Division of Securities
Utah Department of Commerce
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF: **E. KEITH LIGNELL** **Respondent.**	**STIPULATION AND CONSENT ORDER** **Docket No. SD-17-0036**

The Utah Division of Securities ("Division"), by and through its Director of Enforcement, Dave Hermansen, and Respondent E. Keith Lignell ("Lignell") hereby stipulate and agree as follows:

1. Lignell has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1 (securities fraud), §61-1-3 (unlicensed activity) and §61-1-21 (violation of Order) while engaged in the offer and/or sale of securities in or from Utah.
2. On or about June 26, 2017, the Division initiated an administrative action against Lignell (also referred to herein as "Respondent") by filing an Order to Show Cause.
3. Lignell 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 Lignell pertaining to the Order to Show Cause.

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

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

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

7. Lignell 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 RESPONDENT

8. Lignell was a resident of Salt Lake County, Utah during all times relevant to the allegations asserted herein. On November 2, 2014, the Commission issued a Stipulation and Consent Order and, among other things, barred Lignell from soliciting investor monies in or from the state of Utah. Lignell has never been licensed in the securities industry in the state of Utah.

GENERAL ALLEGATIONS

9. The Division's investigation of this matter revealed that, in connection with the offer or sale of securities in the state of Utah, Lignell made material misrepresentations and omissions to at least four investors, and collected approximately $62,500.00 in investor monies in connection therewith.

10. Lignell used investor monies in a manner that was inconsistent with what investors were

told at the time of solicitation of their investments.

11. Lignell solicited investments on behalf of the so-called "Allen Park Project," a purported real estate redevelopment project, and received compensation in connection therewith. During all times relevant to the allegations asserted herein, Lignell was not licensed in the securities industry.

12. The investment opportunities offered and sold by Respondent are investment contracts.

13. Investment contracts are securities under §61-1-13 of the Act.

14. To date, investors are owed at least $50,000.00 in principal alone.

Investor E.C.

15. E.C., a resident of the state of Utah, met Lignell approximately 15 years ago while volunteering with her husband at the Veterans Affairs (VA) hospital in Salt Lake City. E.C. and Lignell quickly became friends after they discovered that they shared a common Swedish heritage.

16. In or around May 2015, Lignell visited E.C.'s residence and offered E.C. an opportunity to invest in a purported real estate development project in Allen Park, a residential area located in Salt Lake City. During the meeting, Lignell also made the following statements and representations to Investor E.C.:

    a. that E.C.'s investment funds would be pooled with other investor funds and utilized for purposes relating to the Allen Park Project;

    b. that the Allen Park Project had the potential to quadruple the value of E.C.'s investment;

    c. that Lignell had successfully redeveloped properties in the 1980s;

    d. that Lignell had already raised $300,000.00 in investor monies for the Allen Park

Project;

e. that Lignell's offer to purchase the Allen Park Project had been accepted;

f. that Lignell would begin subdividing and building on the properties within 1.5 years; and

g. that E.C.'s invested funds would be held in Lignell's attorney's escrow account.

17. In reliance on the above statements and representations made by Lignell, E.C. invested $12,500.00.

18. On May 7, 2015, E.C. presented Lignell with a personal check for $12,500.00 made payable to "Allen Park." Lignell instructed E.C. to make the check payable to "E. Keith Lignell" instead. Immediately thereafter, E.C. wrote a second check, made payable to "E. Keith Lignell," for $12,500.00 from her America First Credit Union ("AFCU") account ending in 6939.

19. On May 7, 2015, Lignell exchanged E.C.'s check for cash at an AFCU branch. The funds were not deposited into any of Lignell's bank accounts known to the Division.

20. In connection with the offer or sale of securities to Investor E.C., Lignell made material misrepresentations to E.C. including, but not limited to, the following:

a. that Lignell had raised $300,000.00 in investor monies for the Allen Park Project, when in fact, Lignell had not raised $300,000.00 for the Allen Park Project, and Lignell had no reasonable basis for this statement;

b. that Lignell would deposit E.C.'s investment funds into his attorney's escrow account, when in fact, the funds were never deposited into Lignell's attorney's account, and Lignell had no reasonable basis for this statement;

c. that Lignell's offer to purchase the Allen Park Project had been accepted, when in

fact, the current owners of Allen Park were not interested in selling or redeveloping the property, and Lignell had no reasonable basis for this statement; and

d. that Lignell would begin subdividing and building on the properties within 1.5 years, when in fact, Lignell had no reasonable basis for this statement.

21. In connection with the offer or sale of securities, Lignell made material omissions to E.C. including, but not limited to, the following:

a. that, under the terms of a Stipulation and Consent Order, between Lignell and the Division, dated November 20, 2014, Lignell was barred from acting as an agent for any issuer soliciting investor funds in Utah;

b. that Lignell owed $378,890.08 in outstanding judgments;

c. whether Lignell was licensed to sell securities in the state of Utah; and

d. some or all of the information typically provided in an offering circular or prospectus concerning Lignell and his business enterprise, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

22. To date, Investor E.C. is still owed $12,500.00 in principal alone.

Investor B.C.

23. Investor B.C., a resident of Utah, maintained a friendship with Lignell for many years.

B.C.'s husband purchased a dental laboratory from Lignell's father. B.C.'s husband also worked with Lignell when Lignell maintained a dental practice.

24. In or around May 2015, B.C. invited several family members and friends to her home. Lignell was present at the meeting and pitched an investment opportunity that he referred to as the "Allen Park Project" to the group. At the meeting, Lignell stated that the Allen Park Project had been a dream of his for over 30 years and that he would finally be able to fulfill that dream. Also during the meeting, Lignell made the following statements and representations to Investor B.C.:

a. that B.C.'s investment funds would be pooled with other investor funds and utilized for purposes relating to the Allen Park Project;

b. that the Allen Park Project had the potential to quadruple the value of B.C.'s investment;

c. that Lignell had successfully redeveloped properties in the 1980s;

d. that Lignell would begin subdividing and building on the properties within 1.5 years;

e. that Lignell had already raised $300,000.00 in investor monies for the Allen Park redevelopment project;

f. that Lignell's offer to purchase the Allen Park project had been accepted; and

g. that B.C.'s invested funds would be held in Lignell's attorney's escrow account.

25. In reliance on the above statements and representations made by Lignell, B.C. invested $25,000.00.

26. On May 12, 2015, B.C. presented Lignell with a personal check for $25,000.00 made payable to "E. Keith Lignell," from B.C.'s Deseret First Credit Union ("DFCU") account ending in 3811. On the same day, Lignell exchanged B.C.'s personal check for a

cashier's check made payable to himself at DFCU.

27. Lignell utilized B.C. investment monies in a manner that is inconsistent with what he told B.C. at the time of solicitation of her investment.

28. On January 25, 2016, Lignell deposited the cashier's check into his AFCU account ending in 4631, then immediately withdrew $24,606.39 in cash. Lignell paid $49.61 of B.C.'s investment monies to pay for personal insurance, and $344.00 for payment on a personal loan.

29. In connection with the offer or sale of securities, Lignell made material misrepresentations to Investor B.C. including, but not limited to, the following:

a. that Lignell had already raised $300,000.00 in investor monies for the Allen Park Project, when in fact, Lignell had not raised $300,000.00 for the Allen Park Project, and Lignell had no reasonable basis for this statement;

b. that Lignell would deposit B.C.'s investment funds into his attorney's escrow account, when in fact, B.C.'s investment monies were not deposited into Lignell's attorney's account, and Lignell had no reasonable basis for this statement;

c. that Lignell's offer to purchase the Allen Park Project had been accepted, when in fact, the owners of Allen Park were not interested in selling or redeveloping the property, and Lignell has no reasonable basis for this statement; and

d. that Lignell would begin subdividing and building on the properties within 1.5 years, when in fact, Lignell had no reasonable basis for this statement.

30. In connection with the offer or sale of securities to Investor B.C., Lignell made material omissions to B.C. including, but not limited to, the following:

a. that, under the terms of a Stipulation and Consent Order, between Lignell and the

Division, dated November 20, 2014, Lignell was barred from acting as an agent for any issuer soliciting investor funds in Utah;

b. that Lignell owed $378,890.08 in outstanding judgments;

c. whether Lignell was licensed to sell securities in the state of Utah; and

d. some or all of the information typically provided in an offering circular or prospectus concerning Lignell and his business enterprise, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

31. To date, B.C. is still owed at least $25,000.00 in principal alone.

Investor C.C.

32. Investor C.C., a resident of Utah, is the son of B.C., and was familiar with Lignell from his father's work at the dental lab with Lignell.

33. On or about May 12, 2015, C.C. was invited to his mother's house and was present for Lignell's presentation to potential investors. At the meeting, Lignell stated that the Allen Park Project had been a dream of his for over 30 years and that he would finally be able to fulfill that dream. Also during the meeting, Lignell made the following statements and representations to Investor C.C.:

a. that C.C.'s investment funds would be pooled with other investor funds and utilized

for purposes relating to the Allen Park Project;

b. that the Allen Park Project had the potential to quadruple the value of C.C.'s investment;

c. that Lignell successfully redeveloped properties in the 1980s;

d. that Lignell had already raised $300,000.00 in investor monies for the Allen Park Project;

e. that Lignell's offer to purchase the Allen Park Project had been accepted;

f. that Lignell would begin subdividing and building on the properties within 1.5 years; and

g. that C.C.'s invested funds would be held in Lignell's attorney's escrow account.

34. In reliance on the above statements and representations made by Lignell, C.C. invested $12,500.00.

35. In or around May 2015, C.C. provided Lignell with a cashier's check (#194698) from Bank of American Fork made payable to "E. Keith Lignell." On September 14, 2015, Lignell deposited the cashier's check into his AFCU account ending in 4631. The balance in the account prior to the deposit was $.81.

36. Lignell utilized C.C.'s investment monies in a manner that is inconsistent with what he told C.C. during the solicitation of his investment. Among other things, Lignell utilized C.C.'s investment monies for personal bills and utilities, entertainment, life insurance, and the withdrawal of a significant amount of cash.

37. Subsequent to his investment, C.C. hosted additional meetings for Lignell to meet with investors at C.C.'s drywall business in Draper, Utah. During these meetings, Lignell represented that the Allen Park property he wanted to acquire was currently owned by

"hoarders." C.C. became concerned because Lignell had previously represented to C.C. that Lignell had submitted an offer for the property which had already been accepted. C.C. requested that Lignell repay him in full and, after repeated requests, Lignell provided C.C. with a personal check for $12,500.00.

38. In connection with the offer or sale of securities, Lignell made material misrepresentations to C.C. including, but not limited to, the following:

a. that Lignell had already raised $300,000.00 in investor monies for the Allen Park Project, when in fact, Lignell had not raised $300,000.00 for the Allen Park Project, and Lignell had no reasonable basis for this statement;

b. that Lignell would deposit C.C.'s investment funds into his attorney's escrow account, when in fact, C.C.'s investment funds were not deposited into Lignell's attorney's account, and Lignell had no reasonable basis for this statement;

c. that Lignell's offer to purchase the Allen Park Project had been accepted, when in fact, the owners of Allen Park were not interested in selling or redeveloping the property, and Lignell has no reasonable basis for this statement; and

d. that Lignell would begin subdividing and building on the properties within 1.5 years, when in fact, Lignell had no reasonable basis for this statement.

