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

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

IN THE MATTER OF:	**STIPULATION AND CONSENT ORDER OF KARLTON KILBY**
NATIONAL GOLD, INC.;	**Docket No.** SD-17-0045
JAMES C. BARRUS;	**Docket No.** SD-17-0046
BRENT C. ALDER;	**Docket No.** SD-17-0047
KARLTON W. KILBY;	**Docket No.** SD-17-0048
BRENT H. GUNDERSEN;	**Docket No.** SD-17-0049
LLOYD BENTON SHARP.	**Docket No.** SD-17-0050
Respondents.	

The Utah Division of Securities ("Division"), by and through its Director of Enforcement, Dave Hermansen, and Respondent Karlton W. Kilby ("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. § 61-1-3 (unlicensed activity) while engaged in the offer of securities in the State of Utah.

2. On or about October 31, 2017, 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 the subject matter of this action.

5. Respondent waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.

6. Respondent has read this Order, understand its contents, and voluntarily agree 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 is represented by attorney Lawton Graves and is satisfied with the legal representation he has received.

FINDINGS OF FACT

8. National Gold is a purported mining company operating in West Valley City, Utah, and is registered with the Utah Division of Corporations and Commercial Code.

9. Respondent was a resident of Virginia and/or Florida during all times relevant to the allegations asserted herein. Respondent has never been licensed in the securities industry in the state of Utah.

10. The Division's investigation of this matter revealed that, Respondent offered securities of National Gold, a Utah company, to at least two investors.

11. National Gold used investor monies in a manner that is inconsistent with what Respondent told investors at the time of solicitation of their investments.

12. The investment opportunities offered and sold by National Gold are stocks, promissory notes and/or investment contracts.

13. Stocks, promissory notes and/or investment contracts are securities under §61-1-13 of the Act.

Investors Q.M. and R.S.

First Investment

14. In or around 2009, Investors Q.M. and R.S., dentists in Virginia, were approached by a patient, Kilby, about investing in National Gold, a purported gold mining operation located in Utah.

15. During this meeting, Kilby told Investors Q.M. and R.S. that investing in National Gold would enable them to purchase gold ore at a reduced price and that, once the investment matured after 180 days, Investors Q.M. and R.S. could redeem their stock certificates for gold bullion.

16. In reliance on Kilby's statements and representations, as set forth in paragraphs 14-15, Investors Q.M. and R.S. expressed an interest to invest in National Gold. Kilby personally referred Investors Q.M. and R.S. to Brent Gundersen ("Gundersen"), a purported employee of National Gold, to further discuss the investment opportunity.

Second Investment

17. In early 2011, Kilby again approached Investors Q.M. and R.S. about investing additional funds with National Gold. Kilby stated that he expected gold prices to significantly

increase within days of their conversation. Kilby encouraged Investors Q.M. and R.S. to invest additional funds in gold prior to this expected increase. Kilby emphasized that Investors Q.M's and R.S.'s window to invest was limited, and that they needed to act quickly.

18. Investor Q.M. asked Kilby if they could transfer the profits from their previous investment into this new investment opportunity. Kilby stated that the rollover would delay the processing of the new investment, and that, in order to benefit from the gold price increase, Investors Q.M. and R.S. should invest additional funds immediately.

19. To further assure Investors Q.M. and R.S. of the low risk associated with this investment opportunity, Kilby added that his father recently invested with National Gold and received a large check from the return on his investment.

20. Kilby also told Investors Q.M. and R.S. that National Gold owned mines with ore that contained gold, and that Investors Q.M. and R.S. could purchase the gold ore at any time.

21. In reliance on Kilby's statements and representations, as set forth above, Investors Q.M. and R.S. expressed an interest to invest in National Gold. Kilby referred Investors Q.M. and R.S. to Alder, a purported employee of National Gold, to further discuss the investment opportunity.

22. In connection with the offer of securities, Respondent failed to disclose material information to Investors Q.M. and R.S. including, but not limited to, the following:

    a. That Barrus was convicted of felony money laundering in 1992;[1]

    b. That Gundersen was convicted of felony securities fraud in 1994;[2]

[1] See Southern District of Texas, Case No. 4:92-cr-00097-1, USA V. Barrus et al.
[2] See District of Utah, Case No. 2:94-cr-00076-DKW, USA v. Gundersen

c. That Investors Q.M.'s and R.S.'s first investment of $150,000.00 was used in a manner that is inconsistent with what the investors were told at the time of solicitation of their investments;

d. That Investors Q.M.'s and R.S.'s second investment of $150,000.00 was used in a manner that is inconsistent with what the investors were told at the time of solicitation of their investments;

e. some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, National Gold, 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; and

vi. Suitability factors for investment.

CONCLUSIONS OF LAW

23. Based on the Division's investigative findings, the Division concluded that the investment opportunities offered by Respondent are securities under §61-1-13 of the Act.

24. As described herein, in connection with the offer of securities to Investors Q.M. and R.S., Respondent directly or indirectly misrepresented material facts or omitted material facts necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading, in violation of Section 61-1-1(2).

25. As described herein, in connection with the offer of securities, Respondent 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.

REMEDIAL ACTIONS/SANCTIONS

26. Respondent neither admits nor denies the Division's Findings of Fact and Conclusions of Law, and consents to the below sanctions being imposed by the Division.

27. Respondent represents that the information he has provided to the Division as part of its investigation is accurate and complete.

28. 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.

29. Respondent agrees not sell securities in Utah and agrees not to affiliate with a broker-dealer or investment adviser licensed in Utah.

FINAL RESOLUTION

35. 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.

36. If Respondent materially violates 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 any payments owed by Respondent pursuant to this Order become immediately due and payable.

