

Division of Securities  
Utah Department of Commerce  
160 East 300 South, 2<sup>nd</sup> Floor  
Box 146760  
Salt Lake City, UT 84114-6760  
Telephone: (801) 530-6600  
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**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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**IN THE MATTER OF:**

**STIPULATION AND CONSENT  
ORDER**

**AUSTIN COLE RAUGHT,**

**Docket No. SD-19-0013**

**Respondent.**

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The Utah Division of Securities (“Division”), by and through its Director of Enforcement, Dave Hermansen, and Respondent Austin Cole Raught (“Raught” or “Respondent”) hereby stipulate and agree as follows:

1. Raught 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) and §61-1-3 (unlicensed activity) while engaged in the offer and/or sale of securities in or from Utah.
2. On or about March 4, 2019, the Division initiated an administrative action against Raught by filing an Order to Show Cause.
3. Raught 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 Raught pertaining to the Order to Show Cause.

4. Raught admits that the Division has jurisdiction over him and over the subject matter of this action.
5. Raught hereby waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
6. Raught 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 Raught to enter into this Order, other than as described in this Order.
7. Raught is represented by attorney Keith Woodwell from the law firm of Clyde Snow Attorneys at Law, and is satisfied with the legal representation he has received.

### **FINDINGS OF FACTS**

#### **THE RESPONDENT**

8. Raught was at all relevant times a resident of Utah, and currently holds active insurance licenses in the state of Utah.<sup>1</sup> Raught does not currently hold an active securities license, and was last licensed (examination Series 6) in the securities industry in 2014.

#### **RELATED ENTITY INFORMATION**

9. Future Income Payments, LLC ("FIP") is a Nevada limited liability company registered with the Nevada Secretary of State on December 23, 2015.<sup>2</sup> The purported purpose of FIP was to provide loans to pensioners who would later repay the loans after receiving their monthly pension distributions. FIP did not comply with consumer lending

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<sup>1</sup> Raught holds active insurance licenses for accident and health or sickness issued on August 9, 2018, and life insurance issued on July 5, 2011. Raught's Utah insurance license number is 381796.

<sup>2</sup>FIP's current entity status is listed as "default" with the Nevada Secretary of State. FIP's business license expired on December 31, 2018. FIP's registered agent is Conservitas Company Services, LLC, and lists a contact address as 2505 Anthem Village Dr., Ste. E-599, Henderson, NV 89052. Kohn's entity address is listed as 2850 W. Horizon Ridge Pkwy, Henderson, NV 89052.

regulations because FIP classified its activity as a temporary purchase of the right to receive pension income, rather than a loan.

10. FIP is currently the subject of several pending legal actions and bankruptcies, including a federal, criminal indictment in the District Court of the United States for the District of South Carolina Greenville for attempt and conspiracy to commit mail fraud.<sup>3</sup> FIP is also the subject for an action initiated by the Consumer Financial Protection Bureau (“CFPB”) and several state regulatory agencies, for the unlicensed sale of a security, consumer lending violations and/or operating an unlawful business model.<sup>4</sup> FIP has never been licensed with the Division and has never recorded a securities registration, exemption from registration, or notice filing with the Division.
11. Scott Kohn (“Kohn”) is listed as the manager of FIP and is a convicted felon. On December 11, 2006, Kohn pled guilty in the United States District Court for the District of Columbia, to conspiracy, trafficking in counterfeit goods, and aiding and abetting trafficking, all federal felonies. Kohn was sentenced to 15 months in federal prison.<sup>5</sup> Kohn is also currently the subject of a federal, criminal indictment in the District Court of the United States for the District of South Carolina Greenville for attempt and conspiracy to commit mail fraud (case number 6:19-cf-00239). Kohn has never been licensed with the Division.

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<sup>3</sup> See case number 6:19-cr-00239.

<sup>4</sup>The State of Alabama Securities Commission issued a Cease and Desist order against FIP and Kohn on May 25, 2018, No. CD-2018-0011. The Alabama Securities Commission determined that FIP’s structured pension cash flows are securities as defined under Alabama law.

<sup>5</sup> See case number 8:03-cr-00330.

## GENERAL ALLEGATIONS

12. In or about October 2017, while conducting business in or from the state of Utah, Raught offered and sold an FIP investment opportunity to one investor and raised approximately \$81,246.40 in connection therewith.
13. The investment opportunity offered and sold by Raught is an investment contract and/or promissory note.
14. Investment contracts and promissory notes are securities under §61-1-13 of the Act.
15. In connection with the offer and/or sale of securities, Raught engaged in the offer and/or sale of securities without being licensed to do so and engaged in unlicensed investment adviser representative activity.
16. To date, the investor is owed approximately \$74,611.23 in principal alone.

### **FIP Investment**

#### **THE SOLICITATION**

17. Raught and investor J.T. have been acquainted for several years and are relatives. Raught is the spouse of J.T.'s niece.
18. In or about October 2017, investor J.T. contacted Raught, whom she believed to be a financial professional, to discuss low-risk options for a 401(k) plan retirement account she received in a divorce settlement.
19. In or about October 2017, Raught met J.T. in her home to present three options Raught prepared for J.T.'s retirement funds. J.T.'s parents were also present during Raught's presentation.
20. During the meeting, Raught offered the following options for J.T.'s retirement funds: (1) keep the 401(k) plan invested in the stock market; (2) purchase an annuity; or (3) purchase a product that would allow for preservation and security of J.T.'s investment.

21. Of the three options Raught presented, J.T. chose the third option believing that it was the safest of the three options, and that J.T. would not lose her principal investment.
22. During the solicitation, Raught made numerous statements to J.T. regarding the investment opportunity in FIP, including, but not limited to, the following<sup>6</sup>:
  - a. That J.T. could remove her 401(k) funds from the market and transfer the proceeds to GoldStar, a third-party custodian, who would subsequently invest the funds into FIP;
  - b. That the funds invested in FIP would be used to provide a loan to individuals who wanted early access to their pension payments;
  - c. That J.T. would be “purchasing an income stream” from pensioners in an arrangement known as a Structured Cash Flow (“SCF”);
  - d. That J.T. would receive a 7.5% rate of return for either five or seven years;
  - e. That the returns received from FIP would be transferred into J.T.’s GoldStar individual retirement account (“IRA”), and subsequently used to pay her life insurance premiums to Securian Life Insurance of Minnesota;
  - f. That the primary risks of the FIP SCF included pensioners defaulting on their loans, declaring bankruptcy, or dying, and that as a result, FIP maintained reserve accounts to protect investors against the risks; and
  - g. That FIP had been “sourcing pension cash flows since 2010 and offers a model that has perfect payment history.”<sup>7</sup>

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<sup>6</sup> During the Division’s interview, Raught claimed that he made these representations to J.T. verbally, and by presenting the information through an FIP brochure and documentation signed by J.T. before her investment into FIP.

<sup>7</sup> This information was provided in the FIP brochure and presented to J.T. by Raught.