39. In connection with the offer or sale of securities, Lignell made material omissions to C.C. including, but not limited to, the following:

a. that, under the terms of a Stipulation and Consent Order, between Lignell and the Division, dated November 20, 2014, Lignell was barred from acting as an agent for any issuer soliciting investor funds in Utah;

b. that Lignell owed $378,890.08 in outstanding judgments;

c. whether Lignell was licensed to sell securities in the state of Utah; and

d. some or all of the information typically provided in an offering circular or prospectus concerning Lignell and his business enterprise, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

Investor J.M.

40. Investor J.M., a resident of Utah, was also present at the aforementioned May 2015 meeting at B.C.'s home. J.M. is B.C.'s former daughter-in-law and had been familiar with Lignell prior to the meeting at B.C.'s home. At the meeting, Lignell stated that the Allen Park Project had been a dream of his for over 30 years and that he was finally going to be able to fulfill that dream. Also during the meeting, Lignell made the following statements and representations to investor J.M.:

a. that J.M.'s invested funds would be pooled with other investor funds and utilized for purposes relating to the Allen Park Project;

b. that the Allen Park Project had the potential to quadruple the value of J.M.'s investment;

c. that Lignell successfully redeveloped properties in the 1980s;

d. that Lignell had already raised $300,000.00 in investor monies for the Allen Park

Project;

e. that Lignell's offer to purchase the Allen Park project had been accepted;

f. that Lignell would begin subdividing and building on the properties within 1.5 years; and

g. that the J.M.'s invested funds would be held in Lignell's attorney's escrow account.

41. In reliance on the above statements and representations made by Lignell, J.M. invested $12,500.00.

42. On May 13, 2015, J.M. presented Lignell with a cashier's check for $12,500.00 from JPMorgan Chase Bank ("JPMC") made payable to "E. Keith Lignell." In exchange for J.M.'s investment, Lignell provided J.M. with a letter titled "Allen Park." Among other things, the letter confirmed that J.M.'s investment was received and that the project completion deadline was represented to be within 1.5 years.

43. Lignell exchanged J.M. cashier's check for cash on May 13, 2015.

44. In connection with the offer or sale of securities, Lignell made material misrepresentations to J.M. including, but not limited to, the following:

a. that Lignell had already raised $300,000.00 in investor monies for the Allen Park redevelopment project, when in fact, Lignell had not raised $300,000.00 for the Allen Park Project, and Lignell had no reasonable basis for this statement;

b. that Lignell would deposit J.M.'s investment funds into his attorney's escrow account, when in fact, J.M.'s investment funds were not deposited into Lignell's attorney's account, and Lignell had no reasonable basis for this statement;

c. that Lignell's offer to purchase the Allen Park project had been accepted, when in fact, the owners of Allen Park were not interested in selling or redeveloping the

property, and Lignell has no reasonable basis for this statement; and

d. that Lignell would begin subdividing and building on the properties within 1.5 years, when in fact, Lignell had no reasonable basis for this statement.

45. In connection with the offer or sale of securities, Lignell made material omissions to J.M. including, but not limited to, the following:

a. that, under the terms of a Stipulation and Consent Order, between Lignell and the Division, dated November 20, 2014, Lignell was barred from acting as an agent for any issuer soliciting investor funds in Utah;

b. that Lignell owed $378,890.08 in outstanding judgments;

c. whether Lignell was licensed to sell securities in the state of Utah; and

d. some or all of the information typically provided in an offering circular or prospectus concerning Lignell and his business enterprise, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

46. To date, J.M. is still owed $10,000.00 in principal alone.

LIGNELL'S PARALLEL CRIMINAL PROCEEDING

47. On August 23, 2017, Lignell was charged in a parallel criminal action in Utah's Third District Court, Salt Lake County, Case Number 171908837 (the "Criminal Action").

48. On June 11, 2019, Lignell was found guilty of three counts of Securities Fraud, a 2nd degree felony.

49. On August 16, 2019, Lignell was sentenced to 60 days in the Salt Lake County Jail. Lignell was placed on probation for 36 months and was ordered to pay restitution in the amount of $19,900 (plus interest) to investor B.C., and $12,500 to investor E.C. Lignell's restitution payments are to be made in consecutive monthly payments of $100 until restitution is paid in full.

50. As of the signing of this Order, Lignell has paid a total of $200.00 toward restitution to investors B.C. and E.C.

CONCLUSIONS OF LAW

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

51. Based upon the Division's investigative findings, the Division concludes that the investment opportunity offered and sold by Lignell is an investment contract.

52. Investment contracts are securities under §61-1-13 of the Act.

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

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

54. In violation of § 61-1-3(1) of the Act, Lignell, directly or indirectly, engaged in an act, practice, or course of business which operated as a fraud or deceit on investors when he used investor funds for purposes not disclosed to or authorized by investors. That conduct includes but is not limited to Lignell's conversion and misuse of investor funds for

purposes not disclosed to or authorized by investors, including, but not limited to, personal use of monies.

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

55. In violation of § 61-1-3(1) of the Act, Lignell was not licensed in the securities industry in any capacity when he offered and sold securities, and received compensation in connection therewith.

Violation of Stipulation and Consent Order under § 61-1-21(1)(b) of the Act

56. It is unlawful for a person to willfully violate an order issued under the Act.

57. On November 20, 2014, the Commission approved a Stipulation and Consent Order entered into between Lignell and the Division (Docket No. SD-14-0032). The Order found that Lignell violated the anti-fraud provisions of Section 61-1-1 of the Act.

58. Paragraph 39 of the 2014 Stipulation and Consent Order explicitly prohibits Lignell from engaging in any conduct that violates the Act.

59. In violation of § 61-1-21(1)(b) of the Act, and the November 2014 Stipulation and Consent Order, Lignell engaged in the solicitation of investor funds in the state of Utah, and failed to cease and desist from conduct that violates the Act.

REMEDIAL ACTIONS/SANCTIONS

60. Lignell 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.

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

62. Lignell 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.

63. Lignell 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.

64. Lignell agrees to pay restitution in the amount of $19,900 (plus interest) to investor B.C. and $12,500 to investor E.C., pursuant to the Criminal Action. Lignell also agrees to pay restitution in the amount of $10,000 to investor J.M. in consecutive monthly payments of $50 until restitution is paid in full, beginning within ten business days of the Utah Securities Commission's (the "Commission") approval of this Order.

65. 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 Lignell to be paid to the Division. If Lignell timely pays restitution pursuant to the Criminal Action and this Order, the fine will be waived. If Lignell fails to timely pay restitution pursuant to the Criminal Action and/or this Order, the fine of $7,500 will become immediately due and payable to the Division.

FINAL RESOLUTION

66. Lignell acknowledges that this Order, upon approval by the Commission, shall be the final compromise and settlement of this matter. Lignell 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, Lignell expressly waives any claims of bias or prejudgment of the Commission, and such waiver shall survive any nullification.

67. If Lignell 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, Lignell

consents to entry of an order in which the total fine amount is increased by 20% and any fine payments owed by Lignell become immediately due and payable. Notice of the violation will be provided to Lignell at his last known address, and to his counsel if he has one. If Lignell 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.

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

69. Lignell 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. Lignell 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.

70. 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 Lignell are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 31 day of December, 2019

Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 21st day of December 2019

E. Keith Lignell

Approved:

Jennifer Korb
Assistant Attorney General
Counsel for Division

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which Lignell neither admits not denies, are hereby entered.
2. Lignell 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. Lignell 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. Lignell shall pay restitution in the amount of $19,900 (plus interest) to investor B.C., and $12,500 to investor E.C. as ordered in the Criminal Action;
5. Lignell shall pay restitution in the amount of $10,000 to investor J.M. pursuant to the terms set forth in paragraph 64.
6. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Lignell shall pay a fine of $7,500 to the Division pursuant to the terms set forth in paragraph 65.

BY THE UTAH SECURITIES COMMISSION:

DATED this 9th day of January, 2020.

Gary Cornia

Lyle White

Peggy Hunt

Brent Cochran

Lyndon L. Ricks

CERTIFICATE OF SERVICE

I certify that on the 9th day of Jan, 2020, I emailed a true & correct copy of the **Stipulation & Consent Order** to:

Respondent:

E. Keith Lignell
[redacted]

The Division

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

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

IN THE MATTER OF:	**STIPULATION AND CONSENT ORDER**
MOJO FITNESS LLC;	**Docket No. SD-17-0037**
JEFFREY R. HERRICK.	**Docket No. SD-17-0038**
Respondent.	

The Utah Division of Securities ("Division"), by and through its Director of Enforcement, Dave Hermansen, and Respondents Jeffrey R. Herrick ("Herrick") and Mojo Fitness, LLC ("Mojo Fitness") hereby stipulate and agree as follows:

1. Herrick and Mojo Fitness have been the subject of an investigation by the Division into allegations that they violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1 (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 August 17, 2017, the Division initiated an administrative action against Mojo Fitness and Herrick (collectively referred to herein as "Respondents") by filing an Order to Show Cause.

3. Respondents hereby agree to settle this matter with the Division by way of this Stipulation and Consent Order ("Order"). If entered, the Order will fully resolve all claims the Division has against Respondents pertaining to the Order to Show Cause.

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

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

6. Respondents have read this Order, understand its contents, and voluntarily agree to the entry of the Order as set forth below. No promises or other agreements have been made by the Division, nor by any representative of the Division, to induce Respondents to enter into this Order, other than as described in this Order.

7. Respondents are aware that they are able to obtain legal counsel to review the terms of the Order, and have elected not to obtain counsel.

FINDINGS OF FACTS

THE RESPONDENTS

8. Mojo Fitness is an active Utah limited liability company established on November 16, 2011 by Herrick, with a principal place of business at 3782 West Mandrake View Court, South Jordan, Utah 84095. Herrick is the registered agent and managing member of Mojo Fitness.

9. Herrick was a resident of Utah during all times relevant to the allegations asserted herein. Herrick has never been licensed in the securities industry in the state of Utah.

GENERAL ALLEGATIONS

10. The Division's investigation of this matter revealed that, in connection with the offer or sale of securities in the state of Utah, Herrick made material misrepresentations and omissions to one investor, and collected approximately $62,869.22 in investor monies in connection therewith.

11. Herrick utilized investor monies in a manner that was inconsistent with what the investor was told at the time of solicitation of her investments.

12. Herrick solicited investments on behalf of Mojo Fitness for purposes relating to the operations of a fitness center that would purportedly be opened at an office complex in Riverton, Utah, and received compensation in connection therewith. During all times relevant to the allegations asserted herein, Herrick was not licensed in the securities industry.

13. The investment opportunities offered and sold by Respondents are investment contracts and/or interests in an LLC.

14. Investment contracts and interests in LLCs are securities under §61-1-13 of the Act.

15. To date, the investor is still owed $43,216.13 in principal plus interest.

Investor H.P.

16. H.P., a resident of the state of Utah, met Herrick in October 2016 at a CrossFit gym in West Jordan, Utah. Herrick was affiliated with the CrossFit gym and provided personal training services to H.P.