37. The order may be issued upon ex parte motion of the Division, supported by an affidavit verifying the violation. 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 agree 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.

38, 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 them have no effect on, and do not bar, this administrative action by the Division against Respondent.

39. 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 13 day of December, 2017

Dave Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 12 day of December 2017

Karlton Kilby

Approved:

Paula Faerber
Assistant Attorney General
Counsel for Division

Approved:

Lawton Graves
Counsel for Respondent

Dated this ____ day of _____, 2017

Dave Hermansen
Director of Enforcement
Utah Division of Securities

Approved:

Paula Faerber
Assistant Attorney General
Counsel for Division

Dated this 12 day of December 2017

Karlton Kilby

Approved:

Lawton Graves
Counsel for Respondent

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 agrees not sell securities in Utah and agrees not to affiliate with a broker-dealer or investment adviser licensed in Utah.

BY THE UTAH SECURITIES COMMISSION:

DATED this 25th day of January, 2018

Brent Baker

Peggy Hunt

Gary Cornia

Brent Cochran

Lyle White

CERTIFICATE OF MAILING

I certify that on the 25th day of January, 2019 I mailed a true and correct copy of the fully executed Stipulation and Consent Order to:

Lawton Graves
Murphy Anderson
1501 San Marco Blvd.
Jacksonville, FL 32207

Executive Secretary

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

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

IN THE MATTER OF:	**STIPULATION AND CONSENT ORDER**
CUNNINGHAM ENERGY, LLC;	Docket No. SD-17-0031
KEVIN K. THIBEAU;	**Docket No. SD-17-0032**
JAN P. BOLTON;	**Docket No. SD-17-0033**
SCOTT A. JOHNSON;	**Docket No. SD-17-0034**
CASEY J. WILSON.	Docket No. SD-17-0035
Respondents.	

The Utah Division of Securities ("Division"), by and through its Director of Enforcement, Dave Hermansen, and Respondents Kevin K. Thibeau ("Thibeau"), Jan P. Bolton ("Bolton"), Scott A. Johnson ("Johnson" and collectively "Respondents") hereby stipulate and agree as follows:

1. Respondents and Cunningham Energy, LLC ("Cunningham") have been the subject of an investigation by the Division into allegations that they violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. § 61-1-3 (unlicensed activity) while engaged in the offer or sale of securities in the state of Utah.

2. On or about June 15, 2017, the Division initiated an administrative action against Cunningham Energy and its agents by filing an Order to Show Cause.

3. Respondents hereby agree 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 Respondents pertaining to the Order to Show Cause.

4. Respondents admit that the Division has jurisdiction over them and over the subject matter of this action.

5. Respondents hereby waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf.

6. Respondents have read this Order, understand its contents, and voluntarily agree 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 Respondents to enter into this Order, other than as described in this Order.

7. Respondents are represented by attorney Mark Pugsley and are satisfied with the legal representation they have received.

FINDINGS OF FACT

8. Cunningham Energy is a limited liability company that has been registered with the state of West Virginia Secretary of State beginning March 10, 2008. Cunningham Energy is a secondary oil recovery company that offers oil and gas securities to investors. Ryan Cunningham is listed as the manager of Cunningham Energy. Barry Cunningham is listed as the Director of Finance and Risk Assessment of Cunningham Energy.

9. Thibeau was employed as the Director of Investor Relations with Cunningham Energy. Thibeau has previously been licensed in the securities industry but has never been licensed in the state of Utah.

10. Bolton was employed as a sales agent with Cunningham Energy. Bolton has never been licensed in the securities industry.

11. Johnson was employed as a sales agent with Cunningham Energy. Johnson has never been licensed in the securities industry.

GENERAL ALLEGATIONS

12. On June 10, 2016, the Division received a phone call from a prospective investor who was interested in investing with Cunningham Energy, and reported to the Division, among other things, that numerous individuals in Utah had purchased oil and gas investments from Cunningham Energy.

13. A search of the Division's records revealed that the Division did not receive registration or exemption notices or filings from Cunningham Energy for these investments. Consequently, Division Examiners contacted Cunningham Energy's compliance officer in Texas, and informed him that it appeared to the Division that Cunningham Energy was selling oil and gas investments in Utah without prior registration.

14. On June 13, 2016, the Division received eight Form D notice filings from Cunningham Energy. In its filings with the Division, Cunningham Energy reported a total of eight late notice filings, including the following:

    a. On March 16, 2011, Cunningham Energy collected $59,100.00 over the course of three investments from Utah residents;

b. On November 15, 2011, Cunningham Energy collected $367,840.00 over the course of five investments from Utah residents;

c. On July 14, 2012, Cunningham Energy collected $33,750.00 over the course of one investment from a Utah resident;

d. On June 13, 2013, Cunningham Energy collected $172,500.00 over the course of three investments from Utah residents;

e. On June 21, 2013, Cunningham Energy collected $23,250.00 over the course of one investment from a Utah resident;

f. On July 24, 2013, Cunningham Energy collected $34,790.00 over the course of two investments from Utah residents;

g. On December 26, 2013, Cunningham Energy collected $278,750.00 over the course of five investments from Utah residents; and

h. On October 16, 2014, Cunningham Energy collected $55,000.00 over the course of three investments from Utah residents.

15. On June 15, 2016, the Division requested additional information from Cunningham Energy. Specifically, the Division requested that Cunningham Energy provide, for each Utah investor: the name of the investor; the date of investment; the amount invested; the name of the sales agent; and the commissions paid for each investment.

16. On August 15, 2016, the Division received a letter from Cunningham Energy indicating that, between March 16, 2011 and December 30, 2014, Bolton, Johnson, Thibeau, and Wilson, while employed as sales agents of Cunningham Energy, collected a combined

total of $123,398.00[1] in sales commissions for selling oil and gas securities to 13 Utah residents.