23. During the solicitation, Raught did not fully explain the FIP investment, and instead explained to J.T. and her parents that the plan Raught recommended for her retirement funds was offered by a company that was well established in the industry and very secure.
24. Raught further explained that J.T.'s principal investment would be secure and she would not lose her investment.
25. After Raught's presentation, J.T. chose the third option, which Raught presented as the Securian life insurance product with a 2% floor and a 17% cap.
26. Raught recommended that J.T. liquidate her 401(k) plan and transfer the funds into an IRA account held at GoldStar. Based on that recommendation, J.T. liquidated her 401(k) retirement plan.
27. Raught placed \$9,000 of J.T.'s retirement funds into a Minnesota Life insurance policy<sup>8</sup>, and invested \$81,264.40 of J.T.'s retirement funds into FIP.
28. J.T.'s annual insurance policy premiums of \$17,348 were to be paid from the returns generated by the FIP investment.<sup>9</sup>

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<sup>8</sup> Raught received a commission for selling the Minnesota Life insurance policy to J.T. and he also received a separate commission for selling the FIP investment.

R164-4-2(G)(3)(c) outlines acts or practices which require licensing as an investment adviser to include, "An insurance agent who, receives a commission from the sale of insurance to a client who makes such purchase with the proceeds of securities the insurance agent recommended be sold, must be licensed as an [...] investment adviser representative." Raught was not licensed as an investment adviser representative when he recommended the liquidation of J.T.'s retirement funds to use the proceeds to purchase the Minnesota Life insurance policy, and received a commission from the sale of the life insurance product.

<sup>9</sup> J.T.'s life insurance application includes a section called "Source of Funds" to indicate how J.T.'s life insurance annual premiums would be paid each year. "Earnings" and "Savings" were selected as the source of funds to pay the policy's \$17,348 annual premiums, although there were other options on the application to choose as the source of funds, including: 401(k) plan, IRA, and other qualified assets. Raught recommended J.T. use FIP returns to pay her annual insurance policy premiums and knew that the FIP investment was funded from J.T.'s retirement account. Considering J.T. did not have sufficient income from her salary as a self-employed hairdresser to pay an annual \$17,348 insurance premium, and her retirement account was the bulk of her savings, Raught should have selected a more appropriate and accurate description on the life insurance application for the source of funds to pay J.T.'s annual insurance premiums.

## THE INVESTMENT AGREEMENT

29. In exchange for J.T.'s investment in FIP, she received a document from Raught entitled "FIP, LLC Qualified Purchase Agreement November 2016", dated October 4, 2017, and signed by Raught and J.T.
30. In the agreement, FIP agrees to perform several functions and makes several representations in relation to J.T.'s FIP investment, including, but not limited to the following:
- a. That FIP would purchase on behalf of J.T. the right to receive monthly, fixed and pre-determined income payments based on the terms outlined in the agreement;
  - b. That FIP would maintain a "reserve account [...] in which FIP will deposit a portion of the profits it derives from its business...." to mitigate the risk of a pensioner's default and/or death;
  - c. That J.T. invested \$81,246.40 for a period of 7 years with an 8% discount rate, and monthly return payments of \$1,247.03; and
  - d. That J.T. would receive a total of \$104,750.52 in monthly payments based on the cash flow projections over an 84 month, or 7 year time period.
31. Raught also provided J.T. with a GoldStar IRA new account application form to complete, a GoldStar rollover IRA form to transfer her 401(k) account and establish a new retirement account, and an application for the life insurance policy whose premiums would be paid from the FIP investment.<sup>10</sup> Raught assisted J.T. in completing these forms.

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Minnesota Life has since offered to rescind J.T.'s life insurance policy because earnings and savings were listed as the source of funds. In Minnesota Life's explanation for rescinding J.T.'s policy, Minnesota Life stated that they "found that distributions from qualified assets and a structured cash flow were used as the source of funding for the life insurance policy. Had Minnesota Life been aware of this, additional questions would have been asked at the time of [J.T.'s] application, and the underwriting decision may have been postponed or altogether different than the decision that was rendered."

<sup>10</sup> Before J.T. could invest into FIP using her 401(k) retirement funds, the 401(k) funds had to be liquidated and

## FIP'S USE OF INVESTOR FUNDS

32. FIP hired Faw Casson ("FC"), an escrow-agent service provider, to receive and retain investor funds before FIP distributed the funds to other sources.
33. A review of FC's general ledger record revealed that FIP used investor funds in a manner inconsistent with what Raught represented to J.T. at the time of solicitation.
34. FIP instructed FC to distribute investor funds in a manner including, but not limited to the following:
  - a. To pay approximately \$6,714 to pensioners;<sup>11</sup>
  - b. To pay approximately \$7,312.18 in commissions, undisclosed to J.T., \$3,356.09 of which was paid to Raught;
  - c. To pay approximately \$2,097 to a company called Top Direction LLC;<sup>12</sup> and
  - d. To send approximately \$65,093.23 to FIP, which was not used in a manner authorized by J.T.
35. Although Raught knew he would receive \$3,356.09 in commissions from the sale of the FIP investment to J.T., Raught did not know that FIP would use J.T.'s investment funds in a manner inconsistent with what Raught represented to J.T. at the time of solicitation.
36. After J.T.'s initial FIP investment on October 4, 2017, J.T. received a few "payments" from FIP. However, in or about April 2018, all payments from FIP ceased. GoldStar shortly thereafter sent J.T. a correspondence explaining that GoldStar would no longer act as the custodian for new FIP customers because FIP was currently under investigation,

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transferred to a "self-directed" IRA account held at Goldstar. Raught assisted in this process to facilitate the transfer. After J.T.'s funds were transferred to Goldstar, the funds could then be used to invest in FIP.

<sup>11</sup> J.T.'s FIP investment agreement included the names of three individuals who received a loan from J.T.'s investment.

<sup>12</sup> Top Direction LLC is believed to be an organization hired to market FIP loans to pensioners.



and encouraged current FIP investors to contact their state's Attorney General to report any fraudulent conduct related to FIP.

37. To date, J.T. is owed at least \$74,611.23 in principal alone on her investment in FIP.

### **CONCLUSIONS OF LAW**

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

38. Based upon the Division's investigative findings, the Division concludes that the FIP investment opportunity offered and sold by Raught is an investment contract and/or a promissory note.
39. Investment contracts, and promissory notes are securities under §61-1-13 of the Act.
40. Raught acted as an agent of FIP when he sold a security to J.T. on behalf of FIP and received compensation in connection therewith.
41. In violation of § 61-1-3(1) of the Act, Raught was not licensed as an issuer agent when he offered and/or sold a security to J.T.

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

42. Based upon the Division's investigative findings, the Division concludes that Raught acted as an investment adviser representative when he recommended that J.T. liquidate the securities held in her 401(k) retirement account, prepared documentation to initiate a rollover into a new GoldStar IRA account to purchase an insurance policy and the FIP investment, and received compensation in connection therewith.
43. Raught received compensation, directly or indirectly, for providing investment advice to J.T.
44. In violation of §61-1-3(3) of the Act, Raught was not licensed as an investment adviser representative when he provided investment advice to J.T. and received compensation in

connection therewith.