17. In or about October 2016, Herrick approached H.P. and suggested that Herrick and H.P. open a personal training gym and nutritional coaching location under the name "Mojo

Fitness." During the meeting, Herrick also made the following statements to H.P.:

a. That Herrick had over 18 years of professional experience in the health and fitness industry;

b. That Herrick successfully opened gyms in the past, including Square 1 Fitness and Riverton Fit Body;

c. That Herrick and H.P. needed to move quickly to have the gym operational by December, because most of the revenue is generated by gyms during the first three months of the calendar year;

d. That Herrick was looking to raise investment capital and needed funds to lease a gym space, purchase equipment, and fund marketing efforts;

e. That Herrick had industry experience and knowledge to run a successful gym;

f. That Herrick had a recent bankruptcy and needed an investor with good credit to assist with funding the business;

g. That the business would generate an income stream of $10,000.00 to $20,000.00 per month;

h. That Herrick and H.P. would each receive a salary, in addition to profit shares within the first year.

18. Herrick provided H.P. with a "Partnership Agreement" that, among other things, included financial projections of how profitable the business would be.

19. Under the Partnership Agreement, H.P. would receive a 20% ownership interest in exchange for $30,000. The agreement indicates that the company would be managed by Herrick as the majority (80%) owner.

20. Herrick's contribution, listed as $120,000.00, did not identify a direct cash contribution but, instead, reflected the value of Herrick's knowledge and experience in the fitness industry---a value calculated by Herrick.

21. In reliance on the above statements and representations made by Herrick, H.P. invested $41,200.00 over the course of 12 payments, as follows:

a. In November 2016, H.P. provided Herrick with $4,500.00 in cash. Herrick told H.P. that he would utilize her investment monies to purchase a laptop, specialty diet master software, and to purchase a website domain for the business.

b. On or about November 10, 2016, Herrick asked H.P. to provide funds to allow Herrick to begin the process of opening the gym. H.P. and Herrick opened a joint U.S. Bank account ending in 3004 in the name of Mojo Fitness. Both H.P. and Herrick were listed as signatories on the account. H.P. deposited an investment of $2,200.00 into the account.

c. On or about November 21, 2016, Herrick contacted H.P. and requested additional funds that were needed for the business. H.P. deposited $1,000.00 in the Mojo Fitness US Bank account ending in 3004.

d. On or about December 1, 2016, Herrick contacted H.P. and told her that additional funds were required. H.P. deposited an additional $400.00 into the Mojo Fitness US Bank account ending in 3004.

e. On or about December 7, 2016, H.P. and Herrick signed the aforementioned Partnership Agreement and H.P. deposited $25,500.00 into the Mojo Fitness US

Bank account ending in 3004.1

f. On or about December 12, 2016, after Herrick requested additional funds from H.P., H.P. deposited an additional $1,000.00 into the Mojo Fitness US Bank account ending in 3004;

g. On or about December 16, 2016, after Herrick requested additional funds from H.P., H.P. transferred $1,800.00 into the Mojo Fitness US Bank account ending in 3004;

h. On or about December 21, 2016, after Herrick requested additional funds from H.P., H.P. transferred $1,200.00 and made a second deposit of $1,000.00 into the Mojo Fitness US Bank account ending in 3004;

i. On or about December 23, 2017, after Herrick requested additional funds from H.P., H.P. deposited an additional $800.00 into the Mojo Fitness US Bank account ending in 3004;

j. On or about December 27, 2016, after Herrick requested additional funds from H.P., H.P. deposited an additional $800.00 into the Mojo Fitness US Bank account ending in 3004; and

k. On or about January 4, 2017, after Herrick requested additional funds from H.P., H.P. deposited an additional $1,000.00 into the Mojo Fitness US Bank account ending in 3004.

22. On or about January 12, 2017, Herrick contacted H.P. and requested additional funds. H.P. requested an accounting reflecting the use of her previously invested funds. Herrick

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[1] **H.P. and her husband refinanced the mortgage on their home in order to invest the $30,000.00 required under the Partnership Agreement.**

told H.P. that how he utilized the business funds does not concern her as she is not the majority shareholder in the business. Herrick indicated that he had taken some of the investment funds and gambled them to increase capital for Mojo Fitness.

23. H.P. told Herrick that she had no funds available to invest, and Herrick told her to withdraw funds from her 401k.

24. Herrick told H.P. that he would increase her ownership percentage if she invested additional capital. Herrick told H.P. that Mojo Fitness had already received payment from its first client.

25. After H.P. noted a customer deposit of $560.00 in the Mojo Fitness US Bank account ending in 3004, and in reliance on Herrick's prior statements and representations, H.P. invested an additional $15,000.00 by withdrawing funds from her 401k. Herrick told H.P. that the investment of $15,000.00 increased her ownership percentage from 20% to 40%.

26. On or about January 17, 2017, H.P. attempted to contact Herrick to ask about the transfers he made from the Mojo Fitness US Bank account ending in 3004 to Herrick's personal account. After Herrick failed to contact H.P. she withdrew $10,000.00 from the Mojo Fitness US Bank account ending in 3004.

27. Herrick contacted H.P. later on the same day and told H.P. that he had utilized the funds to purchase gym equipment, and that Mojo Fitness was receiving deposits from additional customers. H.P. noticed a new customer deposit in the Mojo Fitness US Bank account ending in 3004.

28. Believing that Mojo Fitness was beginning to generate revenue, in reliance on Herrick's representations, H.P. returned the $10,000.00 to the Mojo Fitness account.

29. Herrick also stated that he needed additional monies to pay for the lease of space for Mojo Fitness.

30. In response, on or about January 17, 2017, H.P. transferred $6,669.22 from her 401k into the Mojo Fitness account, believing that the business was finally coming together.

31. On or about January 18, 2017, H.P. confronted Herrick about his misuse of funds and asked for her investment monies back. Herrick told H.P. that it would take him three years to repay her, and that he would only repay the initially invested $30,000.00.

32. On January 18, 2017 and again on January 24, 2017, H.P. transferred $5,000.00 of her investment funds from the Mojo Fitness account back to her personal account.

33. To date, H.P. is still owed $43,562.74 in principal alone.

34. H.P. had no managerial control over Mojo Fitness nor the knowledge, expertise or access necessary to manage the business.

35. Herrick utilized H.P.'s investment monies in a manner that was inconsistent with what he told H.P. at the time of solicitation of her investment. Herrick used H.P.'s funds to pay for personal expenses, including, but not limited to, dining, hotels, gambling and other entertainment.

36. In connection with the offer or sale of securities, Herrick made material misrepresentations to H.P. including, but not limited to, the following:

    a. That Herrick would utilize investment monies to purchase gym equipment, lease a gym space, and begin operating the gym, when in fact, Herrick utilized H.P.'s investment monies for purposes unrelated to the operation of Mojo Fitness, including, but not limited to, entertainment, personal expenses, dining, hotels, and

gambling;

b. That Herrick would provide H.P. with software access and job training necessary to operate the gym, when in fact, Herrick never provided H.P. with job training or access to software products;

c. That H.P. would begin receiving a salary once the gym was open for business, and a return on her investment within the first year, when in fact, Herrick never paid H.P. and Herrick had no reasonable basis on which to make this statement; and

d. That H.P. would receive 20% ownership interest in the business entity, when in fact, state of Utah Division of Corporations records reveal that H.P.'s ownership interest was never added to the corporate filing records.

37. In connection with the offer or sale of securities, Herrick made material omissions to H.P. including, but not limited to, the following:

a. That Herrick filed for Chapter 7 bankruptcy in 2001 and 2015;

b. That Herrick lost $30,000.00 gambling in 2014;

c. That Herrick had unsatisfied judgments in the amount of $4,349.55;

d. That Herrick planned to raise additional capital by gambling with H.P.'s investment monies;

e. whether Herrick was licensed to sell securities in the state of Utah; and

f. some or all of the information typically provided in an offering circular or prospectus concerning Herrick and his business enterprise, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

HERRICK'S PARALLEL CRIMINAL PROCEEDING

38. On August 27, 2018, Herrick was charged in a parallel criminal action in Utah's Third District Court, Salt Lake County, Case Number 181403215 (the "Criminal Action").

39. On October 3, 2019, Herrick entered into a plea agreement with the state, and pleaded guilty to Wrongful Appropriation, a 3rd degree felony.

40. On October 3, 2019, Herrick was sentenced to an indeterminate term not to exceed five years in the Utah State Prison, but the prison term was suspended. He was placed on probation for 36 months. Herrick was also ordered to pay restitution in the amount of $57,216.13 to investor H.P., which includes principal plus interest. His restitution payments are to be made in consecutive monthly payments of at least $500.00, and conclude in October 2028.

41. As of the signing of this Order, Herrick has paid a total of $14,000 in restitution to investor H.P., and he owes a remaining balance of $43,216.13.

CONCLUSIONS OF LAW

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

42. Based upon the Division's investigative findings, the Division concludes that the investment opportunity offered and sold by Respondents is an investment contract and/or

an interest in a limited liability company.

43. Investment contracts and interests in limited liability companies are securities under §61-1-13 of the Act.

44. In violation of § 61-1-1 (2) of the Act, and in connection with the offer and/or sale of a security, Respondents, directly or indirectly misrepresented material facts, as described above.

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

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

46. In violation of § 61-1-3(1) of the Act, and in connection with the offer and/or sale of a security, Respondents directly or indirectly engaged in an act, practice, or course of business which operated as a fraud or deceit on the investor. That act, practice, or course of business includes but is not limited to Herrick's conversion and misuse of investor funds for purposes not disclosed to or authorized by the investor, including, but not limited to, personal use of monies.

Unlicensed Activity under §61-l-3(2)(a) of the Act

47. In violation of §61-1-3(2)(a) of the Act, Mojo Fitness acted as an issuer at the time of the offerings, and employed Herrick, as an unlicensed agent of Mojo Fitness to offer and sell securities on behalf of Mojo Fitness.

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

48. In violation of§ 61-1-3(1) of the Act, Herrick was not licensed in the securities industry in any capacity when he offered and sold securities on behalf of Mojo Fitness, and received compensation in connection therewith.

REMEDIAL ACTIONS/SANCTIONS

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

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

51. Respondents agree to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in the state of Utah.

52. Respondents agree 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.

53. Respondents agree to pay restitution in the amount of $57,216.13 (principal plus interest), pursuant to the Criminal Action.

54. 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 $25,000 against Respondents to be paid jointly and severally to the Division. Respondents agree to pay the fine within 30 days following the investor H.P.'s receipt of the last restitution payment ordered in the Criminal Action. If Respondents timely pay restitution pursuant

to the Criminal Action, the fine will be reduced to $20,000 due within 30 days following the investor's receipt of the last restitution payment. If Respondents' fail to timely pay restitution pursuant to the Criminal Action, the fine of $25,000 will become immediately due and payable to the Division.

FINAL RESOLUTION

55. Respondents acknowledge that this Order, upon approval by the Utah Securities Commission ("Commission"), shall be the final compromise and settlement of this matter. Respondents acknowledge that the Commission is not required to approve this Order, in which case the Order shall be null and void and have no force or effect. In the event the Commission does not approve this Order, however, Respondents expressly waive any claims of bias or prejudgment of the Commission, and such waiver shall survive any nullification.