17. The investment opportunities offered and sold by Respondent Cunningham Energy are investment contracts and/or certificates of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease.

18. Investment contracts and certificates of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease are securities under §61-1-13 of the Act.

19. A review of FINRA's Central Registration Depository ("CRD")[2] indicates that, during the period relevant to the transactions described herein, Respondents were not licensed to offer or sell securities in the state of Utah.

20. In connection with the offer or sale of securities to investors in the state of Utah, Respondents were employed and/or engaged by Cunningham Energy and acted as agents of Cunningham Energy.

21. Between March 16, 2011 and December 30, 2014, Respondents received a combined total of $117,552.00 in commissions for the sale of securities in the state of Utah.

Bolton Sales

22. While employed as an unlicensed sales agent of Cunningham Energy, Bolton collected a total of $24,616.00 in commissions from the sale of securities to three Utah investors.

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[1] Subsequent to sending the letter received by the Division on August 15, 2016, Cunningham Energy provided to the Division updated commission records for Bolton, Johnson, Thibeau, and Wilson reflecting a corrected total of $119,277.00.

[2] CRD is an electronic database maintained by the Financial Industry Regulatory Authority and the states. Among other things, CRD contains licensing and disciplinary information on broker-dealers, investment advisers, agents, and investment adviser representatives.

23. During all times relevant to the transactions described herein, Bolton was not licensed to sell securities in the state of Utah.

Johnson Sales

24. While employed as an unlicensed sales agent of Cunningham Energy, Johnson collected a total of $45,275.00 in commissions from the sale of securities to two Utah investors.

25. During all times relevant to the transactions described herein, Johnson was not licensed to sell securities in the state of Utah.

Thibeau Sales

26. While employed as a sales agent of Cunningham Energy and not securities licensed in the state of Utah, Thibeau collected a total of $47,661.00 in commissions from the sale of securities to six Utah investors.

27. During all times relevant to the transactions described herein, Thibeau was not licensed to sell securities in the state of Utah.

CONCLUSIONS OF LAW

FIRST CAUSE OF ACTION
Unlicensed Activity under § 61-1-3(1) of the Act

28. Based on the Division's investigative findings, the Division concludes that the investment opportunities offered and sold by respondents are securities under §61-1-13 of the Act.

29. It is unlawful for a person to transact business in this state as a broker-dealer or agent unless the agent is licensed under this chapter.

30. As described herein, Respondents were not securities licensed in the state of Utah when they solicited investments from at least one Utah resident, provided investment advice to

investors, and received a combined total of $117,552.00 in commissions for engaging in the offer and sale of securities in the state of Utah.

REMEDIAL ACTIONS/SANCTIONS

31. Respondents admit the Division's Findings of Fact and Conclusions of Law, and consent to the below sanctions being imposed by the Division.

32. Respondents represent that the information they have provided to the Division as part of its investigation is accurate and complete.

33. Respondents agree 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.

34. Respondents agree not to solicit investor funds in the state of Utah for a period of two years. At the end of the two-year period, Respondents can apply for securities licenses in Utah following the standard licensing procedures.

35. Respondent Bolton agrees to pay $24,616.00 in disgorgement of commissions to the Division with $6,154.00 paid within 10 days after the entry of this order and the balance to be paid in equal quarterly payments over a period of 24 months.

36. Respondent Johnson agrees to pay $45,275.00 in disgorgement of commissions to the Division with $11,318.75 paid within 10 days after the entry of this order and the balance to be paid in equal quarterly payments over a period of 24 months.

37. Respondent Thibeau agrees to pay $47,661.00 in disgorgement of commissions to the Division with $11,915.25 paid within 10 days after the entry of this order and the balance to be paid in equal quarterly payments over a period of 24 months.

FINAL RESOLUTION

38. Respondents acknowledge that this Order, upon approval by the Utah Securities Commission ("Commission"), shall be the final compromise and settlement of this matter. Respondents acknowledge 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, Respondents expressly waive any claims of bias or prejudgment of the Commission, and such waiver shall survive any nullification.

39. If Respondents 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, Respondents consent to entry of an order in which any payments owed by Respondents pursuant to this Order become immediately due and payable.

40. The order may be issued upon ex parte motion of the Division, supported by an affidavit verifying the violation. In addition, the Division may institute judicial proceedings against Respondents 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 Respondents or to otherwise enforce the terms of this Order. Respondents further agree 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.

41. Respondents acknowledge that the Order does not affect any civil or arbitration causes of action that third-parties may have against them arising in whole or in part from their actions, and that the Order does not affect any criminal causes of action that may arise as

BY THE UTAH SECURITIES COMMISSION:

DATED this 25th day of January, 2018

Brent Baker

Peggy Hunt

Gary Cornia

Brent Cochran

Lyle White

a result of the conduct referenced herein. Respondents also acknowledge that any civil, criminal, arbitration or other causes of actions brought by third-parties against them have no effect on, and do not bar, this administrative action by the Division against them.

42. 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 29 day of January, 2018

Dave Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 18th day of Jan, 2018

Kevin K. Thibeau

Jan P. Bolton

Scott A. Johnson

Approved:

Approved:

Paula Faerber
Assistant Attorney General
Counsel for Division

Mark Pugsley / MP
Mark Pugsley
Counsel for Respondents

ORDER

IT IS HEREBY ORDERED THAT:

43. The Division's Findings and Conclusions, which Respondents neither admit nor deny, are hereby entered.

44. Respondents 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.

45. Respondents shall not solicit investor funds in the state of Utah for a period of two years. At the end of the two-year period, Respondents can apply for a securities license in Utah following the standard licensing procedures.

46. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, the Securities Commission orders:

    a. Respondent Bolton to pay $24,616.00 in disgorgement of commissions to the Division with $6,154.00 paid within 10 days after the entry of this order and the balance to be paid in equal quarterly payments over a period of 24 months.

    b. Respondent Johnson to pay $45,275.00 in disgorgement of commissions to the Division with $11,318.75 paid within 10 days after the entry of this order and the balance to be paid in equal quarterly payments over a period of 24 months.

    c. Respondent Thibeau to pay $47,661.00 in disgorgement of commissions to the Division with $11,915.25 paid within 10 days after the entry of this order and the balance to be paid in equal quarterly payments over a period of 24 months.

CERTIFICATE OF MAILING

I certify that on the 31st day of January, 2018, I mailed a true and correct copy of the fully executed Stipulation and Consent Order to:

Mark Pugsley
Ray, Quinney & Nebeker
36 State St. #1400
Salt Lake City, UT 84111

Executive Secretary

BEFORE THE UTAH DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE

IN THE MATTER OF: **THERAL L. LEDWARD,** and **WEALTH BUILDING SYSTEMS, LLC,** Respondents.	**ORDER OF ADJUDICATION** **SD-16-0037** **SD-16-0038**

On March 23, 2017, this matter was heard by four members of the Utah Securities Commission (the "Commission"). On April 14, 2017, the presiding officer issued his Findings of Fact, Conclusions of Law and Proposed Order to the Commission. On April 17, 2017, the Commission approved, confirmed, and accepted the findings of fact and conclusions of law, and entered its Order.

On May 15, 2017, Respondents filed a Request for Administrative Review ("Request for Review") with the Executive Director of the Utah Department of Commerce. In the Request for Review the Respondents argued that the Order was incomplete because the Commission failed to properly apply Section 61-1-31 of the Utah Securities Act (the "Act") in determining the amount of the fine, and failed to consider mitigating circumstances. Respondents also argued that the Commission erred when it issued a fine amount that was larger than the amount requested by the Division. The Respondents did not challenge the Commission's conclusion regarding the Respondents' violations of the Act.

Briefing on Respondents' Request for Review concluded on August 4, 2017, and on August 28, 2017, the Executive Director of the Utah Department of Commerce issued Findings

of Fact, Conclusions of Law, and Order on Review ("Order on Review"). In the Order on Review, the Executive Director found that the Respondents failed to establish that the Commission is bound by the Division's recommendation on the fine amount. The Executive Director also found that the Order did not disclose enough detail regarding how the Commission determined the amount of the fine. For this reason, the Executive Director remanded the matter to the Commission for further consideration as to the proper fine amount.

At the direction of the Commission, the Division filed on October 19, 2017, its Amended Findings of Fact, Conclusions of Law and Proposed Order (the "Proposed Order"). On November 8, 2017, the Respondents filed their "Opposition to Division's Amended Findings of Fact, Conclusions of Law and Proposed Order (the "Respondents' Opposition").

Based on the filings of the parties, the Order on Review and the Commission's deliberations and review of the Second Amended Findings of Fact, Conclusions of Law and Recommended Order dated January 22, 2018 (and its prior iterations), the Commission adopts the findings, conclusions and recommended order in their entirety, and enters the following Order.

IT IS ORDERED THAT:

1. Respondents are to cease and desist from engaging in any further conduct in violation of U.C.A. §61-1-1 or any other section of the Utah Uniform Securities Act.

2. Respondents are barred from (i) associating with any broker-dealer or investment adviser licensed in Utah, (ii) acting as an agent for any issuer soliciting investor funds in Utah, and (iii) from being licensed in any capacity in the securities industry in Utah.

3. Having considered the factors in Rule R164-31-1 of the Utah Administrative Code regarding assessment of administrative fines, Respondents are jointly and severally ordered to pay a fine of $100,000 to the Division within thirty (30) days of the entry of this order.

DATED this 25th day of January, 2018.

UTAH SECURITIES COMMISSION:

Brent R. Baker, Member

Brent A. Cochran, Member

Gary Connia, Member

Peggy Hunt, Member

Lyle White, Member

Notice of Right to Administrative Review

Review of this Order may be sought by filing a written request for administrative review with the Executive Director of the Department of Commerce within thirty (30) days after the issuance of this Order. Any such request must comply with the requirements of Utah Code Annotated §63G-4-301 and Utah Administrative Code R151-4-902.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this ORDER OF ADJUDICATION of the Commission and a copy of the SECOND AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER on counsel for Respondents by sending a copy by email to:

Jere B. Reneer
jbreneer@reneerlaw.com

Jennifer Korb, AAG
jkorb@agutah.gov

Dated this 25th day of January, 2018.

DEPARTMENT OF COMMERCE
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6760

BEFORE THE UTAH DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE

IN THE MATTER OF: **THERAL L. LEDWARD,** and **WEALTH BUILDING SYSTEMS, LLC,** **Respondents.**	**SECOND AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND PROPOSED ORDER** **SD-16-0037** **SD-16-0038**

APPEARANCES:

Jere Reneer for Respondents
Jennifer Korb and Tom Melton for the Utah Division of Securities

COMMISSION MEMBERS

Brent R. Baker
Brent A. Cochran
Gary Cornia
Peggy Hunt
Lyle White

On August 1, 2016, the Utah Division of Securities ("Division") brought allegations against Theral L. Ledward and Wealth Building Systems, LLC ("Respondents") through an Order to Show Cause. Respondents are subject to the Division's jurisdiction and regulation.

