UTAH SECURITIES COMMISSION
HEBER M. WELLS BLDG., 2ND FLOOR
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 DONALD A. DANIEL, and **DALLAS TALL,** Respondents.	**ORDER ON MOTION FOR SUMMARY JUDGMENT** Case Nos.: SD-17-0014 **SD-17-0015**

BY THE UTAH SECURITIES COMMISSION:

The Presiding Officer's Findings of Fact, Conclusions of Law and Recommended Order on Motion for Summary Judgment in this matter are hereby approved, confirmed, accepted and entered by the Utah Securities Commission.

ORDER

The Motion for Summary Judgment filed by the Division is denied. The administrative hearing in this matter shall proceed on May 23, 2019, as presently scheduled, as this case cannot be determined as a matter of law at this juncture of the proceeding.

DATED this 21st day of March, 2018.

UTAH SECURITIES COMMISSION:

Brent R. Baker, Chariman

Brent A. Cochran, Member

Gary Cornia, Member

Peggy Hunt, Member

Lyle White, Member

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of March, 2019, the undersigned served a true and correct copy of the foregoing ORDER ON MOTION FOR MOTION FOR SUMMARY JUDGMENT by mailing a copy through first-class mail, postage prepaid, to:

Dallas Hamilton Tall
[redacted]

and by email on the 21st day of March, 2019, to:

the Division:

Paul Faerber, AAG
pfaerber@agutah.gov

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
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**
EMPIRE ENERGY,	Docket No. SD-19-0001
SPENCER KENT BARTON,	Docket No. SD-19-0002
LEE CHARLES RASMUSSEN,	**Docket No. SD-19-0003**
Respondents.	

The Utah Division of Securities ("Division"), by and through its Director of Enforcement, Dave Hermansen, and Respondent Lee Charles Rasmussen ("Rasmussen") hereby stipulate and agree as follows:

1. Rasmussen 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(2) (securities fraud) while engaged in the offer or sale of securities in or from Utah.

2. On or about January 10, 2019, the Division initiated an administrative action against Rasmussen, Spencer Kent Barton ("Barton"), and Empire Energy ("Empire") (collectively referred to herein as "Respondents") by filing an Order to Show Cause.

3. Rasmussen 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 Rasmussen pertaining to the Order to Show Cause.

4. Rasmussen admits that the Division has jurisdiction over him and over the subject matter of this action.

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

6. Rasmussen 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 Rasmussen to enter into this Order, other than as described in this Order.

7. Rasmussen is aware that he is able to obtain legal counsel to review the terms of the Order, and has elected not to obtain counsel.

FINDINGS OF FACT

THE RESPONDENTS

8. Empire is a Utah DBA Sole Proprietorship registered with the Utah Division of Corporations and Commercial Code on October 26, 2016. Barton is listed as the sole owner and registered agent of the entity.[1] The purported purpose of Empire is to develop oil and natural gas wells on sites in Emery County, Utah. Empire has never been licensed with the Division, and has never recorded a securities registration, exemption from registration, or notice filing with the Division.

[1]Empire's entity documents list a principal address as 950 S. State St., Ferron, UT 84523. The Utah Division of Corporations and Commercial Code lists the entity's registration as active as of October 28, 2016.

9. Barton resided in Utah during all times relevant to the allegations asserted herein and has never been licensed in the securities industry. Barton is the president and registered agent for Empire, and established entity bank accounts with sole signatory authority.

10. Rasmussen resided in Utah during all times relevant to the allegations asserted herein and was an agent of Empire. Rasmussen has never been licensed in the securities industry.

GENERAL ALLEGATIONS

11. In or about September 2016 to November 2017, while conducting business in or from the state of Utah, Respondents offered and sold several investment opportunities to at least 50 investors, and raised approximately $359,157 in connection therewith.

12. The investment opportunities offered and sold by Respondents are investment contracts and/or interests in an oil or gas well.

13. Investment contracts, and interests in an oil or gas well are securities under §61-1-13 of the Act.

14. In connection with the offer and/or sale of securities, Rasmussen, either directly or indirectly, made material omissions and/or misrepresentations of material facts.

15. In connection with the offer and/or sale of securities, Rasmussen solicited investor funds on behalf of Empire, and presented progress reports on Empire's business and financial activities during at least one investor meeting.

16. To date, investors are owed at least $332,107 in principal alone.

INVESTOR INFORMATION

17. The majority of investors solicited by Respondents believed their funds would be used to drill Empire's Academy Well.

18. Some Empire investors were later solicited by Respondents to also invest in Empire's

Pan Am Wells ("Pan Am").

19. Respondents solicited investors primarily located in Utah but also solicited investors located in Montana. The solicitation usually occurred in person, and sometimes through email.

20. With the exception of one investor, investors had no role in the investment opportunities, other than providing investment funds.

Academy Well Investment

THE SOLICITATION

21. Barton began soliciting investors by advertising in Emery County, Utah in a local newspaper. The details of the advertisement included that Barton was offering a gas-drilling investment located in Ferron, Utah in a "high production location", with an estimated production of "20,000 to 100,000 MCF" which would provide "$40,000 to $200,000" in proceeds. The advertisement further detailed that investors would pay $6,950 for a 5% interest in the well, and provided a phone number to discuss the investment opportunity.