56. If Respondents materially violate any term of this Order, after notice and an opportunity to be heard before an administrative judge solely as to the issue of a material violation, Respondents consent to entry of an order in which the total fine amount is increased by 20% and any fine payments owed by Respondents become immediately due and payable. Notice of the violation will be provided to Respondents at their last known address, and to their counsel if they have one. If Respondents fail to request a hearing within ten (10) days following the notice, there will be no hearing and the order granting relief will be entered.

57. In addition, the Division may institute judicial proceedings against Respondents in any court of competent jurisdiction and take any other action authorized by the Act or under

any other applicable law to collect monies owed by Respondents or to otherwise enforce the terms of this Order. Respondents further agree to be liable for all reasonable attorneys' fees and costs associated with any collection efforts pursued by the Division, plus the judgment rate of interest.

58. Respondents acknowledge that the Order does not affect any civil or arbitration causes of action that third-parties may have against them arising in whole or in part from their actions, and that the Order does not affect any criminal causes of action that may arise as a result of the conduct referenced herein. Respondents also acknowledge that any civil, criminal, arbitration or other causes of actions brought by third-parties against them have no effect on, and do not bar this administrative action by the Division against them.

59. 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 Respondents are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 31 day of December, 20__

Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 3 day of Dau,,,b, 20

Jeffrey R. Herrick

Dated this ?,o"" day of Ofc.en"ber, 20

MOJO FITNESS, LLC

By: _ - <..
Jefi-eyR.I-ferrick

Its: Managing Member

Approved:

AM
Jennifer Korb
Assistant Attorney General
Counsel for Division

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which Respondents admit, are hereby entered.
2. Respondents shall cease and desist from violating the Act and comply with the requirements of the Act in all future business in the state of Utah.
3. Respondents 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. Respondents shall pay restitution in the amount of $57,216.13 to investor H.P. as ordered in the Criminal Action.
5. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Respondents shall pay a fine of $25,000 to the Division pursuant to the terms set forth in paragraph 54.

BY THE UTAH SECURITIES COMMISSION:

DATED this_____day of_____, 2020

_____
Lyndon L. Ricks

_____
Peggy Hunt

_____
Lyle White

_____
Gary Comia

_____
Brent Cochran

BY THE UTAH SECURITIES COMMISSION:

DATED this 9th day of January 2020

Gary Cornia

Brent A. Cochran

Lyle White

Lyndon Ricks

Peggy Hunt

CERTIFICATE OF SERVICE

I certify that on the 9th day of *January*, 2020, I emailed a true & correct copy of the **Stipulation and Consent Order** to:

Respondents:

Mojo Fitness, LLC & Jeffrey Herrick
mojofitness2011@gmail.com

The Division:

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

Thomas M. Melton, Assistant Attorney General
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:	**STIPULATION AND CONSENT ORDER**
ARENAL ENERGY CORPORATION;	Docket No. 18-0023
RICHARD CLAYTON REINCKE;	**Docket No. 18-0024**
ERIC DUNBAR JOHNSON, CRD#2384891;	Docket No. 18-0025
LARS DAVID JOHNSON;	Docket No. 18-0026
CHRISTOPHER BRADLEY ERWIN;	Docket No. 18-0027
MATTHEW HAL MARCHBANKS;	Docket No. 18-0028
Respondents.	

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

1. Reincke has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1 (securities fraud) and §61-1-3 (unlicensed activity) while engaged in the offer and/or sale of securities in or from Utah.

2. On or about May 15, 2018, the Division initiated an administrative action against Arenal Energy Corporation ("Arenal"), Reincke, Eric Dunbar Johnson ("E. Johnson"), Lars David Johnson ("L. Johnson), Christopher Bradley Erwin ("Erwin"), and Matthew Hal Marchbanks ("Marchbanks") (collectively referred to herein as "Respondents") by filing an Order to Show Cause.

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

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

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

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

7. Reincke is represented by attorney Nathan Crane from Snow Christensen & Martineau, and is satisfied with the legal representation he has received.

FINDINGS OF FACTS

THE RESPONDENTS

8. Arenal is an environmental remediation solutions company operating out of Dallas, Texas, and is registered with the Texas Secretary of State. Johnson is listed as a Director of Arenal.

9. E. Johnson, CRD#2384891, was a resident of Florida during all times relevant to the allegations asserted herein and is the President and CEO of Arenal. Johnson was previously licensed to sell securities from July 26, 1993 through August 28, 1998, but has never been licensed in Utah.[1]

10. Reincke was a resident of Arizona and Texas during all times relevant to the allegations asserted herein and is a Director of Arenal. Reincke has never been licensed in the securities industry in Utah.[2]

11. L. Johnson was a resident of Utah during all times relevant to the allegations asserted herein and is an agent of Arenal. L. Johnson has never been licensed in the securities industry in Utah.[3]

12. Erwin was a resident of Utah during all times relevant to the allegations asserted herein and is an agent of Arenal. Erwin has never been licensed in the securities industry in Utah.

13. Marchbanks was a resident of Utah during all times relevant to the allegations asserted herein and is an agent of Arenal. Marchbanks has never been licensed in the securities industry in Utah.

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[1] On January 19, 2018, criminal charges were filed against Respondent Johnson in the Third Judicial District Court, Salt Lake County, Utah. *See* case number 181900697FS.

[2] On January 19, 2018, criminal charges were filed against Respondent Reincke in the Third Judicial District Court, Salt Lake County, Utah. *See* case number 181900698FS.

[3] L. Johnson is the brother of Eric D. Johnson. On January 19, 2018, criminal charges were filed against Respondent L. Johnson in the Third Judicial District Court, Salt Lake County, Utah. *See* case number 181900699FS.

GENERAL ALLEGATIONS

14. The Division's investigation of this matter revealed that from May 2012 to June 2013, in connection with the offer or sale of securities in the state of Utah, Respondents made material misrepresentations and omissions to investors, and collected approximately $202,000 in investor monies in connection therewith.

15. Respondents used investor monies in a manner that is inconsistent with what the investors were told at the time of solicitation of their investments.

16. Respondents solicited investments on behalf of Arenal, a company which purportedly developed products that could be used to clean up toxic spills, and received compensation in connection therewith. During all times relevant to the allegations asserted herein, Respondents were not licensed in the securities industry in Utah.

17. The investment opportunities offered and sold by Respondents are stocks, promissory notes and/or investment contracts.

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

19. In connection with resolution of the criminal charges filed against Respondents Eric Johnson, Lars Johnson, and Richard Reincke in the Third Judicial District Court, the investors have been repaid in full.

Investors S.S. and B.S.

20. In or around May 2012, Investors S.S. and B.S. were approached by L. Johnson, about investing in Arenal, a purported environmental remediation solutions company.

21. During this meeting, L. Johnson stated to Investors S.S. and B.S. that Arenal would go public in 30 days but needed $150,000 in additional capital to do so. To raise the

additional capital, Arenal was offering 1,500,000 shares of common stock for $0.10 per share. L. Johnson claimed this stock would increase to $2.00 per share by the end of the public offering.

22. L. Johnson made numerous statements and representations to Investors S.S. and B.S. regarding the investment opportunity in Arenal, including, but not limited to the following:

a. That Arenal had an impressive patent-pending product that was highly valuable;

b. That Arenal was being assisted by United States Army Major General James Comstock in promoting Arenal's products overseas;

c. That Arenal had retained Dutko Grayling[4] in order to further pursue government contracts;

d. That Arenal had partnered with small, women-owned and minority-owned government contractors;

e. That Arenal had a working relationship with JETRO[5] to sell products overseas;

f. That Arenal had registered and been qualified to supply major remediation industry contractors;

g. That Arenal had capped share issuance at 10,000,000 shares, therefore any loan secured by Arenal's stock or any direct investment in Arenal stock would not be diluted; and

h. That investment funds would be used for expenses related to making Arenal a publicly traded company, including expenses such as flights and other travel

[4] Dutko Grayling is a Washington, D.C. based lobbying firm that helps companies obtain government contracts.
[5] JETRO (Japan External Trade Organization) is a non-profit organization that connects businesses with the resources needed to successfully expand to Japan. Arenal paid a $20.00 fee to be a member of their website.

expenses necessary to close agreements, obtain licenses, issue press releases and hire an attorney to take the company public.

23. After meeting with L. Johnson, Investors S.S. and B.S. also discussed the investment opportunity with Reincke and Johnson. In reliance on the statements and representations of L. Johnson, Reincke and Johnson, Investors S.S. and B.S. invested $150,000 in Arenal through a series of three payments.

24. On or around July 5, 2012, Investors S.S. and B.S. wired $25,000 from their JP Morgan Chase account to Arenal's BBVA bank account.[6]

25. In exchange for their investment, Investors S.S. and B.S. received a promissory note, signed by E. Johnson on behalf of Arenal, and dated July 5, 2012 ("2012 Note"). According to the terms of the 2012 Note, Investor S.S. and B.S. would receive a return of principal by January 5, 2013, with interest payments of 15% per annum paid on the first day of each calendar month. The note was collateralized by 250,000 shares of Arenal common stock payable at $.10 per share at any time. The 2012 Note included a personal guarantee signed by both Reincke and Johnson.

26. In reliance on the statements and representations of L. Johnson, Reincke and E. Johnson, on or around August 14, 2012, Investors S.S. and B.S. wired $50,000 from their JP Morgan Chase account to Arenal's BBVA account.

27. Arenal issued an addendum to the 2012 Note on August 14, 2012, under the same terms and conditions as the original promissory note but also reflected the receipt of the additional investment monies. Reincke signed on behalf of Arenal.

28. In reliance on the statements and representations of L. Johnson, Reincke and E. Johnson,

[6] E. Johnson is the sole signatory on the account.

on or around October 18, 2012, Investors S.S. and B.S. wired $75,000 from their JP Morgan Chase account to Arenal's BBVA account.

29. On or around January 5, 2013, Investors S.S. and B.S. and Arenal entered into a new promissory note ("2013 Note") that combined the three prior investments and extended the maturity date of the total investment to January 5, 2014. Reincke signed on behalf of Arenal.

30. An analysis of Arenal's bank account records revealed that Arenal used Investors S.S. and B.S.'s investment funds in a manner that was inconsistent with what L. Johnson, E. Johnson, and Reincke told Investors S.S. and B.S., including large cash withdrawals by E. Johnson, E. Johnson using the money for personal expenses, payments to prior investors, and for personal use including payments toward Johnson's and Reincke's apartment rent.

31. In connection with the offer or sale of securities, L. Johnson, E. Johnson and Reincke made material misrepresentations to Investors S.S. and B.S. including, but not limited to, the following:

a. That Arenal would go public within 120 days, when in fact, the company never went public;

b. That Investors S.S. and B.S. could purchase stock for $0.10 per share and it would be valuable when the company went public, when in fact it did not;

c. That Arenal worked with lobbyists to obtain government contracts, when in fact, they had no reasonable basis on which to make this representation;

d. That Arenal contracted with women and minority-owned business in order to obtain government contracts, when in fact, they had a contract with one women owned business to seek joint contracts from the government but did not have any contracts with a women and minority-owned business and the government; and

e. L. Johnson indicated that Arenal had capped share issuance at 10,000,000 shares when in fact, Arenal issued at least 11,148,880 common shares.

