

Division of Securities
Utah Department of Commerce
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Box 146760
Salt Lake City, UT 84114-6760
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:	STIPULATION AND CONSENT ORDER
STEPHEN EDWARD GARDNER,	Docket No. SD-22-0015
Respondent.	

The Utah Division of Securities (“Division”), by and through its Senior Enforcement Manager, Liz Blaylock, and Stephen Edward Gardner (“Respondent”) hereby stipulate and agree as follows:

1. Respondent has been the subject of an investigation by the Division into allegations of violations of the Utah Uniform Securities Act (the “Act”), Utah Code §§ 61-1-1 (securities fraud), 61-1-3(1) (unlicensed activity), 61-1-3(3) (unlicensed activity), and 61-1-7 (registration).
2. On or about November 7, 2022, the Division initiated an administrative action against Respondent by filing an Order to Show Cause.
3. 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.
4. Respondent admits that the Division has jurisdiction over him and over 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 their 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 has obtained counsel and is represented by attorney Clay Alger. Respondent is satisfied with the legal representation he has received.

FINDINGS OF FACT

THE RESPONDENT

8. Respondent was a Utah resident at all times relevant to the allegations contained herein. Respondent has never been licensed in the securities industry. Respondent is licensed as an insurance agent in Utah and has been so since August 2009.
9. Respondent offered and sold securities affiliated with Woodbridge Group of Companies, LLC from 2015 to 2017.¹

RELATED ENTITY INFORMATION

10. Woodbridge Group of Companies, LLC ("Woodbridge") was a Delaware limited liability company that registered with the Delaware Division of Corporations on December 11, 2014. Woodbridge was an entity owned by Robert Shapiro ("Shapiro") and purported to offer short-term commercial lending secured by commercial real estate.² Woodbridge

1 The names of the affiliated securities are as follows: Woodbridge Mortgage Investment Fund 2, LLC; Woodbridge Mortgage Investment Fund 3, LLC; Woodbridge Mortgage Investment Fund 3A, LLC; and Woodbridge Mortgage Investment Fund 4, LLC.

2 Woodbridge engaged sales agents to sell two Woodbridge investment offerings. The two investment offerings were first position commercial mortgages and fund investments.

funded the commercial loans by offering investments called First Position Commercial Mortgage Loans.

11. In December 2017, the U.S. Securities and Exchange Commission (“SEC”) filed a complaint against Woodbridge and its affiliates, alleging that Shapiro conducted a nationwide Ponzi scheme that raised over \$1.22 billion from over 8,400 investors. In April 2019, Shapiro was indicted in U.S. District Court, Southern District of Florida, case number 19-20178-CR-Altonaga/Goodman. In connection with Shapiro’s operation of the Woodbridge Ponzi scheme, Shapiro was 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 federal felonies. In August 2019, Shapiro entered into a plea agreement and was sentenced to 25 years in federal prison.
12. 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). A Liquidation Trustee, Michael Goldberg, was appointed in the bankruptcy to assist in the wind-down of Woodbridge. The Liquidation Trustee’s duties include, but are not limited to, liquidating trust assets, pursuing potential recoveries related to litigation, and making distributions to claim holders.
13. In July 2019, Respondent and the Woodbridge Liquidation Trustee entered into a Settlement Agreement to resolve all potential claims of the Trust for recovery of commissions. Respondent was required to pay \$13,000 to the Liquidation Trustee as part of the Settlement Agreement.
14. Respondent was unaware that Woodbridge operated as a Ponzi scheme. In November 2015, Respondent invested \$25,000 of his own funds into Woodbridge while the Ponzi

scheme was in operation. Under the terms of the Settlement Agreement between Respondent and the Woodbridge Liquidation Trustee, Respondent released any claims associated with recovering funds lost in the Woodbridge investment.

GENERAL ALLEGATIONS

15. The Division's investigation of this matter revealed that, from approximately 2015 to 2017, while conducting business in or from the state of Utah, Respondent offered and sold approximately 40 Woodbridge investment opportunities totaling \$6,685,429 to individual investors located in eighteen different states.
16. Respondent received a total of approximately \$365,963 in commissions for his Woodbridge sales, including approximately \$216,547 after May 10, 2016.³
17. Specific to Utah, Respondent sold \$606,000 in Woodbridge products to four Utah investors, and received \$45,452 in commissions for these sales.
18. The investment opportunities offered and sold by Respondent are investment contracts and/or promissory notes, which are securities under §61-1-13 of the Act.
19. In connection with the offer and/or sale of securities, Respondent, either directly or indirectly, made material omissions and/or misrepresentations of material facts.
20. In connection with the offer and/or sale of Woodbridge securities, Respondent acted as an unlicensed agent.
21. In connection with the offer and/or sale of Woodbridge securities, Respondent acted as an unlicensed investment adviser representative when he advised investors to purchase Woodbridge products and received compensation in connection therewith.