### **REMEDIAL ACTIONS/SANCTIONS**

45. Raught admits to acting as an unlicensed agent and unlicensed investment adviser representative, and the Division's Conclusions of Law. Raught consents to the below sanctions being imposed by the Division.
46. Raught represents that the information he has provided to the Division as part of its investigation is accurate and complete.
47. Raught 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. Raught 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. 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 and restitution amount of \$15,000 against Raught. Raught agrees to pay \$7,000 to the Division within 5 business days of entry of the final Order, and pay the remaining \$8,000 to the Division in equal monthly payments over a period of two years. The first monthly payment will be due August 1, 2019.

### **FINAL RESOLUTION**

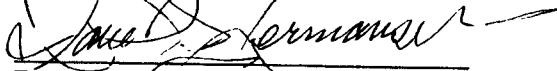
50. Raught acknowledges that this Order, upon approval by the Utah Securities Commission ("Commission"), shall be the final compromise and settlement of this matter. Raught acknowledges that the Commission is not required to approve this Order, in which case the Order shall be null and void and have no force or effect. In the event the Commission

does not approve this Order, however, Raught expressly waives any claims of bias or prejudice of the Commission, and such waiver shall survive any nullification.

51. If Raught 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, Raught consents to entry of an order in which any payments owed by Raught pursuant to this Order become immediately due and payable. Notice of the violation will be provided to Raught at his last known address, and to his counsel if he has one. If Raught 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.
52. In addition, the Division may institute judicial proceedings against Raught 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 Raught or to otherwise enforce the terms of this Order. Raught 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. Raught 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. Raught 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.

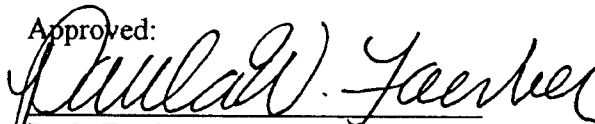
Dated this 30 day of April, 2019

  
Dave R. Hermansen  
Director of Enforcement  
Utah Division of Securities


Dated this 30<sup>th</sup> day of April, 2019

  
Austin Cole Raught

Approved:

  
Paula Faerber  
Assistant Attorney General  
Counsel for Division

Approved:

  
Keith Woodwell  
Counsel for Respondent Raught

**ORDER**

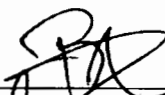
**IT IS HEREBY ORDERED THAT:**

1. The Division's Conclusions of Law and Raught's admission to acting as an unlicensed agent and unlicensed investment adviser representative are hereby entered.

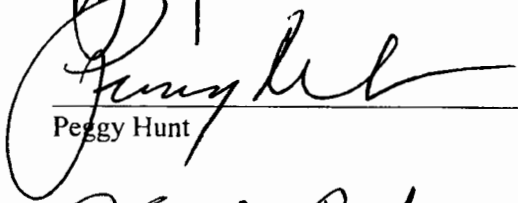
2. Raught shall cease and desist from violating the Act and comply with the requirements of the Act in all future business in the state of Utah.
3. Raught is barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent for any issuer soliciting investor funds in the state of Utah.
4. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Raught shall pay a total fine and restitution amount of \$15,000 to the Division pursuant to the terms set forth in paragraph 49.

Dated this 23~~0~~ day of May, 2019.


UTAH SECURITIES COMMISSION:

  
\_\_\_\_\_  
Brent Cochran

  
\_\_\_\_\_  
Gary Cornia

  
\_\_\_\_\_  
Peggy Hunt

  
\_\_\_\_\_  
Lynden Ricks

  
\_\_\_\_\_  
Lyle White

CERTIFICATE OF SERVICE

I hereby certify that on the 23<sup>rd</sup> day of May, 2019, the undersigned served a true and correct copy of the foregoing Stipulation and Consent Order as noted below.

Keith Woodwell  
Clyde Snow  
[kmw@clydesnow.com](mailto:kmw@clydesnow.com)  
Counsel for Mr. Raught

Paula Faerber  
[pfaerber@agutah.gov](mailto:pfaerber@agutah.gov)  
Counsel for the Division



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

**IN THE MATTER OF:**

**MARIA GUADALUPE MAYNES,  
CARLOS HUMBERTO RODRIGUEZ,**

**Respondents.**

**STIPULATION AND CONSENT  
ORDER**

Docket No. 19-0007  
Docket No. 19-0008

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

1. Rodriguez 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), and §61-1-3(1) (unlicensed activity) while engaged in the offer and/or sale of securities in or from Utah.
2. On or about February 11, 2019, the Division initiated an administrative action against Rodriguez, and Maria Guadalupe Maynes ("Maynes") (collectively referred to herein as "Respondents") by filing an Order to Show Cause.
3. Rodriguez 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 Rodriguez pertaining to the Order to Show Cause.

4. Rodriguez admits that the Division has jurisdiction over him and over the subject matter of this action.
5. Rodriguez hereby waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
6. Rodriguez 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 Rodriguez to enter into this Order, other than as described in this Order.
7. Rodriguez 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 FACTS**

#### **THE RESPONDENTS**

8. Maynes resided in Utah during all times relevant to the allegations asserted herein and has never been licensed in the securities industry. Maynes is a solicitor for a company called My Trader Coin ("MTC") and she collected funds from investors on behalf of MTC.<sup>1</sup> MTC has no known ownership structure, origin, entity registration, or location information currently available.<sup>2</sup> According to Respondents, MTC's purpose was to generate returns for investors by trading cryptocurrencies. There is currently a parallel criminal proceeding against Maynes related to this matter in the Third District Court, Salt Lake County, Utah, case number 191900810.

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<sup>1</sup> Top level MTC solicitors were referred to as "leaders" within the organization who were primarily responsible for collecting investor funds and opening "investment accounts" on the MTC online platform. Maynes is believed to be a "leader" of MTC.

<sup>2</sup> Many investors believe MTC was started in the Dominican Republic, and was introduced to Utah in or about February 2017 by Juan Tacuri and David Carmona from the state of New York.



9. Rodriguez resided in Utah during all times relevant to the allegations asserted herein and has never been licensed in the securities industry.

#### **GENERAL ALLEGATIONS**

10. The Division's investigation of this matter revealed that from approximately March 2017 to August 2018, while conducting business in or from the state of Utah, Respondents offered and sold several investment opportunities to at least 18 investors, and raised approximately \$73,700 in connection therewith.
11. The investment opportunities offered and sold by Respondents are investment contracts.
12. Investment contracts are securities under §61-1-13 of the Act.
13. In connection with the offer and/or sale of securities, Respondents, either directly or indirectly, made material omissions and/or misrepresentations of material facts.
14. In connection with the offer and/or sale of securities, Respondents solicited investor funds on behalf of MTC, and hosted several investment seminars where Respondents distributed investment literature and presented information regarding the MTC investment.
15. To date, investors are owed at least \$64,200 in principal alone.

#### **INVESTOR INFORMATION**

16. From approximately March 2017 to August 2018, Respondents solicited at least 18 investors to invest in MTC.
17. Maynes, Rodriguez, and other MTC solicitors specifically targeted members of the Latino community to invest in MTC.
18. Respondents solicited investors primarily located in Utah but also solicited investors located in Texas and Nevada. The solicitations primarily occurred in person during

seminars hosted by Respondents.