32. In connection with the offer or sale of securities, L. Johnson, E. Johnson and Reincke failed to disclose material information to Investors S.S. and B.S. including, but not limited to, the following:

a. That Respondents were not licensed to sell securities in the state of Utah;

b. That the offering was not registered, notice filed, or exempt from registration in the state of Utah;

c. That Arenal, L. Johnson, Johnson, and Reincke would keep no accounting of any investment funds; and

d. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

33. Starting on or around August 20, 2012, Investors S.S. and B.S. received a total of seven interest payments totaling $10,625. Investors S.S. and B.S. did not receive any additional payments after April 2013.

34. On or around June 4, 2013, Arenal issued an additional addendum to the 2013 Note, signed by Reincke on behalf of Arenal, that imposed a late fee of $100 if payment was

not received each month and requiring Arenal to file a Form S-1 Registration Statement with the Securities and Exchange Commission ("SEC") no later than July 22, 2013.

35. Upon demand, Arenal forfeited 1.5 million shares of common stock to Investors S.S. and B.S. for breach of the 2013 Note, to date the company has never gone public and the stock holds no value.

36. On July 10, 2013 Investors S.S. and B.S. received a certificate indicating their ownership of 1.5 million shares of Arenal stock. Investors S.S. and B.S. have been paid back in full.

CONCLUSIONS OF LAW

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

37. Based upon the Division's investigative findings, the Division concludes that investment opportunity offered and sold by Reincke is an investment contract and/or a promissory note.

38. Investment contracts and promissory notes are securities under §61-1-13 of the Act.

39. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Reincke, directly or indirectly misrepresented material facts.

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

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

41. In violation of § 61-1-1(3) of the Act, and in connection with the offer and/or sale of a security, Reincke directly or indirectly engaged in an act, practice, or course of business which operated as a fraud or deceit on investors when he misused investor funds for

purposes not disclosed to or authorized by investors, including Reincke's personal use of the investor's funds.

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

42. In violation of § 61-1-3(1) of the Act, Reincke was not licensed in the securities industry in any capacity when he offered and sold securities on behalf of Arenal, and received benefits in connection therewith.

REMEDIAL ACTIONS/SANCTIONS

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

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

45. Reincke 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.

46. Reincke 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.

47. 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 $13,000 against Reincke. Reincke agrees to pay $3,000 of fine within 120 days following entry of this Order. Reincke agrees to pay the remaining $10,000 in equal quarterly payments within twenty-four (24) months. The first quarterly payment to the Division will be due July 1, 2020.

FINAL RESOLUTION

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

49. If Reincke 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, Reincke consents to entry of an order in which the total fine amount is increased by 20% and any fine payments owed by Reincke become immediately due and payable. Notice of the violation will be provided to Reincke at his last known address, and to his counsel if he has one. If Reincke 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 Reincke 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 Reincke or to otherwise enforce the terms of this Order. Reincke 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.

50. Reincke 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. Reincke 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.

51. 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 Reincke are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 8 day of January, 2020

Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 7th day of January, 2020

Richard Clayton Reincke

Approved as to form:

Paula Faerber
Counsel for the Division of Securities

Approved as to form:

Nathan Crane
Counsel for Mr. Reincke

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which Reincke admits, are hereby entered.
2. Reincke 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. Reincke shall be barred from associating with any broker-dealer or investment adviser licensed in Utah; from acting as an agent for any issuer soliciting investor funds in the state of Utah; and from being licensed in any capacity in the securities industry in Utah.
4. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, Reincke shall pay a fine of $13,000 to the Division pursuant to the terms set forth in paragraph 47.

BY THE UTAH SECURITIES COMMISSION:

DATED this 9th day of January, 2020.

Lyndon Ricks

Lyle White

Peggy Hunt

Gary Cornia

Brent Cochran

CERTIFICATE OF SERVICE

I certify that on the 9th day of *January* 2020, I emailed a true & correct copy of the **Stipulation and Consent Order to:**

Respondents:

Richard Clayton Reincke, through Counsel:

Rick Van Wagoner
rav@scmlaw.com

Nathan Crane
NAD@scmlaw.com

The Division:

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

Paula Faerber, Assistant Attorney General
Utah Attorney General's Office
pfaerber@agutah.gov

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

Sabrina Afridi

Sabrina Afridi, Administrative Assistant

AMENDED CERTIFICATE OF SERVICE

I certify that on the 9th day of *January* 2020, I emailed a true & correct copy of the **Stipulation and Consent Order to:**

Respondents:

Richard Clayton Reincke, through Counsel:

Rick Van Wagoner
rav@scmlaw.com

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Utah Attorney General's Office
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Dave R. Hermansen, Director of Enforcement
Utah Division of Securities
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Sabrina Afridi

Sabrina Afridi, Administrative Assistant

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**
ARENAL ENERGY CORPORATION;	Docket No. 18-0023
RICHARD CLAYTON REINCKE;	Docket No. 18-0024
ERIC DUNBAR JOHNSON, CRD#2384891;	Docket No. 18-0025
LARS DAVID JOHNSON;	**Docket No. 18-0026**
CHRISTOPHER BRADLEY ERWIN;	Docket No. 18-0027
MATTHEW HAL MARCHBANKS;	Docket No. 18-0028
Respondents.	

The Utah Division of Securities ("Division"), by and through its Director of Enforcement, Dave Hermansen, and Respondent Lars David Johnson ("L. Johnson") hereby stipulate and agree as follows:

1. L. Johnson has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1 (securities fraud) and §61-1-3 (unlicensed activity) while engaged in the offer and/or sale of securities in or from Utah.

2. On or about May 15, 2018, the Division initiated an administrative action against Arenal Energy Corporation ("Arenal"), Richard Clayton Reincke ("Reincke"), Eric Dunbar Johnson ("E. Johnson"), L. Johnson, Christopher Bradley Erwin ("Erwin"), and Matthew Hal Marchbanks ("Marchbanks") (collectively referred to herein as "Respondents") by filing an Order to Show Cause.

3. L. Johnson 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 L. Johnson pertaining to the Order to Show Cause.

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

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

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

7. L. Johnson is represented by attorney Eric Benson from Ray Quinney & Nebeker, and is satisfied with the legal representation he has received.

FINDINGS OF FACTS

8. L. Johnson was a resident of Utah during all times relevant to the allegations asserted herein and is an agent of Arenal. L. Johnson has never been licensed in the securities industry in Utah.[1]

9. The Division's investigation of this matter revealed that from May 2012 to June 2013, in connection with the offer or sale of securities in the state of Utah, Respondents made material misrepresentations and omissions to investors, and collected approximately $202,000 in investor monies in connection therewith.

10. Respondents used investor monies in a manner that is inconsistent with what the investors were told at the time of solicitation of their investments.

11. Respondents solicited investments on behalf of Arenal, a company which purportedly developed products that could be used to clean up toxic spills, and received compensation in connection therewith. During all times relevant to the allegations asserted herein, Respondents were not licensed in the securities industry in Utah.

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

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

14. To date, investors are owed at least $191,375 in principal alone.

Investors S.S. and B.S.

[1] L. Johnson is the brother of Eric D. Johnson. On January 19, 2018, criminal charges were filed against Respondent L. Johnson in the Third Judicial District Court, Salt Lake County, Utah. *See* case number 181900699FS.

15. In or around May 2012, Investors S.S. and B.S. were approached by L. Johnson, about investing in Arenal, a purported environmental remediation solutions company.

16. During this meeting, L. Johnson stated to Investors S.S. and B.S. that Arenal would go public in 30 days but needed $150,000 in additional capital to do so. To raise the additional capital, Arenal was offering 1,500,000 shares of common stock for $0.10 per share. L. Johnson claimed this stock would increase to $2.00 per share by the end of the public offering.

17. L. Johnson made numerous statements and representations to Investors S.S. and B.S. regarding the investment opportunity in Arenal, including, but not limited to the following:

a. That Arenal had an impressive patent-pending product that was highly valuable;

b. That Arenal was being assisted by United States Army Major General James Comstock in promoting Arenal's products overseas;

c. That Arenal had retained Dutko Grayling[2] in order to further pursue government contracts;

d. That Arenal had partnered with small, women-owned and minority-owned government contractors;

e. That Arenal had a working relationship with JETRO[3] to sell products overseas;

f. That Arenal had registered and been qualified to supply major remediation industry contractors;

[2] Dutko Grayling is a Washington, D.C. based lobbying firm that helps companies obtain government contracts.
[3] JETRO (Japan External Trade Organization) is a non-profit organization that connects businesses with the resources needed to successfully expand to Japan. Arenal paid a $20.00 fee to be a member of their website.

g. That Arenal had capped share issuance at 10,000,000 shares, therefore any loan secured by Arenal's stock or any direct investment in Arenal stock would not be diluted; and

h. That investment funds would be used for expenses related to making Arenal a publicly traded company, including expenses such as flights and other travel expenses necessary to close agreements, obtain licenses, issue press releases and hire an attorney to take the company public.

18. After meeting with L. Johnson, Investors S.S. and B.S. also discussed the investment opportunity with Reincke and Johnson who confirmed all representations made by L. Johnson, except they claimed that the public offering would be within 120 days.

19. In reliance on the statements and representations of L. Johnson, Reincke and Johnson, as set forth in paragraphs 15-17, Investors S.S. and B.S. invested $150,000 in Arenal through a series of three payments.

20. On or around July 5, 2012, Investors S.S. and B.S. wired $25,000 from their JP Morgan Chase account to Arenal's BBVA bank account.[4]

21. In exchange for their investment, Investors S.S. and B.S. received a promissory note, signed by E. Johnson on behalf of Arenal, and dated July 5, 2012 ("2012 Note"). According to the terms of the 2012 Note, Investor S.S. and B.S. would receive a return of principal by January 5, 2013, with interest payments of 15% per annum paid on the first day of each calendar month. The note was collateralized by 250,000 shares of Arenal common stock payable at $.10 per share at any time. The 2012 Note included a personal

[4] E. Johnson is the sole signatory on the account.

guarantee signed by both Reincke and Johnson.

22. In reliance on the statements and representations of L. Johnson, Reincke and E. Johnson, on or around August 14, 2012, Investors S.S. and B.S. wired $50,000 from their JP Morgan Chase account to Arenal's BBVA account.

23. Arenal issued an addendum to the 2012 Note on August 14, 2012, under the same terms and conditions as the original promissory note but also reflected the receipt of the additional investment monies. Reincke signed on behalf of Arenal.

24. In reliance on the statements and representations of L. Johnson, Reincke and E. Johnson, on or around October 18, 2012, Investors S.S. and B.S. wired $75,000 from their JP Morgan Chase account to Arenal's BBVA account.

25. On or around January 5, 2013, Investors S.S. and B.S. and Arenal entered into a new promissory note ("2013 Note") that combined the three prior investments and extended the maturity date of the total investment to January 5, 2014. Reincke signed on behalf of Arenal.

26. An analysis of Arenal's bank account records revealed that Arenal used Investors S.S. and B.S.'s investment funds in a manner that was inconsistent with what L. Johnson, E. Johnson, and Reincke told Investors S.S. and B.S., including large cash withdrawals, payments to prior investors, and for personal use including payments toward Johnson's and Reincke's apartment rent.

