

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:

STIS HOLDINGS LLC,
NOVARE LLC,
ST. ROCH LLC,
LANCE M. KING,
THOMAS M. SWENSEN,
Respondents.

STIPULATION AND CONSENT
ORDER

Docket No. SD-19-0037

Docket No. SD-19-0038

Docket No. SD-19-0039

Docket No. SD-19-0040

Docket No. SD-19-0041

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

1. Swensen has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1(2) (securities fraud), §61-1-1(3) (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 November 13, 2019, the Division initiated an administrative action against Swensen, STIS Holdings, LLC ("STIS"), Novare, LLC ("Novare"), St. Roch, LLC ("St.

Roch”), and Lance M. King (“King”) (collectively referred to herein as “Respondents”) by filing an Order to Show Cause.

3. Swensen 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 Swensen pertaining to the Order to Show Cause.
4. Swensen admits that the Division has jurisdiction over him and over the subject matter of this action.
5. Swensen hereby waives any right to a hearing to challenge the Division’s evidence and present evidence on his behalf.
6. Swensen 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 Swensen to enter into this Order, other than as described in this Order.
7. Swensen is represented by attorney David Kono, from Bennett Tueller Johnson & Deere, and is satisfied with the legal representation he has received.

FINDINGS OF FACTS

THE RESPONDENTS

8. STIS is a Utah limited liability company registered with the Utah Division of Corporations and Commercial Code on May 20, 2016.¹ Swensen is listed as a member and the registered agent of STIS.² Swensen and King are both signatories on STIS’s

¹ STIS’s entity documents filed with the Utah Division of Corporations and Commercial Code lists the entity’s contact address as 3970 S 2700 E, Salt Lake City, UT 84124. The entity’s status is listed as expired as of August 27, 2018.

² During the Division’s interview with Swensen and King, Swensen stated STIS was owned by King, and King stated STIS was owned by Swensen.

Wells Fargo bank account. STIS has never recorded a securities registration, exemption from registration, or notice filing with the Division.

9. Novare is a Utah limited liability company registered with the Utah Division of Corporations and Commercial Code on February 4, 2013.³ King is listed as the manager of the entity. King has sole signatory authority on Novare's Wells Fargo bank account. Novare has never recorded a securities registration, exemption from registration, or notice filing with the Division.

10. St. Roch is a Utah limited liability company registered with the Utah Division of Corporations and Commercial Code on June 21, 2012.⁴ Cajetan LLC is listed as the manager of the entity. Cajetan LLC is owned by King. King has sole signatory authority on St. Roch's Wells Fargo bank account. St. Roch has never recorded a securities registration, exemption from registration, or notice filing with the Division.

11. King resided in Wasatch County, Utah during all times relevant to the allegations asserted herein and has never been licensed in the securities industry.

12. Swensen resided in Summit County, Utah at all times relevant to the allegations asserted herein, and has never been licensed in the securities industry.

RELATED ENTITY INFORMATION

13. SEER Technology, Inc. ("SEER") is a Utah corporation registered with the Utah Division of Corporations and Commercial Code on November 15, 2005.⁵ Fred Gallander

³ Novare's entity documents filed with the Utah Division of Corporations and Commercial Code lists the entity's contact address as 3970 S 2700 E, Salt Lake City, UT 84124. The entity's status is listed as expired as of May 29, 2018.

⁴ St. Roch's entity documents filed with the Utah Division of Corporations and Commercial Code lists the entity's contact address as 3970 S 2700 E, Salt Lake City, UT 84124. The entity's status is listed as expired as of September 26, 2017.

⁵ SEER's entity documents filed with the Utah Division of Corporations and Commercial Code lists the entity's contact address as 2681 East Parley's Way, #201, Salt Lake City, UT 84109. The entity's status is listed as active as of September 18, 2019.

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("Gallander") is listed as the president and director.⁶ SEER is a private, non-SEC reporting company, and acts as its own transfer agent.

GENERAL ALLEGATIONS

14. The Division's investigation of this matter revealed that from approximately February 2016 to May 2016, while conducting business in or from the state of Utah, King offered and sold approximately 86,722 shares of SEER stock to at least three investors and raised approximately \$52,250 in connection therewith.
15. Stocks are securities under §61-1-13 of the Act.
16. In connection with the offer and sale of securities, Respondents, either directly or indirectly, made material omissions and/or misrepresentations of material facts.
17. Respondents failed to deliver SEER stock purchased by investors as promised by Respondents.
18. To date, investors have received the SEER stock that they purchased from Respondents.
19. Respondents solicited investors located in Utah. The solicitations occurred in person.
20. The investors had no role in the investment opportunities, other than providing investment funds.