19. MTC's business model was based on a multi-level marketing structure in which investors could receive referral bonuses by introducing new investors to MTC. With the exception of a few investors who introduced new investors to Respondents to invest in MTC, most investors did not receive any referral bonuses for introducing new investors to Respondents, and no investor had a role in the managerial functions of the investment opportunities, other than providing investment funds.<sup>3</sup>

### **MTC Cryptocurrency Investment**

#### **THE SOLICITATION**

20. Maynes began soliciting investors to invest in MTC in or about March 2017, and recruited Rodriguez shortly thereafter to become a solicitor for MTC. Respondents called their MTC solicitor group, "Global Trader Coin Team".
21. Respondents solicited investors by hosting seminars at investors' homes, Maynes's Utah health and wellness store location<sup>4</sup>, and presenting at locations such as the Megaplex Theatres at the Valley Fair Mall in West Valley City, Utah.<sup>5</sup>
22. Respondents represented to investors that MTC would use investors' funds to trade cryptocurrencies, and that investors would realize the following returns based on the

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<sup>3</sup> Any investor who may have received a referral bonus for introducing new investors to Respondents, only invited new investors to Respondents' seminars, were not involved in the solicitation, and lost their investment in MTC as well.

<sup>4</sup> Entity documents registered with the Utah Division of Corporations and Commercial Code lists Maynes as the director and owner of Vida Y Salud, Inc. with an entity address as 427 E 3300 S, Salt Lake City, UT 84106. Vida Y Salud is a health and wellness retail store located in Utah.

<sup>5</sup> MTC leaders circulated an advertisement written partially in Spanish entitled, "SEMINARIO DE EDUCACIÓN FINANCIERA EN UTAH USA" with a date and time of March 18 at 7:00 PM. The advertisement contains MTC's website (mytradercoin.com) and photographs with names listed as: Rodrigo Murga, Claudia Gonzalez, Juan Tacuri, Edith Plancarte, Fernando Luna, and Maria Maynes. The location of the seminar is listed as the Megaplex Theatres at the Valley Fair Mall, with an address of 3620 South 2400 West, West Valley City, UT 84119.

investment plan selected: a return of \$12 each day per \$1,000 invested in MTC over a three hundred-day time period, \$6 each day per \$500 invested in MTC over a three hundred-day time period, and \$1 each day per \$100 invested in MTC over a three hundred-day time period.

23. During the solicitation, Respondents provided investors with investment brochures, written in Spanish and created by Respondents, displaying hypothetical returns and projections, and an overview of MTC's investment offering.
24. Respondents also circulated a pamphlet to investors which included information on MTC's three investment plan offerings, contact information for the Global Trader Coin Team (including the physical address of Maynes's retail store, Vida Y Salud), and various statements regarding cryptocurrences and the use of social media. The pamphlet was written in Spanish and created by Respondents.
25. While at least one individual invested via personal check made payable to Maynes, most investors used cash to invest in MTC, and primarily communicated with Respondents through the social media platform, WhatsApp. If investors became weary of delays in communication and/or asked for return of their investment, Maynes deleted their profile from the WhatsApp group chat, leaving investors with no history of their communication with Maynes.
26. After investors gave Respondents their investment check or cash, Maynes created an alleged investment account on MTC's website immediately displaying the investor's funds within the account.
27. Respondents promised investors a "bonus referral" of \$200 to \$300 in cash or MTC account credits if investors referred a new investor to invest in MTC.

28. During the solicitation, Respondents made numerous statements and representations to investors regarding the investment opportunity in MTC, including, but not limited to, the following:
- a. That MTC was offering an opportunity for investors to receive a substantial return by trading in cryptocurrencies;
  - b. That investors would receive a return of \$1 to \$12 each day depending upon which investment plan was chosen;
  - c. That investors would realize a return on their investment in 100 to 300 days;
  - d. That investors would be able to access their investment account and funds on the MTC website;
  - e. That investors could sell their MTC investment to other investors at any time and withdraw their funds;
  - f. That investors could earn referral bonuses by introducing other investors to Respondents; and
  - g. That MTC was an opportunity to gain financial security and independence.
29. Based on Respondents' statements and representations, as set forth in paragraph 28, investors provided funds by checks and cash totaling approximately \$73,700 to Respondents to invest in MTC, as they were instructed to do by Maynes.

#### **THE INVESTMENT AGREEMENT**

30. In exchange for their investment in MTC, Maynes gave investors a username and password to access their investment account on the MTC website. When investors asked for additional documentation of their MTC investment, Respondents informed investors

that their usernames and passwords were evidence of their investment.

31. MTC's online account access allowed investors to review their alleged account balances, daily credits, and e-wallets to transfer cryptocurrency or additional funds.
32. Respondents promised investors a return of \$1 to \$12 each day in 100 to 300 days for their investment in MTC.

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

33. An analysis of Maynes's bank records revealed that Maynes used investor funds in a manner inconsistent with what Respondents represented at the time of solicitation.
34. Maynes used investor funds in a manner including, but not limited to the following:
  - a. To pay over \$6,200 in personal car loan payments; and
  - b. To pay over \$1,800 in personal expenses at grocery stores, gas stations, Amazon, and travel expenses.
35. In addition, Respondents collected over \$65,000 in cash from investors that could not be immediately accounted for during the Division's investigation.
36. For investors who invested by check, the funds were spent by Maynes within four months of receipt of funds.
37. The Division has no evidence showing that Rodriguez misused investor funds.

#### **MISSTATEMENTS AND OMISSIONS**

38. In connection with the offer and/or sale of securities, Respondents made the following material misstatements to investors including, but not limited to, the following:
  - a. That all investor funds would be invested in MTC to trade cryptocurrencies, when in fact, this representation was false, there is no evidence that cryptocurrencies were ever traded, and Maynes used a portion of investor funds for personal expenses and

her car loan;

- b. That investors would receive a return of \$1 to \$12 each day in 100 to 300 days, when in fact, this representation was false, there was no reasonable basis for making this statement, and investors lost their entire investment in MTC; and
  - c. That investors would be able to withdraw their funds at any time using their online MTC investment account, when in fact, this representation was false, investor balances reflected on the online MTC account were fictitious and not actually deposited within the investor's account during the solicitation, and the MTC online platform did not provide a functioning system for investors to withdraw funds.
39. In connection with the offer and/or sale of securities, Respondents failed to disclose material information to investors including, but not limited to, the following:
- a. That Maynes would use investor money to fund her personal lifestyle;
  - b. That Respondents would collect substantial cash investments from investors without maintaining accurate accounting records detailing business expenses and the use of investor funds;
  - c. That Respondents would not provide to investors account statements or receipts verifying their MTC investments;
  - d. That Maynes filed for bankruptcy in 2002;
  - e. That Maynes opened MTC online accounts for investors that displayed a credit balance of their investment before Maynes or another MTC leader actually deposited investor funds into the MTC account;
  - f. That Maynes and Rodriguez were not licensed to sell securities; and
  - g. Some or all of the information typically provided in an offering circular or

prospectus concerning Respondents and MTC 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 at least \$64,200 in principal alone on their investments in MTC.