27. In connection with the offer or sale of securities, L. Johnson, E. Johnson and Reincke made material misrepresentations to Investors S.S. and B.S. including, but not limited to, the following:

a. That Arenal would go public within 120 days, when they had no reasonable basis on which to make this representation, and in fact, the company never went public;

b. That Investors S.S. and B.S. could purchase stock for $0.10 per share and it would be worth $2.00 per share when the company went public, when in fact, they had no reasonable basis on which to make this representation, and in fact, Arenal never went public;

c. That Arenal had proprietary products of high value, when in fact, the name of the product was proprietary, but not the product itself;

d. That Arenal worked with lobbyists to obtain government contracts, when in fact, they had no reasonable basis on which to make this representation;

e. That Arenal contracted with women and minority-owned business in order to obtain government contracts, when in fact, they had no reasonable basis on which to make this representation; and

f. That Arenal had capped share issuance at 10,000,000 shares when in fact, Arenal issued at least 11,148,880 common shares.

28. In connection with the offer or sale of securities, L. Johnson, E. Johnson and Reincke failed to disclose material information to Investors S.S. and B.S. including, but not limited to, the following:

a. That Respondents were not licensed to sell securities in the state of Utah;

b. That the offering was not registered, notice filed, or exempt from registration in the state of Utah;

c. That Arenal, L. Johnson, Johnson, and Reincke would keep no accounting of any

investment funds; and

d. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors; and

vi. Suitability factors for investment.

29. Starting on or around August 20, 2012, Investors S.S. and B.S. received a total of seven interest payments totaling $10,625. Investors S.S. and B.S. did not receive any additional payments after April 2013.

30. On or around June 4, 2013, Arenal issued an additional addendum to the 2013 Note, signed by Reincke on behalf of Arenal, that imposed a late fee of $100 if payment was not received each month and requiring Arenal to file a Form S-1 Registration Statement with the Securities and Exchange Commission ("SEC") no later than July 22, 2013.

31. Upon demand, Arenal forfeited 1.5 million shares of common stock to Investors S.S. and B.S. for breach of the 2013 Note, to date the company has never gone public and the stock holds no value.

32. On July 10, 2013 Investors S.S. and B.S. received a certificate indicating their ownership of 1.5 million shares of Arenal stock. To date, Investors S.S. and B.S. are still owed $139,375 in principal alone.

Investor B.K.

33. In or around November 2012, L. Johnson approached Investor B.K., who was a co-worker at a company called Property Direct, located in Orem, Utah, about investing in Arenal.

34. L. Johnson made various statements and representations to Investor B.K. regarding the investment opportunity in Arenal, including but not limited to, the following:

a. That Johnson had been successful in taking other companies public in the past;

b. That Arenal was $100,000 to $120,000 short of going public;

c. That "friends and family stock" was available at a discounted rate of $0.10 a share for Investor B.K;

d. That Investor B.K. and individuals he referred to Arenal, who subsequently invested, would receive bonus stock.

e. That the paperwork to initiate the Initial Public Offering was already completed, and Arenal was just waiting for additional capital; and

f. That Arenal would go public in the very near future.

35. In reliance on L. Johnson's statements and representations, Investor B.K. decided to invest in Arenal. On or around November 26, 2012, Investor B.K. mailed a check to Arenal in the amount of $2,000, made payable to Arenal.

36. In exchange for his investment, Investor B.K. received an Arenal stock certificate for

20,000 shares in the company. Investor B.K.'s investment monies were deposited into Arenal's BBVA bank account.

37. An analysis of the Arenal BBVA account records revealed that Investor B.K.'s funds were used in a manner inconsistent with what Investor B.K. was told by L. Johnson when he decided to invest, including large cash withdrawals, payments to prior investors, Reincke and E. Johnson's apartment rent, and bank fees.

38. In connection with the offer or sale of securities, L. Johnson made material misrepresentations to Investor B.K. including, but not limited to, the following:

a. That Arenal would soon go public, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal never went public;

b. That stock in Arenal would increase in value after the company went public, when in fact, he had no reasonable basis on which to make this representation;

c. That Arenal was $100,000 to $120,000 short of going public, when in fact, he had no reasonable basis on which to make this representation;

d. That Investor B.K. and individuals he referred to Arenal, who subsequently invested, would receive bonus stock, when in fact, he received no additional stock; and

e. That Arenal had already been awarded government contracts and would obtain more, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal did not have any government contracts.

39. In connection with the offer or sale of securities, L. Johnson failed to disclose material information to Investor B.K. including, but not limited to, the following:

a. That Investors S.S., B.S., S.P., D.M. and S.L.'s investments were used in a manner

that was inconsistent with what they were told at the time of solicitation of their investments; and

b. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors;

vi. Suitability factors for investment;

vii. Whether the securities offered were registered in the state of Utah; and

viii. Whether L. Johnson was licensed to sell securities in the state of Utah.

40. Subsequent to Investor B.K.'s investment, Reincke and L. Johnson continually represented that Arenal would soon go public.

41. To date, Investor B.K. is owed $2,000 in principal alone.

Investor J.K.

42. In or around November 2012, Investor J.K., an Idaho resident, was introduced to L. Johnson by his brother, Investor B.K. Soon afterward, Investor J.K. was invited to participate in a conference call with L. Johnson.

43. L. Johnson made various statements and representations to Investor J.K. regarding the investment opportunity in Arenal, including but not limited to, the following:

a. That Johnson had been successful in taking other companies public in the past;

b. That Arenal was $150,000 short of going public but had already raised $100,000;

c. That Investor J.K. would receive an additional 17,000 shares of bonus stock for investing after Investor B.K. referred him to Arenal;

d. That the paperwork to start the Initial Public Offering was already completed, and Arenal was just waiting for additional capital; and

e. That Arenal would go public by March 2013.

44. In reliance on L Johnson's statements and representations, as set forth in paragraph 67, Investor J.K. decided to invest in Arenal. On or around December 16, 2012, Investor J.K. mailed a personal check to Arenal in the amount of $5,000, made payable to Arenal. Additionally, on or around December 20, 2012, Investor J.K.'s father sent a check on Investor J.K.'s behalf for $5,000 for a total investment of $10,000, made payable to Arenal.

45. In exchange for his investment, Investor J.K. received an Arenal stock certificate for 40,000 shares in the company, instead of the 57,000 shares of Arenal stock he believed he would receive. Investor J.K.'s investment monies were deposited into Arenal's BBVA bank account.

46. An analysis of the Arenal BBVA account records revealed that Investor J.K.'s funds were used in a manner inconsistent with what Investor J.K. was told by L. Johnson when he decided to invest, including large cash withdrawals, payments to prior investors, Reincke and Johnson's apartment rent, and bank fees.

47. In connection with the offer or sale of securities, L. Johnson made material

misrepresentations to Investor J.K. including, but not limited to, the following:

a. That Arenal would go public by March 2013, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal never went public;

b. That stock in Arenal would increase in value after the company went public, when in fact, he had no reasonable basis on which to make this representation;

c. That Arenal was $50,000 short of going public, when in fact, he had no reasonable basis on which to make this representation;

d. That Investor J.K. would receive bonus stock for investing after Investor B.K. referred him to Arenal, when in fact, he received no additional stock; and

e. That Arenal had already been awarded government contracts and would obtain more, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal did not have any government contracts.

48. In connection with the offer or sale of securities, L. Johnson failed to disclose material information to Investor J.K. including, but not limited to, the following:

a. That Investors S.S., B.S., S.P., D.M., S.L. and B.K.'s investments were used in a manner that was inconsistent with what they were told at the time of solicitation of their investments; and

b. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors;

vi. Suitability factors for investment;

vii. Whether the securities offered were registered in the state of Utah; and

viii. Whether L. Johnson was licensed to sell securities in the state of Utah.

49. To date, Investor J.K. is owed $10,000 in principal alone.

Investor D.K.

50. In or around September 2012, Investor D.K., an Idaho resident, was introduced to L. Johnson by his son, Investor B.K. Soon afterward Investor D.K. was invited to participate in a conference call with L. Johnson.

51. L. Johnson made various statements and representations to Investor D.K. regarding the investment opportunity in Arenal, including but not limited to, the following:

a. That Johnson had been successful in taking other companies public in the past;

b. That Arenal was $150,000 short of going public but had already raised $100,000;

c. That Investor D.K. would receive an additional 17,000 shares of bonus stock for investing after Investor B.K. referred him to Arenal;

d. That the paperwork to start the Initial Public Offering was already completed, and Arenal was just waiting for additional capital; and

e. That Arenal would go public by March 2013.

52. In reliance on L. Johnson's statements and representations, Investor D.K. decided to invest in Arenal. On or around December 28, 2012, Investor D.K. mailed a personal

check to Arenal in the amount of $10,000.

53. In exchange for his investment, Investor D.K. received an Arenal stock certificate reflecting 40,000 shares in the company, rather than the 57,000 shares of Arenal stock he believed he would receive. Investor D.K.'s investment monies were deposited into the Arenal's BBVA account.

54. An analysis of the Arenal BBVA account records revealed that Investor D.K.'s funds were used in a manner inconsistent with what Investor D.K. was told by L. Johnson when he decided to invest, including large cash withdrawals, payments to prior investors, Reincke and Johnson's apartment rent, and bank fees.

55. In connection with the offer or sale of securities, L. Johnson made the following material misrepresentations to Investor D.K. including, but not limited to, the following:

a. That Arenal would go public by March 2013, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal never went public;

b. That stock in Arenal would increase in value after the company went public, when in fact, he had no reasonable basis on which to make this representation;

c. That Arenal was $50,000 short of going public, when in fact, he had no reasonable basis on which to make this representation;

d. That Arenal would provide constant updates to investors, when in fact, no updates were ever given;

e. That Investor D.K. would receive bonus stock for investing after Investor B.K. referred him to Arenal, when in fact, he received no additional stock; and

f. That Arenal had already been awarded government contracts and would obtain more,

when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal did not have any government contracts.

56. In connection with the offer or sale of securities, L. Johnson failed to disclose material information to Investor D.K. including, but not limited to, the following:

a. That Investors S.S., B.S., S.P., D.M., S.L., B.K. and J.K.'s investments were used in a manner that was inconsistent with what they were told at the time of solicitation of their investments; and

b. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors;

vi. Suitability factors for investment;

vii. Whether the securities offered were registered in the state of Utah; and

viii. Whether L. Johnson was licensed to sell securities in the state of Utah.

57. To date, Investor D.K. is owed $10,000 in principal alone.

Investor C.M.

58. On or around December 7, 2012, Investor C.M., a Utah resident, who was a business partner with Investor J.K., was introduced to L. Johnson. Investor J.K. sent an email to

Investor C.M. regarding a possible investment opportunity in Arenal. Investor C.M. agreed to participate in a conference call with L. Johnson.

59. L. Johnson made various statements and representations to Investor C.M. regarding the investment opportunity in Arenal, including but not limited to, the following:

a. That Investor C.M. could purchase stock in Arenal for $0.25 per share;

b. That the stocks would be worth between $1.00 and $2.00 per share when Arenal went public;

c. That Arenal had many government contracts and would likely be getting more; and

d. That Arenal would go public within the next 90 days.

60. In reliance on L. Johnson's statements and representations, Investor C.M. decided to invest in Arenal. On or around January 13, 2013, Investor C.M. mailed a personal check to Arenal in the amount of $10,000, made payable to Arenal.