On March 23, 2017, this matter was heard by four members of the Utah Securities Commission (the "Commission"). The Commission considered and weighed the evidence according to the applicable standard of proof, that being a preponderance of the evidence, and directed the presiding officer to make findings of fact, conclusions of law, and a recommended order.

On April 14, 2017, the presiding officer issued his Findings of Fact, Conclusions of Law and Proposed Order (the "Order") to the Commission. On April 17, 2017, the Commission approved, confirmed, and accepted the findings of fact and conclusions of law, and entered the Order.

On May 15, 2017, Respondents filed a Request for Administrative Review ("Request for Review") with the Executive Director of the Utah Department of Commerce. In the Request for Review the Respondents argued that the Order was incomplete because the Commission failed to properly apply Section 61-1-31 of the Utah Securities Act (the "Act") in determining the amount of the fine, and failed to consider mitigating circumstances. Respondents also argued that the Commission erred when it issued a fine amount that was larger than the amount requested by the Division. The Respondents did not challenge the Commission's conclusion regarding the Respondents' violations of the Act.

Briefing on Respondents' Request for Review concluded on August 4, 2017, and on August 28, 2017, the Executive Director of the Utah Department of Commerce issued Findings of Fact, Conclusions of Law, and Order on Review ("Order on Review"). In the Order on Review, the Executive Director found that the Respondents failed to establish that the Commission is bound by the Division's recommendation on the fine amount. The Executive Director also found that the Order did not disclose enough detail regarding how the Commission determined the amount of the fine. For this reason, the Executive Director remanded the matter to the Commission for further consideration as to the proper fine amount.

At the direction of the Commission, the Division filed on October 19, 2017, its Amended Findings of Fact, Conclusions of Law and Proposed Order (the "Proposed Order"). On November 8, 2017, the Respondents filed their "Opposition to Division's Amended Findings of

Fact, Conclusions of Law and Proposed Order (the "Respondents' Opposition").

Based on such filings and the Order on Review, the Commission enters the following second amended findings of fact, conclusions of law and order:

FINDINGS OF FACT AND DISCUSSION

1. The sole issue for determination by the Commission upon remand is the proper amount of the fine to be assessed against the Respondents. The following findings regarding the factual basis for the statutory violations are provided merely to give context to the analysis regarding the amount of the fine to be imposed.
2. Respondents conducted business in, and were engaged in soliciting investments from within, the state of Utah.
3. In calendar year 2010, beginning on or about March 31, 2010, the Respondents solicited investments from a 24-year-old investor who lived in the country of Australia (the "Investor").
4. Investor was a high school graduate without any post-high school education, other than a partially completed electrician's apprenticeship.
5. Investor invested all of his liquid lifetime savings to make his initial investment of $30,000; sold his car to finance most of his second investment of $20,000; and borrowed the other cash investments from family members. The balance of his investments in the enterprise of the Respondents was a reinvestment of profits that were purported by the Respondents to have been earned on the previous investments made by Investor. In total, Investor paid or was credited with investments of $80,000.
6. Investor had no management authority over Wealth Building Systems, the entity that received his investments. It was specifically stated to Investor by Ledward that Investor

would be a "silent partner" in the business enterprise. For a return of his investment and for the earning of profits, Investor relied solely on the management ability and efforts of Ledward, in his capacity as the president of Wealth Building Systems, LLC.

7. Investor made his investments with the Respondents with the expectation of making profits on such investments, and to substantially supplement his income, since a serious health condition prevented him from continuing in his electrician profession and would limit his other employment prospects.

8. Each of the investments made by Investor constituted the sale of a security as defined in the Utah Uniform Securities Act (the "Act") and under recognized case law.

9. At no time have the Respondents been licensed in any capacity in the securities industry in the State of Utah.

10. An individual named Travis West also made investments with the Respondents. Therefore, no less than one other investor was identified as making investments with the Respondents. On no less than two occasions, Mr. Ledward made written representations to Investor that there were three or more other investors (e.g. the representation in Exhibit No. 5, Bates No. Div00063 that there were a total of 5 investors).

11. Contrary to representations made by the Respondents to Investor, funds invested by Investor were applied to pay the personal expenses of the Respondent, Ledward, and to pay profits to (or to repay the investment of) Travis West.

12. The funds of the Investor were also invested by the Respondents into other businesses and investments of the Respondents that were not disclosed to the Investor. (Hearing Transcript at p. 62).

13. The majority of the communications between Investor and the Respondents were through email and on the telephone. The cash investments were made by wire transfer.

14. In securing the investments of Investor, the Respondents made untrue statements of multiple material facts and omitted to state material facts necessary in order to make the statements made not misleading.

15. With regard to the omissions of material facts, the Respondents omitted:

a. to provide Investor with the required audited or unaudited financial statements of the Respondent, Wealth Building Systems, LLC;

b. to disclose that the principal and president of Wealth Building Systems was subject to various civil judgments that he had not satisfied;

c. to disclose that the principal and president of Wealth Building Systems filed bankruptcy in 2002;

d. to disclose the highly competitive nature of the businesses to be conducted by the Respondents and other risk factors that would reasonably impact the profitability of Wealth Building Systems, LLC;

e. to disclose that the investment offering made to Investor was not registered, federally covered or exempt from registration under the applicable securities laws;

f. to disclose in any meaningful way the business history and/or operating history of Wealth Building Systems, LLC; and

g. to disclose the suitability factors for someone making an investment in the business of the Respondents.

16. Respondents did not provide to Investor a prospectus or any other written disclosure that would in any way approximate a private placement memorandum.