SEER INVESTMENT

SOLICITATIONS

21. King was a former director and founding member of SEER and acquired several shares of SEER stock over the years.
22. King employed Swensen as his personal accountant for twenty-three years.

⁶ In interviews with the Division, Gallander and King both stated that King was a founding member, officer, and director of SEER. King resigned from SEER on or about June 5, 2009.

23. Investors were introduced to King by Swensen.
24. From February 2016 to May 2016, Respondents met with investors in person to discuss investing in SEER.
25. During the solicitation, Respondents made numerous statements to investors regarding purchasing SEER stock, including, but not limited to, the following:
 - a. That King was one of the original owners of SEER;
 - b. That King and Swensen were selling SEER stock on behalf of a third party; that there was a conflict between the third party and the current owner of SEER; and therefore, there was a delay in delivery of the shares;
 - c. That SEER would possibly be bought out soon by a larger company and therefore investors would receive a return of \$5 to \$10 after SEER was purchased;
 - d. That SEER's device and technology were about to "take off", and that there were several potential customers who wanted to purchase SEER's device and technology;
 - e. That SEER's device could be used by governments as a security device to detect terrorist threats;
 - f. That investors could purchase SEER shares for \$.50 to \$.90 a share; and
 - g. That investors would receive SEER stock certificates after their purchase.
26. Based upon Respondents statements, investors wrote checks made payable to STIS, Novare, or St. Roch totaling approximately \$52,250 to purchase SEER stock from King.
27. Investors gave Swensen the investment checks for deposit into the entity bank accounts.⁷

⁷ STIS, Novare, and St. Roch, all maintained bank accounts at Wells Fargo, where investor checks were deposited. King and Swensen were signatories on the STIS bank account; and King was the sole signatory on the Novare and St. Roch bank accounts.

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MISSTATEMENTS AND OMISSIONS

28. In connection with the offer and/or sale of securities, Respondents made material misstatements to investors including, but not limited to, the following:
- a. That investors would receive shares of SEER stock after purchase, when in fact, this claim was false;
 - b. That SEER would be sold to a large company shortly after investor's purchase of SEER stock, when in fact, this claim was false; and
 - c. That SEER stock would begin publicly trading soon after investor's purchased SEER stock, when in fact, this claim was false.
29. In connection with the offer and/or sale of securities, Respondents failed to disclose material information to investors including, but not limited to, the following:
- a. That King would not deliver the SEER stock purchased by investors;
 - b. That King would not return investor's funds after King failed to deliver the SEER stock;
 - c. That Respondents were not licensed to sell securities;
 - d. That King had previously been charged and plead guilty to bank fraud in Utah, a felony;
 - e. That King filed for multiple bankruptcies from 2012-2017;
 - f. That King had civil judgments against him totaling approximately \$17,956 during the time of the offering in connection to a debt collection case;
 - g. That King and Swensen had a civil judgment against them totaling approximately \$13,505 in connection with a past business partnership;
 - h. That King and Swensen had civil judgments entered against them for \$250,000 each

in connection with their Five Star Specialty Pharmacy LLC company; and

- i. Some or all of the information typically provided in an offering circular or prospectus concerning Respondents relevant to the investment opportunity, such as:
 - i. Business and operating history;
 - ii. Financial statements;
 - iii. Information regarding principles involved in the company;
 - iv. Conflicts of interest;
 - v. Risk factors;
 - vi. Suitability factors for investment; and
 - vii. Whether the securities offered were registered in the state of Utah.

30. To date, investors have received the SEER stock that they purchased from Respondents.

SWENSEN'S PARALLEL CRIMINAL PROCEEDING

31. On December 11, 2019, Swensen was charged with Securities Fraud in a parallel criminal action in Utah's Third District Court, Salt Lake County, Utah, Case Number 191912112 (the "Criminal Action").

32. On April 2, 2021, Swensen entered into a plea in abeyance with the state (held for 18 months) related to Securities Fraud, a 3rd degree felony.