61. In exchange for his investment, Investor C.M. received an Arenal stock certificate for 40,000 shares in the company. Investor C.M.'s investment monies were deposited into Arenal's BBVA bank account.

62. An analysis of the Arenal BBVA account records revealed that Investor C.M.'s funds were used in a manner inconsistent with what Investor C.M. was told by L. Johnson when he decided to invest, including large cash withdrawals, payments to prior investors, Reincke and Johnson's apartment rent, and bank fees.

63. In connection with the offer or sale of securities, L. Johnson made the following material misrepresentations to Investor C.M. including, but not limited to, the following:

a. That Arenal would go public within the next 90 days, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal never went public;

b. That stock in Arenal would increase in value after the company went public, when in fact, he had no reasonable basis on which to make this representation; and

c. That Arenal already had contracts with a Florida airport, when in fact, he had no reasonable basis on which to make this representation.

64. In connection with the offer or sale of securities, L. Johnson failed to disclose material information to Investor C.M. including, but not limited to, the following:

a. That Investors S.S., B.S., S.P., D.M., S.L., B.K., J.K. and D.K.'s investments were used in a manner that was inconsistent with what they were told at the time of solicitation of their investments; and

b. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors;

vi. Suitability factors for investment;

vii. Whether the securities offered were registered in the state of Utah; and

viii. Whether L. Johnson was licensed to sell securities in the state of Utah.

65. To date, Investor C.M. is owed $10,000 in principal alone.

Investor R.F.

66. In or around January 2013, Investor R.F., a Utah resident, was introduced to L. Johnson through his son-in-law, S.B. who was an associate of L. Johnson. Investor R.F. agreed to meet with L. Johnson at his office in Utah County, Utah to discuss the investment opportunity in Arenal.

67. L. Johnson made various statements and representations to Investor R.F. regarding the investment opportunity in Arenal, including but not limited to, the following:

a. That L. Johnson and Johnson had successfully taken other companies public;

b. That Arenal needed funds prior to taking the company public to show the SEC that Arenal was properly funded;

c. That Investor R.F. could purchase Arenal stock for $0.25 per share;

d. That the Arenal stock would be worth at least $1.00 per share once the company went public;

e. That Investor R.F. could sell his stock in Arenal through the broker of his choosing;

f. That the product Arenal developed was the first of its kind and was fully developed; and

g. That L. Johnson and Johnson had so much success in the past that Arenal may open even higher than $1.00 per share.

68. In reliance on L Johnson's statements and representations, Investor R.F. decided to invest in Arenal. On or around January 22, 2013, Investor R.F. wired $10,000 from his

retirement account to the Arenal BBVA account.

69. In exchange for his investment, Investor R.F. received an Arenal stock certificate for 40,000 shares in the company.

70. An analysis of the Arenal BBVA account records revealed that Investor R.F.'s funds were used in a manner inconsistent with what Investor R.F. was told by L. Johnson when he decided to invest, including large cash withdrawals, payments to prior investors, Reincke and Johnson's apartment rent, and bank fees.

71. In connection with the offer or sale of securities, L. Johnson made the following material misrepresentations to Investor R.F. including, but not limited to, the following:

a. That Arenal would go public within the next two to three months, when in fact, he had no reasonable basis on which to make this representation, and in fact, Arenal never went public;

b. That stock in Arenal would increase in value after the company went public, when in fact, he had no reasonable basis on which to make this representation; and

c. That Arenal already had contracts with a Florida airport, when in fact, he had no reasonable basis on which to make this representation.

72. In connection with the offer or sale of securities, L. Johnson failed to disclose material information to Investor R.F. including, but not limited to, the following:

a. That Investors S.S., B.S., S.P., D.M., S.L., B.K., J.K., D.K. and C.M.'s investments were used in a manner that was inconsistent with what they were told at the time of solicitation of their investments; and

b. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents and their business enterprise, Arenal, relevant to the investment opportunity, such as:

i. Business and operating history;

ii. Financial statements;

iii. Information regarding principals involved in the company;

iv. Conflicts of interest;

v. Risk factors;

vi. Suitability factors for investment;

vii. Whether the securities offered were registered in the state of Utah; and

viii. Whether L. Johnson was licensed to sell securities in the state of Utah.

73. To date, Investor R.F. is owed $10,000 in principal alone.

CONCLUSIONS OF LAW

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

74. Based upon the Division's investigative findings, the Division concludes that the investment opportunity offered and sold by L. Johnson is an investment contract and/or a promissory note.

75. Investment contracts and promissory notes are securities under §61-1-13 of the Act.

76. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, L. Johnson, directly or indirectly misrepresented material facts, as described above.

77. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, L. Johnson omitted material facts which were necessary in order to make the

statements made, in light of the circumstances under which they were made, not misleading as described above.

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

78. In violation of § 61-1-1(3) of the Act, and in connection with the offer and/or sale of a security, L. Johnson directly or indirectly engaged in an act, practice, or course of business which operated as a fraud or deceit on investors when he misused investor funds for purposes not disclosed to or authorized by investors, including L. Johnson's personal use of the investor's funds.

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

79. In violation of § 61-1-3(1) of the Act, L. Johnson was not licensed in the securities industry in any capacity when he offered and sold securities on behalf of Arenal, and received compensation in connection therewith.

REMEDIAL ACTIONS/SANCTIONS

80. L. Johnson 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.

81. L. Johnson represents that the information he has provided to the Division as part of its investigation is accurate and complete.

82. L. Johnson 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.

83. L. Johnson 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.

84. 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 L. Johnson. L. Johnson agrees to pay $2.500 within 15 days of entry of the order with the remaining $5,000 due within 12 months of entry of the order.

FINAL RESOLUTION

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

86. If L. Johnson 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, L. Johnson consents to entry of an order in which the total fine amount is increased by 20% and any fine payments owed by L. Johnson become immediately due and payable. Notice of the violation will be provided to L. Johnson at his last known address, and to his counsel if he has one. If L. Johnson 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 L. Johnson 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 L. Johnson or to otherwise enforce the terms of this Order. L. Johnson 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.

87. L. Johnson 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. L. Johnson 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.

88. 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 L. Johnson are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 2nd day of January, 2019

Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 17 day of DECEMBER, 2019

Lars David Johnson

Approved:

Paula Faerber
Assistant Attorney General
Counsel for Division

Approved:

Eric Benson
Counsel for Lars Johnson

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which L. Johnson neither admits nor denies, are hereby entered.
2. L. Johnson 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. L. Johnson shall be barred from associating with any broker-dealer or investment adviser licensed in Utah; from acting as an agent for any issuer soliciting investor funds in the state of Utah; and from being licensed in any capacity in the securities industry in Utah.
4. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, L. Johnson shall pay a fine of $7,500 to the Division pursuant to the terms set forth in paragraph 84.

BY THE UTAH SECURITIES COMMISSION:

DATED this 9th day of January 2020

Gary Cornia

Brent A. Cochran

Lyle White

Lyndon Ricks

Peggy Hunt

CERTIFICATE OF SERVICE

I certify that on the 9th day of *January*, 2020, I emailed a true & correct copy of the **Stipulation & Consent Order to:**

Respondents:

Lars David Johnson, through counsel:

Mark Pugsley
mpugsley@rqn.com
Eric Benson
ebenson@rqn.com

The Division:

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

Paula Faerber, Assistant Attorney General
Utah Attorney General's Office
pfaerber@agutah.gov

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

Sabrina Afridi

Sabrina Afridi, Administrative Assistant

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**
PROLUNG INC,	**Docket No. SD-19-0014**
JARED BAUER,	Docket No. SD-19-0015
CLARK A. CAMPBELL,	Docket No. SD-19-0016
TIM TREU,	Docket No. SD-19-0017
TODD MARK MORGAN,	Docket No. SD-19-0018
ROBERT W. RAYBOULD,	Docket No. SD-19-0019
Respondents.	

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

1. ProLung, ProLung's current CEO, as well as certain current and former members of its board of directors were the subject of an investigation by the Division into allegations that they violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1 (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 April 23, 2019, the Division initiated an administrative action against ProLung, Jared Bauer ("Bauer"), Clark A. Campbell ("Campbell"), Tim Treu ("Treu"), Todd Mark Morgan ("Morgan"), and Robert W. Raybould ("Raybould"), by filing an Order to Show Cause.

3. On November 7, 2019, the Utah Securities Commission approved four separate Stipulation and Consent Orders entered into between the Division and Campbell, Treu, Morgan and Raybould. The entry of those orders fully resolved all claims the Division had against Campbell, Treu, Morgan and Raybould.

4. ProLung 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 ProLung pertaining to the Order to Show Cause. And if entered, the Division, ProLung and Bauer, agree to promptly file a stipulation and joint motion to dismiss ProLung and Bauer from this administrative action, with respect to Count I of the Order to Show Cause alone.

5. ProLung admits that the Division has jurisdiction over it and over the subject matter of this action.

6. ProLung hereby waives any right to a hearing to challenge the Division's evidence and present evidence on its behalf.

7. ProLung 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 ProLung to enter into this Order, other than as described in this Order.

8. ProLung is represented by attorneys Chad S. Pehrson and Stephen Mouritsen from Parr Brown Gee & Loveless and is satisfied with the legal representation it has received.

FINDINGS OF FACTS

THE RESPONDENTS

9. ProLung is a corporation registered with the Delaware Division of Corporations on November 22, 2004. ProLung's headquarters are located in Salt Lake City, Utah. Jared Bauer ("Bauer") has been the CEO of ProLung since October 2, 2019, and was the interim CEO from September 2018 to October 2, 2019. From November 2004 to June 2018, Steve Eror ("Eror") was the CEO of ProLung. ProLung is in the business of developing and deploying medical devices and procedures specializing in the immediate, non-invasive evaluation of indeterminate masses seen in CT and radiography scans. ProLung's principal activities include: research and development, product prototyping, securing strategic alliances, and obtaining corporate financing.

10. One device that ProLung developed, tested, and began the process to commercialize recently is its non-invasive lung cancer diagnostic test, the "Electro Pulmonary Nodule Scan" ("EPN Scan"). According to ProLung's 2014 10Q report filed with the U.S. Securities and Exchange Commission ("SEC"), in April 2013 ProLung entered into an agreement to license this technology to a distributor in China. In May 2013, ProLung received the "CE Mark" in Europe, permitting the marketing of the EPN scan in the

European Union ("EU") and other countries.[1] In addition, ProLung has submitted corporate notice filings with the Division.[2]

GENERAL ALLEGATIONS

11. The Division's investigation of this matter revealed that from approximately February 2012 to March 2014, while conducting business in or from the state of Utah, ProLung's board of directors ("BOD") members Campbell, Treu, Morgan, and Raybould offered and sold investment opportunities to at least 33 investors, and raised approximately $1,563,000 in connection therewith.

12. In connection with the offer and/or sale of securities, from 2012 to 2014, ProLung BOD members Campbell, Treu, Morgan, and Raybould received compensation for soliciting investors on behalf of ProLung by issuing themselves stock certificates valued at $.50 per share.

13. In addition to the $1,563,000 raised by BOD members Campbell, Treu, Morgan, and Raybould, ProLung raised $8.2 million in an oversubscribed private placement transaction between 2016 through 2017.

14. The investment opportunities offered and sold by ProLung, Campbell, Treu, Morgan, and Raybould were stocks and debentures.