17. With regard to untrue statements of material facts, the Respondents stated or represented (among other things), that:

a. Investor would receive a return of 5% or 6% per month (i.e. 60% or 72% per annum) on his investment (depending on the aggregate dollar amount of his investment), when the Respondents knew that Travis West, the other named investor in the enterprise, was not receiving a comparable return, and that there was no reasonable prospect that such returns could be achieved;

b. there were 3 or more other investors in the enterprise, when in fact the only other investor acknowledged by Ledward at the administrative hearing was Travis West; and

c. the invested funds of Investor were to be used solely for internet marketing, and then subsequently for the development of tax organization software and a related smart phone APP, when in fact some of the invested funds were used to pay the personal expenses of Ledward and for the payment of profits to, or the return of investment to, Travis West.

18. Prior to making his first investment, Investor received a document (Exhibit No. 5), from the Respondents on the stationery of Wealth Building Systems stating that: "I devised a program (for investors) that seems to work really well and benefits those that decide to invest in my company. For that reason I have included a breakdown of what returns I am paying on a monthly basis and what I will do for you should you decide to invest in Wealth Building Systems, LLC" (emphasis added).

19. The referenced "breakdown" is set forth in a table at the bottom of the first page of the referenced document (Exhibit No. 5). This table represents that the Respondents were

actually "paying on a monthly basis" an investor who invests between $20,000 and $34,999.99 a monthly payment of 3% of his principal investment; an investor who invests between $35,000 and $49,999.99 a monthly payment of 4% of his principal investment; and an investor who invests $50,000 or more a monthly payment of 5% a month of his principal investment.

20. In Exhibit No. 2, the Division presented the bank statements for Wealth Building Systems for April 20, 2010 through April 30, 2010, and for the entire months of May, June, July and September of calendar year 2010.1 Nothing in these bank statements supports the representations of the payment of profits (or of returns of investment), of the magnitude represented by the Respondents in Exhibit No. 5.

21. Respondents presented no evidence from the referenced bank statements, or otherwise, for the more than four-month period in 2010 that would support the representation that any investor was receiving returns of the magnitude represented by the Respondents. Further, the Respondents presented no evidence of another bank account or other means whereby payments of this magnitude were being paid to other investors. The representations of the Respondents made to Investor regarding actual returns being paid at that time to other investors were patently false.

22. In the same document (Exhibit No. 5), the Respondents stated in the first paragraph that "Travis [West] has been an investor in my company for about 2 years now ... give or take a couple of months and with his investment he receives a monthly check for $6,000."

23. In the bank statements introduced as Exhibit No. 2 (for the more than four month period discussed above), there was (a) a check #1036 dated April 5, 2010 payable to Travis West for $2,000 noted on the check as "Dividends" (Exhibit No. 2 Bates No.

Div000650), (b) a check #1044 dated May 5, 2010 payable to Travis West for $2,000 noted on the check as "Dividends" (Exhibit No. 2 Bates No. Div000663), and (c) a mostly illegible check #1062 dated July 2010 that appeared to possibly be a payment to Travis West (the name of the payee is largely illegible), of $2,000 (Exhibit No. 2 Bates No. Div000654). Other than these three payments made in the separate months of April, May and July, there was no evidence that would support the representation of the Respondents that Travis West was receiving payments of $6,000 a month.

24. Other than the two, and possibly three, checks of $2,000 each discussed above, Respondents presented no evidence from the referenced bank statements, or otherwise, for the more than four-month period in 2010 that would support the representation that Travis West was receiving returns of $6,000 per month. Further, the Respondents presented no evidence of another bank account or other means whereby payments of this magnitude were being made to Travis West. The representations of the Respondents to Investor regarding the payment of profits to Travis West were patently false.

25. Owing to the misrepresentations made and the omissions to state material facts, it was not possible for Investor to make an informed decision about the prudence of making his investment.

Guidelines for the Assessment of Administrative Fines from Rule R164-31-1[1]

Seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation.

26. Ledward, from Utah and almost exclusively via email, solicited five separate investments from Investor who was 24 years old at the time and living in Australia. The investor had

[1] Rule R164-31-1 was replaced by Section 61-1-31 of the Act in 2016. Because the facts underlying this proceeding occurred prior to the codification of the Rule, R164-31-1 is the applicable authority.

only a high school education. (Hearing Transcript at 11:6-13). Investor invested a total of $71,000, not including roll-over investments. (Hearing Transcript at 53).

27. Investor trusted Ledward in part because he was a member of the same religion. (*See* Hearing Transcript at 16:21- 17:8).

28. The Investor was diagnosed with Crohn's disease and was not able to work at the time he made his investments. (Hearing Transcript at 13 and 14). The Respondents were likely aware of Investor's medical condition prior to accepting his investments. (Hearing Transcript at 17:16-24).

29. Respondents offered Investor a return of 3 to 6% per month on invested funds. (Hearing Transcript at 18:4-12, Exhibits 5, 6 and 8, Bates numbered Div000063, Div000065 and Div000051, respectively).

30. Respondents represented to Investor that they had a total of five investors. (Hearing Transcript at 63-64 and Exhibit 5, Bates numbered Div000065).

31. Ledward used some of Investor's funds for personal expenses, without authorization from Investor. (Hearing Transcript at 126:7-21, Exhibit 2).

32. Ledward used some of Investor's funds to pay at least one other investor, without authorization from Investor. (Hearing Transcript at 73:25 – 74:1-8, 76:2-13, Exhibit 2).

33. Respondents' conduct was serious, persistent and egregious. Ledward abused Investor's trust based upon their shared religious affinity. On multiple occasions he made fraudulent statements to obtain Investor's funds, knowing that Investor was inexperienced, was using his life savings and had serious health concerns. Ledward then used Investor's funds to pay for his personal expenses or to pay a prior investor.