### **CONCLUSIONS OF LAW**

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

41. Based upon the Division's investigative findings, the Division concludes that the investment opportunities offered and sold by Rodriguez were investment contracts.
42. Investment contracts 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 and/or sale of a security, Rodriguez, directly or indirectly misrepresented material facts including, but not limited to, the following:
  - a. That all investor funds would be invested in MTC to trade cryptocurrencies, when in fact, this representation was false and there is no evidence that cryptocurrencies were ever traded;
  - b. That investors would receive a return of \$1 to \$12 each day in 100 to 300 days, when

in fact, this representation was false, there was no reasonable basis for making this statement, and investors lost their entire investment in MTC; and

- c. That investors would be able to withdraw their funds at any time using their online MTC investment account, when in fact, this representation was false, investor balances reflected on the online MTC account were fictitious and not actually deposited within the investor's account during the solicitation, and the MTC online platform did not provide a functioning system for investors to withdraw funds.
44. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Rodriguez 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 Rodriguez would collect substantial cash investments from investors without maintaining accurate accounting records detailing business expenses and the use of investor funds;
  - b. That Rodriguez would not provide to investors account statements or receipts verifying their MTC investments;
  - c. That Maynes filed for bankruptcy in 2002;
  - d. That Rodriguez was not licensed to sell securities; and
  - e. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and MTC 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.

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

45. In violation of § 61-1-3(1) of the Act, Rodriguez was not licensed in the securities industry in any capacity when he offered and sold securities on behalf of MTC.

**REMEDIAL ACTIONS/SANCTIONS**

46. Rodriguez admits the Division's Findings of Fact and Conclusions of Law, and consents to the below sanctions being imposed by the Division.
47. Rodriguez represents that the information he has provided to the Division as part of its investigation is accurate and complete.
48. Rodriguez 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.
49. Rodriguez 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.
50. Rodriguez agrees to cooperate with the Division and testify, if necessary, in any administrative proceeding against MTC and/or Maynes.
51. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, the Division imposes a total fine amount of \$11,000 against

Rodriguez. Rodriguez agrees to pay \$1,500 to the Division within 5 days of entry of the final Order; pay \$1,000 to the Division within 60 days of entry of the final Order; and pay the remaining \$8,500 to the Division in equal quarterly payments within 36 months of entry of the final Order.

### **FINAL RESOLUTION**

52. Rodriguez acknowledges that this Order, upon approval by the Utah Securities Commission (“Commission”), shall be the final compromise and settlement of this matter. Rodriguez 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, Rodriguez expressly waives any claims of bias or prejudice of the Commission, and such waiver shall survive any nullification.
53. If Rodriguez 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, Rodriguez consents to entry of an order in which the total fine amount is increased by 20% and any fine payments owed by Rodriguez become immediately due and payable. Notice of the violation will be provided to Rodriguez at his last known address, and to his counsel if he has one. If Rodriguez 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 Rodriguez 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 Rodriguez or to otherwise enforce the terms of this Order. Rodriguez further agrees to be liable for all reasonable attorneys’

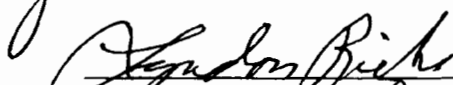
**ORDER**

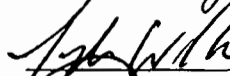
**IT IS HEREBY ORDERED THAT:**

1. The Division's Findings and Conclusions, which Rodriguez admits are hereby entered.
2. Rodriguez 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. Rodriguez 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. Rodriguez shall cooperate with the Division and testify, if necessary, in any administrative proceeding against MTC and/or Maynes.
5. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Rodriguez shall pay a fine of \$11,000 to the Division pursuant to the terms set forth in paragraph 51.

**BY THE UTAH SECURITIES COMMISSION:**

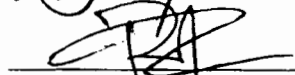
DATED this 23<sup>rd</sup> day of May, 2019

  
Brent Baker - ~~LYNDON~~ RICKS

  
Lyle White

  
Peggy Hunt

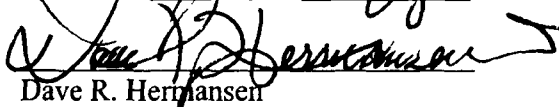
  
Gary Gornia

  
Brent Cochran

fees and costs associated with any collection efforts pursued by the Division, plus the judgment rate of interest.

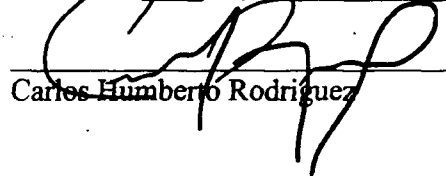
54. Rodriguez acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against him arising in whole or in part from his actions, and that the Order does not affect any criminal causes of action that may arise as a result of the conduct referenced herein. Rodriguez 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.
55. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way. Upon entry of the Order, any further scheduled hearings involving Respondent Rodriguez are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 14 day of May, 2019



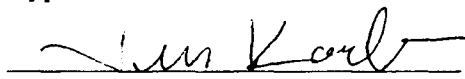
Dave R. Hermansen  
Director of Enforcement  
Utah Division of Securities

Dated this 7 day of \_\_\_\_\_, 2019



Carlos Humberto Rodriguez

Approved:



Jennifer Korb  
Assistant Attorney General  
Counsel for Division

CERTIFICATE OF SERVICE

I certify that on the 23<sup>rd</sup> day of May 2019, I sent a true and correct copy of the foregoing STIPULATION AND CONSENT ORDER to Respondents at:

*Respondent* Maria Guadalupe Maynes, through counsel  
Thomas Weber  
tom@law.ninja

Carlos Humberto Rodriguez

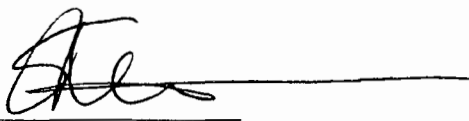
*Respondent*

Thomas Melton  
Jennifer Korb  
Assistant Attorneys General  
Utah Attorney General's Office  
tmelton@agutah.gov  
jkorb@agutah.gov  
*Counsel for the Division*