15. Stocks and debentures are securities under §61-1-13 of the Act.

16. To date, shareholders solicited by BOD members Campbell, Treu, Morgan, and Raybould invested at least $1,563,000 in principal alone in ProLung stock. Additionally,

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[1] *See ProLung's website,* http://prolunginc.com/quality/. CE marketing is the medical device manufacturer's claim that a product meets the essential requirements of all relevant European medical device directives, and allows the ProLung device to be sold in EU member states. The directives outline the safety and performance requirements for medical devices in the EU.

[2] *See* Division filing numbers, B01428622, B01464333, B01646762

ProLung raised at least $20 million in total over the life of the company.

PROLUNG INVESTMENT

THE SOLICITATIONS

17. Between 2012 to 2014, members of the ProLung BOD, Campbell, Treu, Morgan, and Raybould solicited approximately $1,563,000 from at least 33 investors to invest in ProLung.

18. BOD members Campbell, Treu, Morgan, and Raybould were not securities licensed during their solicitations to investors, or when they received compensation for the sale of securities.

PROLUNG BOARD OF DIRECTORS

STOCK GRANT VOTE

19. On or about April 29, 2014, the ProLung BOD circulated a consent agreement amongst ProLung BOD members to vote regarding the issuance of 582,102 ProLung stock certificates to select members of the ProLung BOD in connection with "financing services provided" by those select BOD members. The consent agreement was circulated by email in lieu of holding a special BOD meeting.[3]

20. According to the consent agreement, 582,102 shares were to be distributed to the following: 216,000 shares granted to Raybould; 16,350 shares granted to Eror; 63,750 shares granted to Treu; 193,500 shares granted to Campbell; and 97,500 shares granted to Morgan.

21. The stock grant was intended to compensate those members of the ProLung BOD who

[3] The consent agreement was addressed to "Members of the Board of Directors Freshmedx". Freshmedx is a DBA and the former entity name of ProLung.

raised approximately $1,563,000 in investor funds from approximately February 2012 to March 2014.

22. The members of the BOD who received the consent agreement included: Wayne Adams ("Adams"), Eror, Raybould, Dennis Tulane ("Tulane"), Campbell, Morgan, Treu, and Nathan Wade ("Wade").

23. Six of the eight BOD members voted in favor of issuing common stock grants to Eror, Raybould, Campbell, Morgan, and Treu for financing services provided to ProLung. Adams, Tulane, and Wade did not receive compensation for soliciting ProLung investors.

STOCK TRANSFER

24. On or about April 29, 2014, ProLung issued the following stock grants to select members of the ProLung BOD:[4]

    a. 216,000 shares granted to Raybould valued at $.50 per share or $108,000;

    b. 16,350 shares granted to Eror valued at $.50 per share or $8,175;

    c. 63,750 shares granted to Treu valued at $.50 per share or $31,875;

    d. 193,500 shares granted to Campbell valued at $.50 per share or $96,750; and

    e. 97,500 shares granted to Morgan valued at $.50 per share or $48,750.

25. Subsequent to issuance of the shares referenced above,ProLung was informed by counsel in 2014of potential consequences for ProLung employing unlicensed agents and individuals receiving the shares as compensation directly for sale of securities without a securities license, as opposed to receiving shares as compensation for generalized board service. Subsequently, no further shares were issued as compensation for fundraising. Mr. Eror returned his shares to the Company. However, Raybould, Treu, Campbell and

[4] On or about December 1, 2017, ProLung initiated a 1 for 8 reverse stock split. The amount of shares held by the BOD decreased, the price per share increased to $4 per share, but the overall value of the shares remained the same.

Morgan did not return their shares to the Company. ProLung did not disclose the potential licensing violation until on or about December 3, 2018, in its Note Purchase Agreements. As described above, those individuals have entered into Stipulation & Consent Orders with the Division of Securities, which Orders provide for various remedies, including ceasing and desisting any violations of the Utah Securities Act, bars from the securities industry, cooperation with the Division, the return of shares to the Company's treasury, and monetary fines.

CONCLUSIONS OF LAW

Unlicensed Activity under § 61-1-3(2)(a) of the Act

26. In violation of §61-1-3(2)(a) of the Act, ProLung acted as an issuer at the time of the offerings, and employed former ProLung BOD members Campbell, Treu, and Morgan, and current ProLung BOD member Raybould, as unlicensed agents of ProLung to offer and sell securities on behalf of ProLung.

REMEDIAL ACTIONS/SANCTIONS

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

28. ProLung represents that the information it has provided to the Division as part of its investigation is accurate and complete.

29. ProLung 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.

30. ProLung agrees to disclose the contents of this Order to investors and prospective investors in all future capital raising efforts and disclosure documents of ProLung.

31. 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 $55,000 against ProLung. ProLung agrees to pay $20,000 of the fine to the Division within five (5) days following entry of this Order. ProLung agrees to pay the remaining $35,000 of the fine to the Division in equal quarterly payments within twenty-four (24) months following entry of this Order. The first quarterly payment of $4,375 will be due January 30, 2020.

FINAL RESOLUTION

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

33. If ProLung 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, ProLung consents to entry of an order in which the total fine amount is increased by 20% and any fine payments owed by ProLung become immediately due and payable. Notice of the violation will be provided to ProLung at its last known address, and to its counsel

if it has one. If ProLung 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.

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

35. ProLung acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against it arising in whole or in part from its actions, and that the Order does not affect any criminal causes of action that may arise as a result of the conduct referenced herein. ProLung also acknowledges that any civil, criminal, arbitration or other causes of actions brought by third-parties against it has no effect on, and does not bar this administrative action by the Division against it.

36. 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 ProLung are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 6 day of January, 2019

Dave R. Hermansen

Director of Enforcement
Utah Division of Securities

Dated this 6th day of January, 2019

ProLung, Inc.

By: _____
Jared Bauer, Chief Executive Officer

Approved:

Jennifer Korb
Assistant Attorney General
Counsel for the Division

Approved:

Chad S. Pehrson
Counsel for Respondent ProLung, Inc.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which ProLung admits, are hereby entered.
2. ProLung 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. ProLung shall disclose the contents of this Order to investors and prospective investors in all future capital raising efforts and disclosure documents of ProLung.
4. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, ProLung shall pay a fine of $55,000 to the Division pursuant to the terms set forth in paragraph 31.

BY THE UTAH SECURITIES COMMISSION:

DATED this 9th day of January, 2020

Lyndon L. Ricks

Lyle White

Peggy Hunt

Gary Cornia

Brent Cochran

CERTIFICATE OF SERVICE

I certify that on the 9th day of JAN, 2020, I provided a true & correct copy via email, (*standard* USPS) mail, & Certified Mail of the **Stipulation & Consent Order** to:

Respondents

ProLung, Inc., through counsel
Robert S. Clark
rclark@parrbrown.com
Chad S. Pehrson
cpehrson@parrbrown.com
Stephen C. Mouritsen
smouritsen@parrbrown.com

Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, UT 84111

Jared Bauer, through counsel
Mark J. Griffin
757 E. South Temple #150
Salt Lake City, UT 84102
mjgriffins@gmail.com

The Division

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

Thomas M. Melton, Assistant Attorney General
Utah Attorney General's Office
tmelton@agutah.gov

Jennifer Korb, Assistant Attorney General
Utah Attorney General's Office
jkorb@agutah.gov

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

Sabrina Afridi

Sabrina Afridi, Administrative Assistant

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

IN THE MATTER OF: **ARENAL ENERGY CORPORATION;** RICHARD CLAYTON REINCKE; ERICD UNBAR JOHNSON; LARS DAVID JOHNSON; CHRISTOPHER BRADLEY ERWIN; and MATTHEW HAL MARCHBANKS; **Respondents.**	**DEFAULT ORDER** **Docket No. SD-18-0023** Docket No. SD-18-0024 Docket No. SD-18-0025 Docket No. SD-18-0026 Docket No. SD-18-0027 Docket No. SD-18-0028

BY THE UTAH SECURITIES COMMISSION:

The presiding officer's Findings of Fact, Conclusions of Law and Recommended Order on the Motion for Default of Arenal Energy Corporation, dated January 7, 2020, are hereby approved, confirmed, accepted and entered by the Utah Securities Commission.

ORDER

The Utah Securities Commission hereby orders as follows:

1. Default judgment is entered against Arenal Energy Corporation;
2. Arenal shall cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1 et seq.;
3. Arenal shall pay to the Division a fine of $25,000 due within 10 days of entry of the Order;

4. That Arenal be barred from associating with any broker dealer or investment adviser licensed in Utah.

DATED this 9th day of January, 2020.

Brent Cochran

Gary Cornia, Chair

Peggy Hunt

Lyndon Ricks

Lyle White

NOTICE

Pursuant to U.C.A. §63G-4-209, a defaulted party may seek to have the agency set aside the default order, and any order in the adjudicative proceeding issued subsequent to the default order, by following the procedures outlined in the Utah Rules of Civil Procedure. A motion to set aside a default and any subsequent order shall be made to the presiding officer. A defaulted party may seek agency review under U.C.A. §63G-4-302, only on the decision of the presiding officer on the motion to set aside the default.

Certificate of Mailing

I certify that on the 9th day of *January*, 2020, I provided a true & correct copy via mail (standard USPS) & Certified Mail of the Default Order to:

Arenal Energy Corporation
c/o Corporation Service Company
211 E. 7th Street, Suite 620
Austin, Texas 78701-3218

And by email on the 9th day of January, 2020, to:

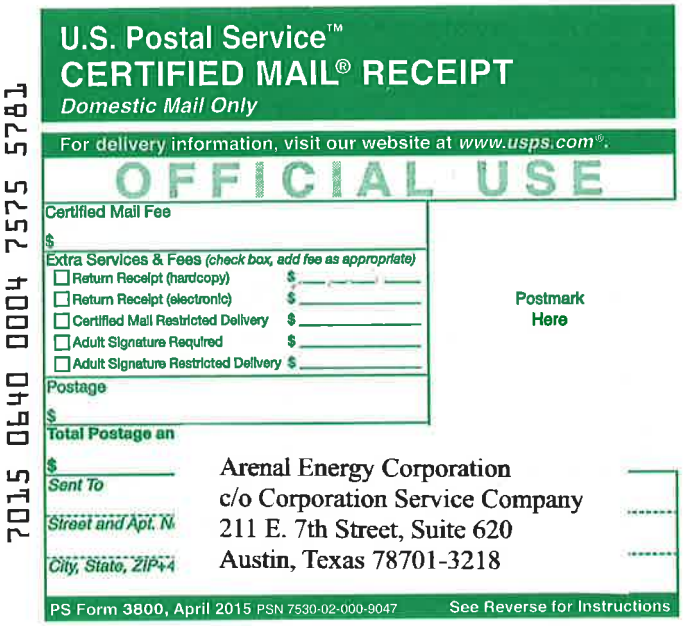
Randall Marshall
marshalawpc@yahoo.com
Counsel for Eric Johnson

Rick Van Wagoner
rav@scmlaw.com
Counsel for Reincke

Nathan Crane
NAC@scmlaw.com
Counsel for Reincke

Paula Faerber
pfaerber@agutah.gov

Bruce L. Dibb, ALJ
bdibb@utah.gov



Sabrina Afridi

Sabrina Afridi, Administrative Assistant