact T.H.'s funds were used for purposes unrelated to the industry saw, and the saw was instead purchased using a loan;
  - c. T.H. would get \$80,000 return on his investment in the first year, which would increase over the following years, when Respondent had no reasonable basis on which to make this representation;
  - d. T.H.'s investment was a "sure thing" and carried little to no risk;
  - e. Respondent solely needed \$200,000 to make the Mine fully operational and profitable; and
  - f. Rogers knew how to run a profitable mining business.
39. In connection with the offer or sale of securities, Rogers failed to disclose material information to investors including, but not limited to, the following:
- a. Rogers was not licensed to sell securities;
  - b. The Pleasant Valley Mine investment opportunity was not a registered security;



- c. Rogers would be spending a significant portion of T.H.'s investment on personal expenses;
- d. It would take several years to get the Mine ready for sale;
- e. It would take several years for the Mine to become profitable;
- f. 10% of the Mine's proceeds would go to investor T.G.;
- g. 20% of the Mine's proceeds would go to investor T.M.;
- h. Investment in the Mine carried inherent risks to T.H.'s principal balance; and
- i. Some or all of the information typically provided in an offering circular or prospectus relevant to the investment opportunity, such as:
  - i. Business and operating history;
  - ii. Financial statements;
  - iii. Information regarding principals involved in the company;
  - iv. Conflicts of interest;
  - v. Risk factors;
  - vi. Suitability factors for investment; and
  - vii. Whether the securities offered were registered in the state of Utah.

### **CONCLUSIONS OF LAW**

#### **Securities Fraud under § 61-1-1(2) of the Act**

40. The investment opportunities offered and sold by Respondent are securities as defined under Section 61-1-13 of the Act. As described herein, in connection with the offer and/or sale of securities to investors, Respondent directly or indirectly misrepresented material facts and/or omitted material facts necessary in order to make the statements

made, in the light of the circumstances under which they were made, not misleading, in violation of Section 61-1-1(2) of the Act.

**Securities Fraud under § 61-1-1(3) of the Act**

41. As described herein, in connection with the offer and/or sale of securities, Rogers directly or indirectly engaged in an act, practice, or course of business which operated as a fraud or deceit on investors, in violation of Section 61-1-1(3) of the Act, when he offered and sold securities to investors and misused investor funds for compensation and for Rogers' personal use.

**Unlicensed Activity under § 61-1-3(1) of the Act**

42. It is unlawful for a person to transact business in this state as a broker dealer unless the person is licensed under the Act.
43. As described herein, Respondent Rogers was not licensed in the securities industry in any capacity when he offered and sold securities to investors, and received compensation in connection therewith, in violation of Section 61-1-3(1) of the Act.
44. As described herein, Rogers was not licensed in the securities industry in any capacity when in violation of Section 61-1-3(1) of the Act.

**Sale of an Unregistered Security under § 61-1-7 of the Act**

45. It is unlawful for any person to offer or sell any security in this state unless it is registered, an exempted security or transaction, or is a federal covered security for which notice filing has been made.
46. As described herein, the investments offered and sold by Respondent were not registered with the Division, do not qualify for an 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.

### **REMEDIAL ACTIONS / SANCTIONS**

47. Respondent admits the Division's Findings and Conclusions and consents to the sanctions below being imposed by the Division.
48. Respondent represents that the information he provided to the Division as part of its investigation is accurate and complete.
49. Respondent agrees to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in the state of Utah.
50. Respondent agrees to be barred from associating with any broker-dealer or investment adviser licensed in Utah; from acting as an agent for any issuer soliciting investor funds in the state of Utah; and from being licensed in any capacity in the securities industry in Utah.
51. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, the Division imposes a total fine amount of \$15,000 against Respondent. Respondent agrees to pay the Division a \$15,000 fine in full by September 30, 2024. Respondent agrees to pay restitution directly to the two investors in the total amount of \$270,000, with credit for restitution payments made to date. Respondent agrees to provide the Division with evidence of each payment (such as copies of checks or wire transfers). Respondent agrees to pay a total of \$90,000 to investor T.H. by December 31, 2023. Respondent also agrees to pay a total of \$70,000 to investor T.M. by June 1, 2024.

### **FINAL RESOLUTION**

52. Respondent and the Division acknowledge that this Order, upon approval by the 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 prejudice of the Commission, and such waiver shall survive any nullification.

53. If Respondent materially violate any term of this Order, after notice and an opportunity to be heard before an administrative judge solely as to the issue of a material violation, Respondent consents to entry of an order in which the total fine amount is increased by 20% and becomes immediately due and payable, less any payments already made. Notice of the violation will be provided to Respondent at his last known address, and to his counsel if he has one. If Respondent fails to request a hearing, or fails to cure any missed fine payment, within ten (10) days following the notice, there will be no hearing and the order granting relief will be entered.
54. 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.
55. Respondent acknowledges that the Order does not affect any civil or arbitration causes of action 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.

56. 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 involving Respondent are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 9<sup>th</sup> day of August 2023



Elizabeth Blaylock  
Chief of Enforcement  
Utah Division of Securities

Dated this 9 day of August 2023



Dale Dennis Rogers

Approved as to Form:



Mark Holliday  
Jennifer Korb  
Assistant Attorneys General  
Utah Attorney General's Office  
*Counsel for the Division*



Robert Cummings  
Snow Christensen & Martineau  
*Counsel for Dale Dennis Rogers*

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Division's Findings and Conclusions, which Respondent admits, 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 be barred from associating with any broker-dealer or investment adviser licensed in Utah; from acting as an agent for any issuer soliciting investor funds in the state of Utah; and from being licensed in any capacity in the securities industry in Utah.
4. Pursuant to Utah Code Ann. § 61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Respondent shall pay a fine of \$15,000 to the Division, and restitution in the amount of \$270,000 to the investors with credit for restitution payments made to date, pursuant to the terms set forth in paragraph 51 above.

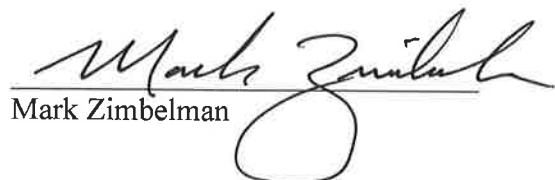
**BY THE UTAH SECURITIES COMMISSION:**

DATED this day of 11<sup>th</sup> August, 2023

  
Dawn Dachenhausen

  
Lyndon L. Ricks

  
Lyle White

  
Mark Zimbelman

**CERTIFICATE OF SERVICE**

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

Dale Rogers  
C/o Counsel, Robert Cummings  
Snow Christensen & Martineau  
[rbc@scmlaw.com](mailto:rbc@scmlaw.com)  
*Via email*

Nathan Gallegos, Administrative Law Judge  
Su Chon, Administrative Law Judge  
Department of Commerce  
[ngallegos@utah.gov](mailto:ngallegos@utah.gov)  
[schon@utah.gov](mailto:schon@utah.gov)  
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*Via email*

Elizabeth Blaylock  
Chief of Enforcement  
Utah Division of Securities  
[lblaylock@utah.gov](mailto:lblaylock@utah.gov)  
*Via email*

  
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Administrative Assistant