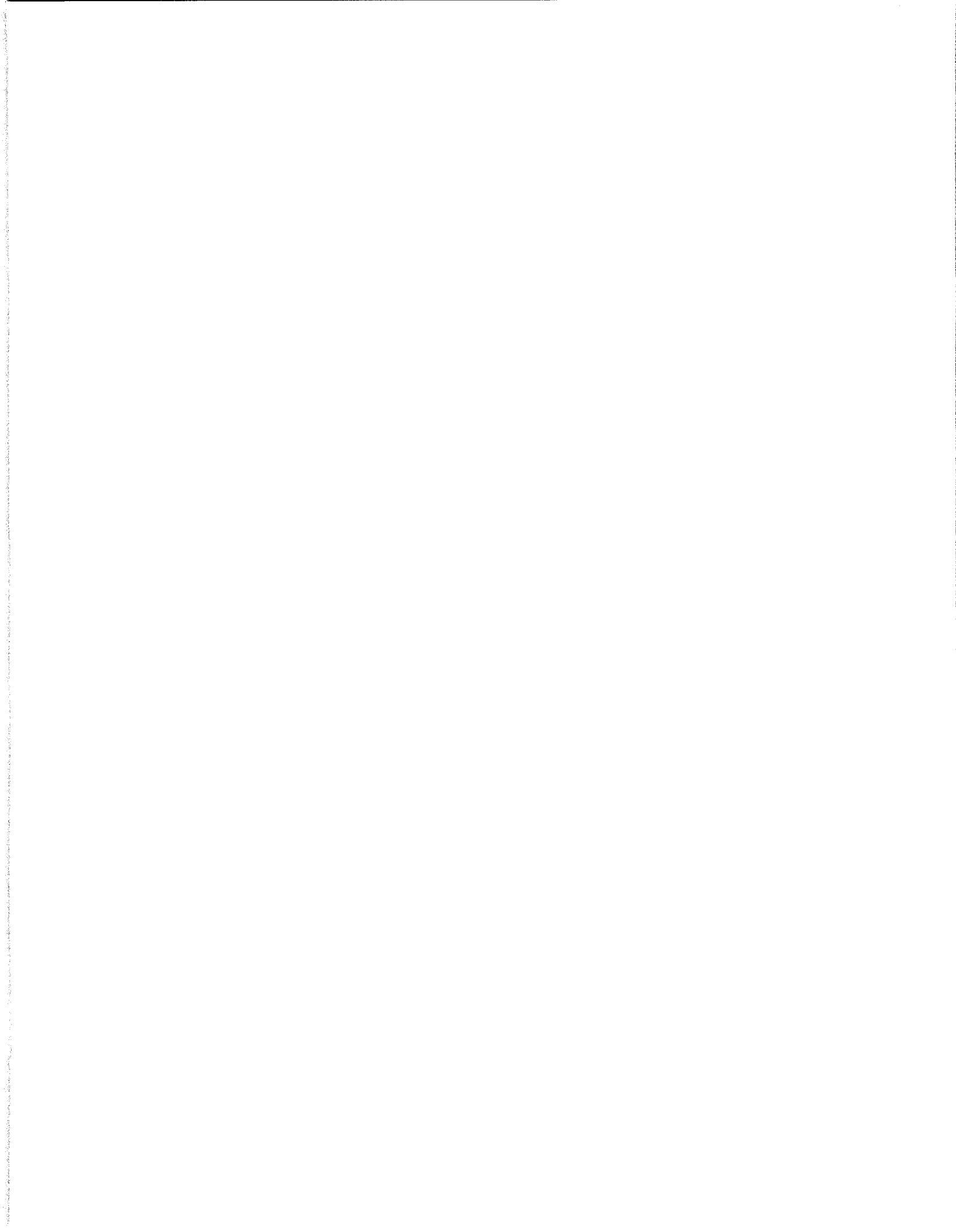
**And hand-delivered via drop box or email to:**

Bruce Dobb, Administrative Law Judge  
Department of Commerce  
bdobb@utah.gov

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



A handwritten signature in black ink, appearing to read 'Dave Hermansen', is written over a horizontal line.



Division of Securities  
Utah Department of Commerce  
160 East 300 South, 2<sup>nd</sup> 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**

<b>IN THE MATTER OF:</b>  FLANNEL DAMAGE HOLDINGS LLC,  RICHARD REX BALDWIN,  RICHARD JUSTIN PUPUNU,  <b>Respondents.</b>	<b>STIPULATION AND CONSENT ORDER</b>  Docket No. <u>SD-19-0004</u>  Docket No. <u>SD-19-0005</u>  <b>Docket No. <u>SD-19-0006</u></b>
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The Utah Division of Securities (“Division”), by and through its Director of Enforcement, Dave Hermansen, and Respondent Richard Justin Pupunu (“Pupunu”) hereby stipulate and agree as follows:

1. Pupunu 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 and/or sale of securities in or from Utah.
2. On or about January 22, 2019, the Division initiated an administrative action against Pupunu, Richard Rex Baldwin (“Baldwin”), and Flannel Damage Holdings, LLC (“Flannel Damage”) (collectively referred to herein as “Respondents”) by filing an Order to Show Cause.

3. Pupunu 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 Pupunu pertaining to the Order to Show Cause.
4. Pupunu admits that the Division has jurisdiction over him and over the subject matter of this action.
5. Pupunu hereby waives any right to a hearing to challenge the Division’s evidence and present evidence on his behalf.
6. Pupunu 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 Pupunu to enter into this Order, other than as described in this Order.
7. Pupunu 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 FACTS**

#### **THE RESPONDENTS**

8. Flannel Damage is a defunct Utah limited liability company registered with the Utah Division of Corporations and Commercial Code on March 29, 2016. Pupunu is listed as the manager and registered agent of the entity.<sup>1</sup> Members listed for Flannel Damage include: Malohi Capital Enterprises LLC, a Utah limited liability company established by Pupunu on March 18, 2016; and Blue Danube LC, a Utah company established by Rex

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<sup>1</sup>While Pupunu is listed as the registered agent and manager of Flannel Damage, Baldwin acknowledged during the Division’s interview, that he registered Flannel Damage with the Utah Division of Corporations and Commercial Code, not Pupunu. Flannel Damage’s entity documents list a principal address as 1243 E. Brickyard Road, Unit 450, Salt Lake City, UT 84106. The Utah Division of Corporations and Commercial Code lists the entity’s registration as expired as of June 28, 2017.



Baldwin on November 12, 2015.<sup>2</sup> The purported purpose of Flannel Damage was to develop and “flip” residential real estate. Flannel Damage has never been licensed with the Division, and has never recorded a securities registration, exemption from registration, or notice filing with the Division.

9. Baldwin was at all relevant times a resident of Utah, and was licensed as an investment adviser representative from 1997 through 2006 (examination series 6, 63, 65, and 7). Baldwin has not been licensed in the securities industry since 2006. Respondents established a bank account with signatory authority for Flannel Damage, and Baldwin was issued the sole debit card for electronic access to the funds in the account.
10. Pupunu was at all relevant times a resident of Utah, and has never been licensed in the securities industry. Pupunu is the manager and registered agent for Flannel Damage, and has signatory authority for the Flannel Damage bank account.

#### GENERAL ALLEGATIONS

11. The Division’s investigation of this matter revealed that from approximately March 2016 to December 2016, while conducting business in or from the state of Utah, Respondents offered and sold an investment opportunity to at least one investor, and raised approximately \$50,000 in connection therewith.
12. The investment opportunity offered and sold by Respondents is an investment contract.
13. Investment contracts are securities under §61-1-13 of the Act.
14. In connection with the offer and/or sale of securities, Respondents, either directly or indirectly, made material omissions and/or misrepresentations of material facts.
15. In connection with the offer and/or sale of securities, Respondents drafted and signed a revenue sharing agreement between Flannel Damage and the investor.

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<sup>2</sup>Rex Baldwin is Richard Baldwin’s father.

16. In a separate civil matter, Pupunu paid investor M.E. \$10,000 in a settlement agreement. As a result, investor M.E. is owed approximately \$38,492 in principal to date.