Cooperation by the person in any inquiry conducted by the Division concerning the violation, efforts to prevent future occurrences of the violation, and efforts to mitigate the harm caused by the violation, including any restitution made to other persons injured by the acts of the person.

34. In 2010, Investor received two or three dividend payments from Respondents in the amount of $2,400 each. (Exhibit No. 9 Bates No. Div00053, Hearing Transcript at 42:4-13). This represented an interest payment of three percent, which was half of the amount Investor was promised. (Hearing Transcript at 42:4-13).

35. Investor retained a Utah lawyer to pursue payment from the Respondents. (Hearing Transcript at 42:18 – 43:5). Between dividend payments received from Respondents and payments received after hiring an attorney, Investor was paid a total of approximately $14,000 by the Respondents. (*Id.*).

36. Ledward recalls paying Investor "close to $30,000". (*See* Hearing Transcript at 100:14-24).

37. Other than Ledward's testimony, no evidence was presented showing that he paid Investor approximately $30,000.

38. No evidence was presented regarding Ledward's cooperation in the Division's investigation or efforts to prevent future occurrences of the violation.

39. The interest payments Respondents paid to Investor were half the amount promised, and other payments made to the Investor came only after he retained counsel to pursue payment. Under these circumstances the Commission does not believe that the payments made were an effort by the Respondents to mitigate the harm caused.

The harm to other persons resulting either directly or indirectly from the violation.

40. As a result of his experience investing and losing funds with the Respondents, Investor's health (both physical and mental) deteriorated. He is currently unemployed due to his health problems. (Hearing Transcript at 45:3-24).

41. Due in part to the loss of investment funds, Investor and his family reside in his wife's parents' garage. (Hearing Transcript at 45:25 – 46:10).

42. It was apparent during the testimony that the Respondents' actions exacted severe physical, mental and economic harm on Investor and his family.

The history of previous violations by the person.

43. The Respondents represented to the Investor that there were a total of five investors in their business. Each of these would have been victims, if there were in pact four other investors. (Hearing Transcript at 63-64 and Exhibit 5, Bates numbered Div000065).

44. The number of investors may well have been another misrepresentation of the Respondents. In all events, one other investor victim was identified by name (i.e. Travis West). (Hearing Transcript at 24:13-15). Evidence presented at the hearing clearly established that some of the funds provided by the Investor were not applied to the business of the Respondents, as represented, but were paid to partially reimburse a Mr. Travis West, who had also invested in the scheme of the Respondents. (Hearing Transcript at 74:1-8, 76:6-13 and Exhibit 2 page 6).

The need to deter the person or other persons from committing such violations in the future.

45. The need to deter fraudulent actors such as the Respondents is significant in Utah. Particularly when a respondent is employed in our community in a related field, as is Respondent Ledward. Ledward currently works as a sales director for a company in

Lindon, Utah, where he travels around the country to teach people how to invest in real estate. (Hearing Transcript at 90:16-22).

46. While soliciting investments from Investors, Ledward asked Investor if he knew of anyone else who would like to invest. (Hearing Transcript at 115:4-6, Exhibit 4 at Bates number Div000127).

47. During the March 23, 2017 hearing, Ledward testified under oath and made several inconsistent statements, throwing his credibility into question. (*See, e.g.*, Hearing Transcript at 115:7-18, 133:16 – 134:3 (regarding the number of investors), 139:6 - 140:12 (regarding ability to pay 6% interest).

48. Respondents pose a threat to Utah residents (and others) and a significant fine is necessary to deter continued fraudulent behavior in the future.

CONCLUSIONS OF LAW

In addition to the legal conclusions inherent in the preceding findings, the Commission makes the following additional Conclusions of Law:

A. Respondents were engaged in the sale of securities originating in solicitations from the State of Utah.

B. Each of the investments made by Investor constituted the purchase of securities under the Act, including as defined in Section 61-1-13 thereof.

C. In securing the investments of Investor, the Respondents made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made not misleading. By so doing, the Respondents violated Section 6-1-1 (2) of the Act.

D. The untrue statements and omissions to state material facts (necessary in order to make the statements made not misleading), were used to induce Investor to invest his funds in the

enterprise of the Respondents.

E. A single untrue statement of a material fact or a single omission of a material fact (necessary in order to make the statements made not misleading), is sufficient to incur liability under the Act and to constitute a violation of the Act. In the present matter, there are multiple material untrue statements and multiple omissions of material fact.

F. Respondents are in clear violation of the Act, including §61-1-1(2) and §61-1-1(3) thereof.

G. By reason of the actions of the Respondents as described in the above Findings of Fact, the Respondents engaged in acts, practices and a course of business which operated as a fraud or deceit upon Investor.

H. Owing to the misrepresentations made and the omissions to state material facts, it was not possible for Investor to make an informed decision about the prudence of making his investment. As a consequence thereof, a central purpose of the securities laws was wholly thwarted by the Respondents wrongful actions.

I. The actions of the Respondents with regard to the investments made by Investor are an egregious and flagrant violation of the securities laws of the State of Utah. The specific securities laws violated by the Respondents in this matter are comparable to the securities laws of all of the states of the Union. Such wrongful actions justify substantial and meaningful penalties and sanctions in this matter.

J. Respondents violated §61-1-1(2) of the Act with regard to Investor's first and second investments, as alleged in the First Cause of Action of the Order to Show Cause. Respondents violated §61-1-1(2) of the Act with regard to Investor's third investment, as alleged in the Second Cause of Action of the Order to Show Cause. Respondents violated §61-1-1(2) of the Act with regard to Investor's fourth and fifth investments, as alleged in the

Third Cause of Action of the Order to Show Cause. Respondents violated §61-1-1 (3) of the Act with regard to all of the investments of Investor, as alleged in the Fourth Cause of Action of the Order to Show Cause.