³ See also, Footnote 10 for details regarding substantial amendments made to the Act concerning monetary sanctions available to the Utah Securities Commission after May 10, 2016.

22. Respondent offered and/or sold securities that were not registered with the Division, did not qualify for an exemption from registration, and were not federal-covered securities for which any notice filing was made.
23. To date, investors have not received complete restitution from the Woodbridge Liquidation Trustee for their individual investments in Woodbridge and continue to have outstanding principal amounts pending.

Woodbridge Investments

THE SOLICITATIONS

24. From 2015 through 2017, Respondent directly and/or indirectly, solicited investors to purchase Woodbridge securities.
25. Respondent solicited investors over the phone, but some solicitations occurred in person or by video conference.
26. Investors had no role in the Woodbridge securities, other than providing investment funds.
27. During the solicitations, Respondent made numerous statements and representations to investors regarding the investment opportunity in Woodbridge, including, but not limited to, the following:
 - a. The investment would earn a guaranteed annual return of 5% to 10%;
 - b. The investment would be secured by a first position lien on real property; and
 - c. That there was little to no risk and the Woodbridge investment was safe.
28. Based on Respondent's statements and representations, from 2015 to 2017, investors invested approximately \$6,685,429 in Woodbridge by check and wire transfers sent to

Provident Trust Group, LLC⁴ and/or to Woodbridge.

THE INVESTMENT AGREEMENT

29. In exchange for the investment in Woodbridge, some investors received a document entitled “Promissory Note”, which outlined the investment amount and the promised rate of return.
30. The Promissory Notes were signed by the investor and a representative of Woodbridge.
31. The Promissory Notes contained the principal investment amount and interest rates ranging from 6% to 7% per year.
32. The “Promissory Notes” obtained during the Division’s investigation do not identify a property address purportedly used to collateralize the investment. Only general property descriptions were given, including the city and state in which the property is located.
33. In exchange for the investment in Woodbridge fund offerings, some investors received a subscription agreement, which outlined the number of units purchased in a private placement fund for accredited investors.
34. Fund offering documents were signed by the investor and Shapiro.
35. Fund offerings provided for a five-year term with a 6% to 10% aggregate annual return paid monthly to investors and a 2% “accrued preferred dividend” to be paid at the end of the five-year term and a share of profits.

FRAUDULENT CONDUCT: USE OF INVESTOR FUNDS

36. Between 2015 and 2017, Woodbridge paid Respondent approximately \$365,963 in commissions for selling the Woodbridge investment, including approximately \$216,547

⁴ Provident Trust is a third-party administrator that provides administrative services for “self-directed” IRA accounts.

after May 10, 2016.⁵

37. Generally, after investor funds were sent to Woodbridge, Woodbridge used a portion of investor funds in the following manner:
- a. To pay sales commissions to sales agents of Woodbridge products;
 - b. To pay previous investors with funds from later investors; and
 - c. To fund Shapiro's personal lifestyle.⁶

MISSTATEMENTS AND OMISSIONS

38. In connection with the offer and/or sale of securities, Respondent made material misstatements to investors including, but not limited to, the following:
- a. That investors would receive a 6% to 10% annual return for their investment, when in fact, there was no reasonable basis to make this claim; and
 - b. That investments in Woodbridge were low risk and secured by a first position lien on the commercial real estate subject to the Woodbridge investment, when in fact, this claim was false.
39. 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. That Respondent would receive commissions for selling the Woodbridge investment from the proceeds of investor funds;
 - b. That Respondent was not licensed to sell securities;

⁵ See also, Footnote 10 for details regarding substantial amendments made to the Act concerning monetary sanctions available to the Utah Securities Commission after May 10, 2016.

⁶ According to the Securities and Exchange Commission complaint, case number 17-24624, filed against Shapiro, Woodbridge, and Woodbridge affiliates, Shapiro "*spent exorbitant amounts of investor money in alarming fashion, on items such as luxury automobiles, jewelry, country club memberships, fine wine, and chartering private planes.*" See also, U.S. District Court, Southern District of Florida, case number 19-20178-CR-Altonaga/Goodman.

- c. That Respondent failed to conduct reasonable due diligence on the Woodbridge securities before soliciting investors; and
- d. That Woodbridge had been the subject of numerous regulatory actions and/or investigations for its business practices including:
 - i. On May 4, 2015, Massachusetts issued an Order against Woodbridge;⁷
 - ii. On July 17, 2015, Texas Emergency Cease and Desist Order against Woodbridge;⁸
 - iii. On October 4, 2016, Arizona Temporary Order to Cease and Desist against Woodbridge;⁹ and
- e. Some or all of the information typically provided in an offering circular or prospectus concerning Respondent 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. Based upon the Division's investigative findings, the Division concludes that the

⁷ See, Docket No. E-2015-0039. Commonwealth of Massachusetts, In the Matter of: Woodbridge Mortgage Investment Fund 1, LLC, Woodbridge Mortgage Investment Fund 2, LLC, and Woodbridge Mortgage Investment Fund 3, LLC.