### **REHAB HOUSE FLIP INVESTMENT**

#### **THE SOLICITATION**

17. In or about 2014, Baldwin became friends with investor M.E. after meeting at a casino in Las Vegas, Nevada.
18. In or about March 2016, Baldwin solicited M.E. to invest in his rehab house flipping opportunity through Flannel Damage.
19. During the solicitation, Baldwin made numerous statements and representations to M.E. regarding the investment opportunity in Flannel Damage, including, but not limited to, the following:
  - a. That Baldwin and Pupunu co-owned Flannel Damage;
  - b. That Baldwin and Pupunu were experienced in flipping houses and Flannel Damage had previously purchased and sold residential real estate;
  - c. That flipping houses had been very lucrative for Flannel Damage;
  - d. That Flannel Damage had several relationships with general contractors who were “anxious to get back to steady work”;
  - e. That Flannel Damage needed funds to purchase properties to rehabilitate;
  - f. That Baldwin and Pupunu anticipated they would be able to resell the rehabilitated properties within a few months for a substantial profit;
  - g. That M.E. would receive monthly interest payments of 1% for three months, and an additional 35% of the profits from the sale of the property; and
  - h. That Baldwin and Pupunu would personally guarantee M.E.’s principal investment.

20. Based on Baldwin's statements and representations, as set forth in paragraph 19, M.E. wrote a check to Flannel Damage totaling \$50,000, as he was instructed to do by Baldwin.

#### **THE INVESTMENT AGREEMENT**

21. In exchange for M.E.'s investment in Flannel Damage, he received a document entitled "Flannel Damage Holdings LC Revenue Sharing Agreement" dated March 28, 2016, and signed by M.E., Baldwin, and Pupunu.
22. In the agreement, M.E. agreed to invest \$50,000 in exchange for monthly interest payments of 1% to begin April 20, 2016, and 35% of the net profits after resell of the property.
23. Baldwin also signed an agreement, personally guaranteeing M.E.'s principal investment.<sup>3</sup>

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

24. An analysis of Flannel Damage's bank records revealed that Baldwin used investor funds in a manner inconsistent with what Baldwin represented at the time of solicitation.
25. During the Division's interview with Baldwin, Baldwin acknowledged that he obtained a bank debit card for the Flannel Damage bank account, and used the investor's funds for personal expenses not related to the investment opportunity.
26. Baldwin used investor funds in a manner including, but not limited to the following:
- a. To make cash withdrawals totaling approximately \$26,521 without producing

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<sup>3</sup> The personal guarantee document includes three signatures which purportedly belong to Pupunu, Baldwin, and a third party witness. During the Division's interview with Pupunu, Pupunu stated that he never signed a personal guarantee, would not have agreed to sign a personal guarantee, and believes Baldwin forged his signature. During the Division's interview with Baldwin, Baldwin stated that he did not witness Pupunu signing the personal guarantee and could not remember Pupunu signing the personal guarantee. Baldwin also stated that his son, Mark Baldwin, was the witness signature on the personal guarantee, although M.E. stated Baldwin informed M.E. that Baldwin's father (Rex Baldwin) signed the personal guarantee as the witness. Baldwin does not deny that he signed the personal guarantee. Further, during the Division's interview with Mark Baldwin, Mark Baldwin stated that he did not witness Pupunu signing the personal guarantee.

receipts or other supporting documents to account for a legitimate business purpose for the cash withdrawals;

- b. To spend approximately \$1,290 for a personal rent payment;
  - c. To pay over \$2,000 in food and dining expenses;
  - d. To spend over \$4,000 in personal travel expenses;
  - e. To spend over \$7,000 in Las Vegas; and
  - f. To pay thousands of dollars towards shopping, entertainment, utilities, phone bills, the Blue Man Group tickets, and other personal expenditures.
27. Baldwin spent investor funds within three and a half months of receipt of funds.

#### **MISSTATEMENTS AND OMISSIONS**

28. In connection with the offer or sale of securities, Baldwin made the following material misstatements to M.E. including, but not limited to, the following:
- a. That all investor funds would be used for costs associated with flipping houses through Flannel Damage, when in fact, this representation was false and Baldwin used the majority of investor funds on entertainment in Las Vegas, travel expenses, dining expenses, and other personal expenditures;
  - b. That Baldwin and Pupunu were experienced in flipping houses and Flannel Damage had previously purchased and sold residential real estate, when in fact, this claim was false, Pupunu's only experience in residential real estate projects was renovating his home, and Flannel Damage had never purchased or sold residential real estate;
  - c. That flipping houses had been very lucrative for Flannel Damage, when in fact, this claim was false and Flannel Damage had never flipped any houses or produced any profit from residential real estate investments;

- d. That Baldwin and Pupunu anticipated they would be able to resell the rehabilitated property within a few months for a substantial profit, when in fact, this claim was false, and Flannel Damage never purchased a property to sell or receive a profit;
  - e. That Baldwin and Pupunu would personally guarantee M.E.'s principal investment, when in fact, this claim was false, and M.E.'s investment was not personally guaranteed; and
  - f. That M.E. would receive monthly interest payments of 1% and 35% of the net profits received from the sale of the properties, when in fact, M.E. never received any profits, and lost the majority of his investment.
29. In connection with the offer or sale of securities, Respondents failed to disclose material information to the investor including, but not limited to, the following:
- a. That Baldwin would use M.E.'s investment to fund his personal lifestyle;
  - b. That M.E.'s investment was not secured in any way or personally guaranteed;
  - c. That Flannel Damage would pay M.E.'s monthly interest payments from M.E.'s initial investment;
  - d. That Flannel Damage would not keep accurate accounting records of how M.E.'s investment would be used;
  - e. That Baldwin and Pupunu were not licensed to sell securities;
  - f. That Baldwin filed for bankruptcy in 1997;
  - g. That Baldwin had over 25 outstanding judgments and liens entered against him totaling over \$4.6 million;
  - h. That Pupunu had at least three outstanding judgments entered against him totaling approximately \$16,763; and

- i. 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, M.E. is owed at least \$38,492 in principal alone on his investment in Flannel Damage.

### **CONCLUSIONS OF LAW**

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

31. Based upon the Division's investigative findings, the Division concludes that the investment opportunity offered and sold by Pupunu is an investment contract.
32. Investment contracts are securities under §61-1-13 of the Act.
33. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Pupunu 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 M.E.'s investment was not secured in any way or personally guaranteed;
  - b. That Flannel Damage would pay M.E.'s monthly interest payments from M.E.'s initial investment;

- c. That Flannel Damage would not keep accurate accounting records of how M.E.'s investment would be used;
- d. That Pupunu was not licensed to sell securities;
- e. That Pupunu had at least three outstanding judgments entered against him totaling approximately \$16,763; and
- f. 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**

- 34. Pupunu neither admits nor denies the Division's Findings of Fact and Conclusions of Law, but consents to the below sanctions being imposed by the Division.
- 35. Pupunu represents that the information he has provided to the Division as part of its investigation is accurate and complete.
- 36. Pupunu 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.
- 37. Pupunu agrees to not seek licensure in the securities industry in any capacity in Utah for a period of no less than two years from the date of entry of the final Order.

38. 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 \$3,000 against Pupunu. Pupunu agrees to pay \$1,000 to the Division within 10 business days of entry of the final Order, and pay the remaining \$2,000 to the Division within 18 months of entry of the final Order.