K. The administrative fine to be assessed under R164-31-1 is to be proportional to the gravity of the Respondents' offenses, as guided by the principles set forth in the United States Supreme Court decision of the *United States v. Hoep Krikor Bajakajian*, 524 U.S. 321, 1998 U.S. LEXIS 4172 (1998).

L. The analysis of the amount of the fine is further aided by the principles set forth in the Utah Court of Appeals case of *Brent Brown Dealerships v. Tax Commission*, 139 P.3d 296, 2006 Utah App. LEXIS 275 (2006).

M. The *Bajakajian* case and the *Brent Brown* case are both discussed in that portion of the recent decision of the Utah Court of Appeals in *Phillips v. Department of Commerce, 397 P.3d 863, 873-874, 2017 Utah App. LEXIS 84;* that addresses the constitutional law constraints on the amount of a fine. Although the Respondents here do not raise a constitutional argument in seeking a lesser fine, the principles of these cases give guidance to the outside parameters of an appropriate fine.

N. In the *Brent Brown* case, the Utah Court of Appeals cited favorably the Eight Circuit case, *United Sates v. Lippert*, 148 F.3d 974, 978 (8th Cir. 1998), holding that a penalty equal to two times the amount the appellant received in violation of the applicable federal statute was not grossly disproportionate. Here, the Respondent acknowledges that the amount the Respondent wrongly received from the Investor was between $70,500 and $74,500 (¶11 on the third page of the Respondents' Opposition). Even using the Respondents' lowest dollar figure of the amount received from the Investor, the *Brent Brown* and *Lippert* cases would support a fine of $141,000.

O. Contrary to the apparent intent of the argument of the Respondents, the *Phillips* decision should not be read to hold that a fine is to be limited to 25% of the amount fraudulently taken

by a respondent from his victims. The discussion about *Phillips* and the mechanical computation of 25% of the investor losses is raised in the context of the error of the Commission in addressing components of a composite civil penalty, instead of a "unitary fine,"[2] as authorized by Utah Admin. Code R164-31-1. The *Phillips* court stated:

> "Under the rule [R164-31-1], it was certainly appropriate for the Commission to consider "investor losses" in determining the amount of a fine because they fall within the scope of the "harm to other persons" mentioned in factor (b) and perhaps serve to emphasize "the seriousness" of Phillips' conduct under factor (a). However, the rule identifies those considerations as "factors" to be taken into account in determining an appropriate fine under the particular circumstances of a case, not as a discreet component of such a fine." *Id.* 872.

Although the *Phillips* court stated that "it might be difficult to contest" a fine calculated at 25% of the total investor losses,[3] it did so merely as a statement of what might be an incontestably low fine. The Court's central concern about the manner in which the *Phillips* Commission assessed its civil penalty was that "the Commission appears to have relied on investor losses twice – once when it calculated its base fine of $78,750 by taking a percentage of investor loss,[4] and then again by assessing investor losses against Philips on a dollar-for-dollar basis." *Id.*

P. Further, R144-31-1(B)(1)(f) states that the administrative fine is to "deter the person or other persons from committing such violations in the future." Although the Respondents suggest a fine of between $10,125.00 and $14,125 based on a computation of 25% of the unreimbursed investment in this matter (fifth page of the Respondents' Opposition), such amount would not be a deterrent. Such small amount could be easily construed by the Respondents, or by other violators of the Act, as being merely a cost of doing business. As such, the small amount proposed by the Respondents would actually encourage more securities fraud, rather than

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[2] *Id.* 872.
[3] *Id.* 871.
[4] This is, 25% of the total investor losses of $315,000.

discourage such activity.

Q. The Utah Court of Appeals in *Phillips* made observations about the Commission's analysis in that case, that were countenanced by Utah Admin. Code R164-31-1, applicable here. In this regard, the Court stated:

> ". . . the Commission considered at least some of the guiding factors established in the administrative code, such as the amount of the victim's loss, investigatory costs, the nature of Phillips' offense, and the fact that he was a first-time offender who did not realize any financial gain." Id. 873.

R. Unlike in *Phillips*, where the respondent did not realize any financial gain, the Respondents here derived financial benefit from all of the funds of the Investor, paying the personal expenses of Ledward, paying returns to another investor (sustaining the fraudulent scheme), and meeting other obligations of the Respondents and their businesses. By reason of this personal gain derived by the Respondents in this matter, a more severe fine is warranted.

S. Based upon the factors set forth in R164-31-1, consideration of the facts, the credibility of the witnesses and other evidence, the Commission has determined that a fine of $100,000 should be imposed. The Commission has amended the order by removing the offset for restitution paid to Investor. This amendment was necessary because Respondents' conduct that violated the Act took place in 2010, prior to the Commission's authority to order restitution under Section 61-1-20 of the Act.

RECOMMENDED ORDER

On the basis of the Second Amended Findings of Fact and Conclusions of Law outlined herein, it is recommended that the Commission enter an order that:

1. Respondents are to cease and desist from engaging in any further conduct in violation of U.C.A. §61-1-1 or any other section of the Utah Uniform Securities Act.

2. Respondents are barred from (i) associating with any broker-dealer or investment adviser licensed in Utah, (ii) acting as an agent for any issuer soliciting investor funds in Utah, and (iii) from being licensed in any capacity in the securities industry in Utah.

3. Having considered the factors in Rule R164-31-1 of the Utah Administrative Code regarding assessment of administrative fines, Respondents are jointly and severally ordered to pay a fine of $100,000 to the Division within thirty (30) days of the entry of this order.

DATED this 22nd day of January, 2018.

UTAH DEPARTMENT OF COMMERCE

Bruce Dibb, Presiding Officer