33. In the Criminal Action, Swensen was ordered by the court to not directly or indirectly offer for sale the purchase of a security, to not work in any fiduciary capacity, to complete 100 hours of community service or pay a fine of \$1,000 over 10 months, and to be placed on probation during the abeyance period of 18 months.

CONCLUSIONS OF LAW

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

- 34. Based upon the Division's investigative findings, the Division concludes that the SEER stock purchased by the investors are securities under §61-1-13 of the Act.
- 35. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Swensen, directly or indirectly misrepresented material facts, as described above.
- 36. In violation of § 61-1-1(2) of the Act, and in connection with the offer and/or sale of a security, Swensen 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

- 37. In violation of § 61-1-3(1) of the Act, Swensen directly or indirectly engaged in an act, practice, or course of business which operated as a fraud or deceit on investors. That conduct includes but is not limited to Swensen's repeated sale of SEER stock to investors when Swensen knew that he and King had failed on numerous occasions to deliver those stocks sold to investors.

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

- 38. In violation of § 61-1-3(1) of the Act, Swensen was not licensed in the securities industry in any capacity when he offered and sold SEER stock to investors.

False Statements to the Division under § 61-1-16 of the Act

- 39. In violation of § 61-1-16 of the Act, Swensen made or caused to be made, a false or misleading statement to the Division during an investigation, when Swensen produced to

the Division an incomplete list of investors who purchased SEER stock.

REMEDIAL ACTIONS/SANCTIONS

- 40. Swensen admits to the Division's Findings of Fact and Conclusions of Law in paragraphs 8, 10, 12-16, 18-21, 23, 24, 26, 27, 29-34, 36, 38, and neither admits nor denies the Division's Findings of Fact and Conclusions of Law in paragraphs 9-11, 17, 22, 25, 28, 35, 37, 39, but consents to the below sanctions being imposed by the Division.
- 41. Swensen represents that the information he has provided to the Division as part of its investigation is accurate and complete.
- 42. Swensen 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.
- 43. Swensen 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.
- 44. 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 \$15,000 against Swensen. Swensen agrees to pay \$10,000 of the fine to the Division within 30 days of entry of the final Order by the Commission. Swensen agrees to pay the remaining fine of \$5,000 to the Division in equal, consecutive monthly payments of \$277.78 for a period of 18 months starting the month after the first \$10,000 fine payment to the Division.

FINAL RESOLUTION

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

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

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

48. Swensen 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. Swensen 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.

49. 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 Swensen are canceled. The Order may be docketed in a court of competent jurisdiction.


Dated this 14 day of October, 2021


Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 15 day of November, 2021

Designated by:
Thomas Swensen
Thomas M. Swensen

Approved:


Jennifer Korb
Stephen Gillies
Assistant Attorneys General
Utah Attorney General's Office
Counsel for Division

Approved:

Designated by:
David Kono
David Kono
BENNETT TUELLER JOHNSON & DEERE
Counsel for Respondent Swensen

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which Swensen admits in part, and neither admits nor denies in part, are hereby entered.
2. Swensen 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. Swensen 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, Swensen shall pay a fine of \$15,000 to the Division pursuant to the terms set forth in paragraph 44.

BY THE UTAH SECURITIES COMMISSION:

DATED this 13 day of January, 2022


Lyndon L. Ricks


Lyle White

Peggy Hunt


Mark F. Zimbelman

Mark F. Zimbelman (Jan 13, 2022 22:37 MST)
Mark Zimbelman

Brent Cochran

CERTIFICATE OF SERVICE

I certify that on the 14 day of January, 2022, I mailed and emailed a true and correct copy of the Stipulation and Consent Order to:

David Kono (Attorney for Swensen)
3165 Millrock Dr.
Salt Lake City, UT 84121
dkono@btjd.com

Thomas M. Swensen
130 South 200 East
Coalville, UT 84017
tmswensen@gmail.com

And hand-delivered via drop box to:

Bruce Dibb, Administrative Law Judge
Department of Commerce

Jennifer Korb, Assistant Attorney General
Utah Attorney General's Office

Stephen Gillies, Assistant Attorney General
Utah Attorney General's Office

Dave R. Hermansen, Director of Enforcement
Utah Division of Securities



Zoe Gomez-Gonzalez, Executive Secretary