22. Barton represented to investors that he was experienced in drilling oil wells, could locate the most advantageous area to drill, and was raising capital to fund the cost of the initial drilling phase and general operations.

23. Barton provided most investors with a business plan detailing Empire's objective to "develop and expand a multitude of natural gas wells [...] within Emery County, Utah USA." The business plan further included statements that "our Principal has decades of executive experience and expertise in [...] Oil Field Technology, Engineering, as well as degrees in Math and Science...."

24. During the solicitation, Respondents made numerous statements and representations to investors regarding the investment opportunity in the Empire Academy Well, including, but not limited to, the following:

a. That Barton had over 30 years of previous oil and gas industry experience;

b. That Barton was in possession of technology that had been used successfully on wells in California and could locate formations containing hydro carbons;

c. That Barton would start drilling in January 2017;

d. That the well would help improve the local economy;

e. That based on historical records of other successful wells in the area, production was projected to be 25,000 – 100,000 MCF of natural gas per month;

f. That Barton wanted to raise $134,000 to finance Empire's next phase of drilling;

g. That the investment offering would be limited to a maximum of 20 accredited investors;

h. That investors would break-even on their investment in approximately two and a half months;

i. That investors could expect a rate of return of at least 200% and as much as 300%;

j. That the productive life of an oil well can generate profitable returns for 20 – 30 years; and

k. That tax advantages would allow investors to offset their investment against ordinary income taxes between 65% - 80% within the first year, with remaining values depreciating over a 7-year period.

25. Based on Respondent's statements and representations, as set forth in paragraph 24, investors sent funds by checks and wire transfers totaling approximately

$332,157 to Empire's bank account, as they were instructed to do by Barton.

THE INVESTMENT AGREEMENT

26. In exchange for their investment in the Empire Academy Well, investors received a "company agreement", signed by Barton, agreeing to provide investors with a 5% working interest in the Academy Well.

27. Although the terms of the agreement provide that modification of the agreement cannot occur without consent of the majority in interest, Barton unilaterally decreased all investor's working interests in the Academy Well to 4.5% later when the offering became over-subscribed beyond the 20 accredited investors Barton initially stated he would seek. After the offering became over-subscribed, Barton later sought approval from some investors to decrease their working interest from 5% to 4.5% by signing a new agreement. However, not all investors ultimately agreed to the new terms.

MISSTATEMENTS AND OMISSIONS

28. In connection with the offer or sale of securities, Respondents made the following material misstatements to investors including, but not limited to, the following:

a. That the investment opportunity in the Academy Well would be limited to 20 accredited investors receiving a 5% interest in the well for each investment, when in fact, Respondents sold the investment to approximately 50 investors, many of whom were not accredited investors, and decreased previous investors' interest in the well to 4.5% after offering the investment to additional investors; and

b. That investors would reach a break-even point on their investment in two and a half months, when in fact, this claim was false and investors have not realized any break-even point.

29. In connection with the offer or sale of securities, Respondents failed to disclose material information to investors including, but not limited to, the following:

a. That Barton would fail to maintain accurate recordkeeping practices detailing business expenses and how investor funds would be spent;

b. That Rasmussen was not licensed to sell securities;

c. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principles 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.

30. To date, investors are owed at least $307,107 in principal alone on their investments in the Empire Academy Well.

Pan Am Wells Investment

THE SOLICITATION

31. In or about May 2017, Respondents began soliciting existing Empire investors to invest in three new wells, Pan Am, Nelson, and Lemon wells, collectively referred to as the "Pan Am wells".

32. During the solicitation, Respondents made numerous statements and representations to investors regarding the investment opportunity in the Pan Am wells, including, but not

limited to, the following:

a. That Empire was "taking over" three wells and expected a quick return;

b. That Empire was offering two investment options: one opportunity to invest $1,500 generally in the Pan Am wells, and another opportunity to invest directly in securing the surety bond required to begin operating the Pan Am wells;

c. That surety bond investors would receive a return of up to ten times their investment per $12,000 or less invested;

d. That the surety bond required to drill the wells costs $120,000;

e. That Barton would receive 10% of the oil well proceeds; and

f. That Barton estimated it would cost $30,000 to put the first well into production in less than a week.

33. Based on Respondent's statements and representations, as set forth in paragraph 32, investors sent funds by checks totaling at least $27,000 to Barton, as they were instructed to do by Barton.

THE INVESTMENT AGREEMENT

34. On or about May 6, 2017, Rasmussen sent an email correspondence to investors memorializing the terms of the Pan Am wells investment.

35. In exchange for their investment in the Pan Am wells, general investors would receive 65% of the proceeds of the wells. Surety bond investors would receive the first $1,250,000 of 7.5% of the proceeds and then the remainder of 7.5% of the proceeds would go to additional mineral lease payments.

36. Investors who chose the surety bond investment opportunity would receive up to ten times their investment of $12,000 or less in the Pan Am wells.