#### **FINAL RESOLUTION**

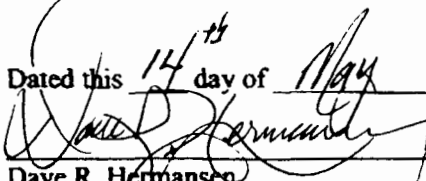
39. Pupunu acknowledges that this Order, upon approval by the Utah Securities Commission (“Commission”), shall be the final compromise and settlement of this matter. Pupunu acknowledges that the Commission is not required to approve this Order, in which case the Order shall be null and void and have no force or effect. In the event the Commission does not approve this Order, however, Pupunu expressly waives any claims of bias or prejudice of the Commission, and such waiver shall survive any nullification.
40. If Pupunu 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, Pupunu consents to entry of an order in which he admits the Division’s Findings of Fact and Conclusion of Law, and any fine payments owed by Pupunu pursuant to this Order become immediately due and payable. Notice of the violation will be provided to Pupunu at his last known address, and to his counsel if he has one. If Pupunu 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.

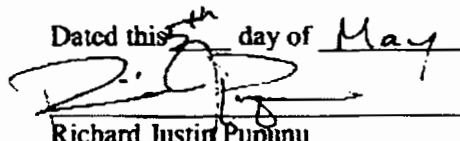
In addition, the Division may institute judicial proceedings against Pupunu in any court of competent jurisdiction and take any other action authorized by the Act or under any other applicable law to collect monies owed by Pupunu or to otherwise enforce the terms



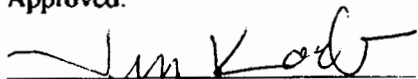
of this Order. Pupunu further agrees to be liable for all reasonable attorneys' fees and costs associated with any collection efforts pursued by the Division, plus the judgment rate of interest.

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

Dated this 14<sup>th</sup> day of May, 2019  
  
Dave R. Hermansen  
Director of Enforcement  
Utah Division of Securities

Dated this 5<sup>th</sup> day of May, 2019  
  
Richard Justin Pupunu

Approved:

  
Jennifer Korb  
Assistant Attorney General  
Counsel for Division

**ORDER**

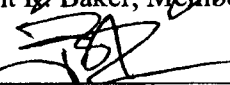
**IT IS HEREBY ORDERED THAT:**

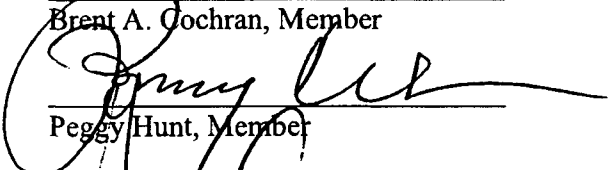
1. The Division's Findings and Conclusions, which Pupunu neither admits nor denies, are hereby entered.
2. Pupunu shall cease and desist from violating the Act and comply with the requirements of the Act in all future business in the state of Utah.
3. Pupunu shall not seek licensure in the securities industry in any capacity in Utah for a period of no less than two years from the date of entry of this Order.
4. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Pupunu shall pay a fine of \$3,000 to the Division pursuant to the terms set forth in paragraph 38.


DATED this 05/23, 2019.

**UTAH SECURITIES COMMISSION:**

  
Brent R. Baker, Member *Lyndon Ricks*

  
Brent A. Cochran, Member

  
Peggy Hunt, Member

  
Gary Cornia, Member

  
Lyle White, Member

Certificate of Service

I certify that on the 23~~0~~ day of May 2019, I mailed and emailed a true and correct copy of the \_\_\_\_\_ to the following:

Flannel Damage Holdings, LLC  
c/o Richard Justin Pupunu, Registered Agent

*Respondent*

Richard Justin Pupunu

*Respondent*

Richard Rex Baldwin

*Respondent*

Thomas Melton  
Jennifer Korb  
Assistant Attorneys General  
Utah Attorney General's Office  
tmelton@agutah.gov  
jkorb@agutah.gov  
*Counsel for the Division*

And hand-delivered via drop box and/or emailed to:

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

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





DEPARTMENT OF COMMERCE  
Heber M. Wells Building, 2<sup>nd</sup> Floor  
160 EAST 300 SOUTH  
SALT LAKE CITY, UTAH 84114

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

---

IN THE MATTER OF:

**MAVERICK MINING COMPANY, INC.,  
MARK K. BOWMAN, AND  
MANLY E. LOGAN,**

Respondents.

**ORDER ON MOTION FOR SUMMARY  
JUDGMENT AS TO MANLY E. LOGAN**

Docket No. SD-12-0046

Docket No. SD-12-0047

**Docket No. SD-12-0048**

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BY THE UTAH SECURITIES COMMISSION:

The presiding officer's Findings of Fact, Conclusions of Law and Recommended Order on Motion for Summary Judgment as to Manly E. Logan ("Logan"), dated May 3, 2019, are hereby approved, confirmed, accepted and entered by the Utah Securities Commission.

ORDER

The Commission hereby orders as follows:

1. Judgment is entered against Logan;
2. Logan is ordered to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1 et seq.
3. Logan is permanently barred from associating with any broker-dealer or investment adviser licensed in Utah; and

investment adviser licensed in Utah; and

4. Logan is ordered to pay of fine of \$25,000.

Dated this 23~~rd~~ day of May, 2019.

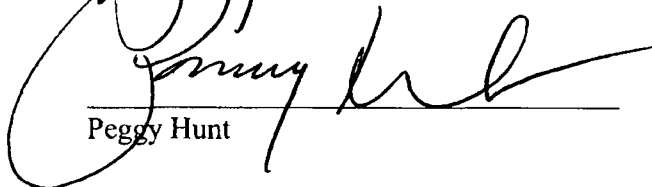
UTAH SECURITIES COMMISSION:



Brent Cochran



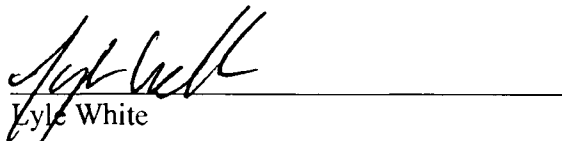
Gary Cornia



Peggy Hunt



Lyndon Ricks



Lyle White

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

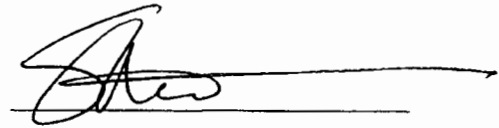
Agency review of this order may be obtained by filing a request for agency review with the Executive Director of the Department of Commerce, 160 East 300 South, Box 146701, Salt Lake City, Utah 84114-6701, within thirty (30) days after the date of this order. The agency action in this case was a formal proceeding. The laws and rules governing agency review of this proceeding are found in Section 63G-4-101 et seq. of the Utah Code, and Rule 151-4 of the Utah Administrative Code.

CERTIFICATE OF SERVICE

I hereby certify that on the 23<sup>rd</sup> day of May, 2019, the undersigned served a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER ON MOTION FOR SUMMARY JUDGMENT by email to:

Manly Elwood Logan

Robert Wing  
Paula Faerber  
rwing@agutah.gov  
pfaerber@agutah.gov  
Counsel for the Division

A handwritten signature in black ink, appearing to be 'RW', is written over a horizontal line. The signature is stylized and cursive.