⁸ See, Order No. ENF-15-CD0-1740. Texas State Securities Board.

⁹ See, Docket No. S-20988A-16-0354. Before the Arizona Corporation Commission.

investment opportunity offered and sold by Respondent is an investment contract and/or promissory note, each of which are defined as a security under § 61-1-13 of the Act.

41. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Respondent directly or indirectly misrepresented material facts, as described above.
42. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Respondent directly or indirectly omitted material facts which were necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading as described above.

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

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

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

45. It is unlawful for a person to transact business in this state as an investment adviser representative unless the person is licensed under the Act.
46. As described herein, Respondent was not licensed in the securities industry in any capacity when he recommended that investors liquidate their retirement accounts from investment in the stock market to purchase the Woodbridge investment and received compensation in connection therewith, in violation of Section 61-1-3(3) of the Act.

Sale of Unregistered Securities under § 61-1-7 of the Act

47. 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.
48. As described herein, the investments offered and sold by Respondent were not registered with the Division, did not qualify for an exemption from registration, and were not federal covered securities for which any notice filing was made, in violation of Section 61-1-7 of the Act.

REMEDIAL ACTIONS / SANCTIONS

49. Respondent neither admits nor denies the allegations in the Division's Order to Show Cause, the Findings of Fact in this Order, and the Conclusions of Law in this Order. Respondent consents to the below sanctions being imposed by the Division.
50. Respondent agrees to cease and desist from violating the Utah Uniform Securities Act (Utah Code §§ 61-1-1 to 61-1-32) and to comply with the requirements of the Act in all future business in Utah.
51. 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.

52. Pursuant to Utah Code §§ 61-1-6 and -20,¹⁰ and in consideration of the fine factors set forth in Utah Code § 61-1-31, the Division imposes a fine of \$18,000 and disgorgement of commissions in the amount of \$182,000 against Respondent. Respondent shall pay the fine and disgorgement to the Division as follows: (1) Respondent shall pay the \$18,000 fine, and \$22,000 representing partial payment of disgorgement within 30 days following the Commission's formal approval of the Order; (2) Respondent shall fulfill the remaining disgorgement obligation of \$160,000 by making equal quarterly payments over four years; (3) Respondent shall make quarterly payments, each in the amount of \$10,000, consistent with the four year schedule; (4) quarterly payments shall commence in November 2023, and Respondent is obligated to make quarterly payments on or before the last day of February, May, August, and November until disgorgement is paid in its entirety.

FINAL RESOLUTION

53. 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 prejudgment of the Commission, and such waiver shall survive any nullification.

¹⁰ Respondent received approximately \$216,547 in commissions for Woodbridge sales made after May 10, 2016. On May 10, 2016, significant changes were introduced to Utah Code §§ 61-1-6 and -20, ushering in the inclusion of disgorgement as a sanctioned remedy. Prior to this date, the Utah Securities Commission had limited options for imposing monetary penalties, primarily relying on fines as the sole monetary recourse.

54. 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 and disgorgement 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 addresses, and to counsel for Respondent if he has obtained counsel. 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.
55. 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.
56. 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.
57. This Order constitutes the entire agreement between the parties herein and supersedes and cancels 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 28 day of September 2023.



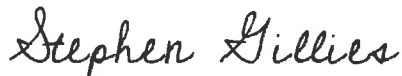
Liz Blaylock
Senior Enforcement Manager
Utah Division of Securities

Dated this 28 day of September 2023.



Stephen Edward Gardner, Respondent

Approved:



Stephen Gillies
Assistant Attorney General
Utah Office of the Attorney General
Counsel for the Division



Clay Alger
Robertson, Alger & Spjute
Counsel for Respondent

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent neither admits nor denies the Division's Order to Show Cause, Findings of Fact, and Conclusions of Law.
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. §§ 61-1-6, and -20, and in consideration of the fine factors set forth in Utah Code Ann. § 61-1-31, Respondent shall pay a fine and disgorgement of commissions pursuant to the terms set forth in paragraph 52.

BY THE UTAH SECURITIES COMMISSION:

DATED this _____ day of _____ 2023.

Lyndon Ricks
Lyndon Ricks (Oct 12, 2023 15:38 MDT)
Lyndon Ricks

Mark F Zimbelman
Mark F Zimbelman (Oct 13, 2023 07:12 MDT)
Mark Zimbelman

Dawn Dachenhausen
Dawn Dachenhausen (Oct 12, 2023 15:01 MDT)
Dawn Dachenhausen

Melanie Vartabedian

Dan Debry
Dan Debry (Oct 15, 2023 16:34 MDT)
Dan Debry

CERTIFICATE OF SERVICE

I certify that on the 16th day of October 2023, I sent a true and correct copy of the foregoing **Stipulation and Consent Order** to the following as indicated:

Administrative Law Judge


Nathaniel Gallegos
Su Chon
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Ashlee Buchholz, Administrative Assistant