37. Although Rasmussen described two separate investment options in the Pan Am wells, every investor in the Pan Am wells uncovered during the Division's investigation believed their investment was used to obtain a surety bond.

MISSTATEMENTS AND OMISSIONS

38. In connection with the offer or sale of securities, Respondents made the following material misstatement to investors including, but not limited to, the following:

a. That the surety bond for the Pan Am wells would be $120,000, when in fact, Barton knew prior to solicitation and based on discussions with the Division of Oil and Gas that the surety bond for the Pan Am wells would cost more than $120,000.

39. In connection with the offer or sale of securities, Respondents failed to disclose material information to investors including, but not limited to, the following:

a. That Barton would fail to maintain accurate recordkeeping practices detailing business expenses and how investor funds would be spent;

b. That Rasmussen was not licensed to offer or sell securities;

c. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principles 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.

40. To date, investors are owed $25,000 in principal alone on their investments in the Pan Am wells investment.

CONCLUSIONS OF LAW

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

41. Based on the Division's investigative findings, the Division concludes that the investment opportunities offered and sold by Rasmussen are investment contracts and/or interests in an oil or gas well.

42. Investment contracts, and interests in an oil or gas well are securities under §61-1-13 of the Act.

43. In violation of § 61-1-1(2) of the Act, and in connection with the offer or sale of securities, Rasmussen, directly or indirectly misrepresented material facts including, but not limited to, the following:

a. That the investment opportunity in the Academy Well would be limited to 20 accredited investors receiving a 5% interest in the well for each investment, when in fact, Respondents sold the investment to approximately 50 investors, many of whom were not accredited investors, and decreased previous investors' interest in the well to 4.5% after offering the investment to additional investors;

b. That investors would reach a break-even point on their investment in two and a half months, when in fact, this claim was false and investors have not realized any break-even point; and

c. That the surety bond for the Pan Am wells would be $120,000, when in fact, Barton knew prior to solicitation and based on discussions with the Division of Oil and Gas

that the surety bond for the Pan Am wells would cost more than $120,000.

44. In violation of § 61-1-1(2) of the Act, and in connection with the offer or sale of securities, Rasmussen 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 including, but not limited to, the following:

a. That Barton would fail to maintain accurate recordkeeping practices detailing business expenses and how investor funds would be spent;

b. That Rasmussen was not licensed to sell securities;

c. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principles 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.

REMEDIAL ACTIONS/SANCTIONS

45. Rasmussen admits the Division's Findings of Fact and Conclusions of Law, and consents to the below sanctions being imposed by the Division.

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

47. Rasmussen 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.

48. Rasmussen agrees to be barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent for any issuer soliciting investor funds in the state of Utah.

49. Rasmussen agrees to cooperate with the Division and testify, if necessary, in any administrative proceeding against Empire Energy and/or Barton.

50. 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 $7,500 against Rasmussen. Rasmussen agrees to pay $7,500 within 5 business days of entry of the final Order.

FINAL RESOLUTION

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

52. If Rasmussen 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,

Rasmussen consents to entry of an order in which any payments owed by Rasmussen pursuant to this Order become immediately due and payable. Notice of the violation will be provided to Rasmussen at his last known address, and to his counsel if he has one. If Rasmussen fails to request a hearing within ten (10) days following the notice there will be no hearing and the order granting relief will be entered.

In addition, the Division may institute judicial proceedings against Rasmussen 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 Rasmussen or to otherwise enforce the terms of this Order. Rasmussen 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.

53. Rasmussen 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. Rasmussen 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.

54. 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 25th day of February, 2019

Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 14 day of FEBRUARY 2019

Lee Charles Rasmussen

Approved:

Paula Faerber
Assistant Attorney General
Counsel for Division

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which Rasmussen admits are hereby entered.
2. Rasmussen 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. Rasmussen is barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent for any issuer soliciting investor funds in the state of Utah.
4. Rasmussen agrees to cooperate with the Division and testify, if necessary, in any administrative proceeding against Empire Energy and/or Barton.
5. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Rasmussen shall pay a fine of $7,500 to the Division pursuant to the terms set forth in paragraph 50.

RECEIVED

FEB 22 2019

Utah Department of Commerce
Division of Securities

TO:

DIVISION OF SECURITIES
160E 300 So 2nd Floo
Box 146760
SLC UT 84114-6760

FROM:

LEE RASMUSSEN

[redacted]

DATED this 21st day of March 2019

BY THE UTAH SECURITIES COMMISSION:

Brent Baker

Lyle White

Peggy Hunt

Gary Cornia

Brent Cochran

CERTIFICATE OF MAILING

I certify that on the 21st day of March, 2019, I sent a true and correct copy of the foregoing Stipulation and Consent Order for Lee Rasmussen to:

Emailed:

Lee Rasmussen
[redacted]

And hand-delivered via drop box (and email) to:

Bruce Dibb, Administrative Law Judge
Department of Commerce
bdibb@utah.gov

Dave Hermansen
Director of Compliance
Utah Division of Securities
dhermans@utah.gov

Paula Faerber
Assistant Attorney General
Faerber@agutah.gov

Executive Secretary