

DIVISION OF SECURITIES
KEITH WOODWELL, DIRECTOR
DEPARTMENT OF COMMERCE
P.O. BOX 146741
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6711
Telephone: (801) 530-6628

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

IN THE MATTER OF

**CO CAPITAL, LLC;
COBY TIPPETTS,**

RESPONDENTS

**RECOMMENDED ORDER ON MOTION
FOR DEFAULT**

CASE NO. SD-08-0107

CASE NO. SD-08/0108

BY THE PRESIDING OFFICER:

This adjudicative proceeding was initiated pursuant to a December 31, 2008 notice of agency action. On September 22, 2009, Respondent Tippetts resolved a related criminal case through a plea in abeyance agreement. On August 22, 2013, the presiding officer issued a scheduling order under which Respondents were required to file an answer to the order to show cause by September 23, 2013. The scheduling order specified that a failure to comply with the deadline for response would result in the entry of a default order against Respondents without further notice or proceeding.

As of the date of this order, Respondents have not filed a response to the Division's order to show cause. Therefore, the presiding officer finds that, pursuant to Utah Code § 63G-4-209(1)(c), proper factual and legal bases exist for entering a default order against Respondents.

RECOMMENDED ORDER

Based on the foregoing, the presiding officer recommends that the Utah Securities Commission accept the allegations outlined in the Division's order to show cause as being true, to wit:

1. That the investment opportunities offered and sold by Respondents are securities under Utah Code Ann. § 61-1-13(1)(ee)(i);
2. That in connection with the offer and sale of securities, and in violation of Utah Code Ann. § 61-1-1(2), Respondents directly or indirectly made false statements to investors;
3. That in connection with the offer and sale of securities, and in violation of Utah Code Ann. § 61-1-1(2), Respondents directly or indirectly failed to disclose material information that was necessary in order to make representations made not misleading; and
4. That Respondents' actions, which constitute one or more violations of Utah Code Ann. § 61-1 et seq, are grounds for sanction under the Act.

The presiding officer further recommends that the Utah Securities Commission enter a default order against Respondents, requiring them:

1. To cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1 et seq; and

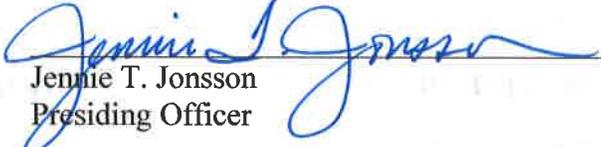
2. To pay a fine of \$108,750 to the Utah Division of Securities, with any restitution paid to investors serving to offset the administrative fine on a dollar-to-dollar basis.

Finally, the presiding officer recommends that, upon entering the default order, the Utah Securities Commission dismiss any further proceedings in this case.

This recommended order shall be effective on the signature date below.

DATED this 7th day of October, 2013.

UTAH DEPARTMENT OF COMMERCE


Jennie T. Jonsson
Presiding Officer

CERTIFICATE OF DELIVERY

I hereby certify that on the 7th day of October, 2013, the undersigned hand delivered a true and correct copy of the foregoing RECOMMENDED ORDER ON MOTION FOR DEFAULT to the following:

Utah Securities Commission
c/o Keith Woodwell, Director, Utah Division of Securities
Heber M. Wells Building, 2nd Floor
Salt Lake City, UT



DIVISION OF SECURITIES
KEITH WOODWELL, DIRECTOR
DEPARTMENT OF COMMERCE
P.O. BOX 146741
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6711
Telephone: (801) 530-6628

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

IN THE MATTER OF

**CO CAPITAL, LLC;
COBY TIPPETTS,**

RESPONDENTS

ORDER ON MOTION FOR DEFAULT

CASE NO. SD-08-0107
CASE NO. SD-08/0108

BY THE UTAH SECURITIES COMMISSION:

The presiding officer's October 7, 2013 recommended order on motion for default in this matter is hereby approved, confirmed, accepted, and entered by the Utah Securities Commission.

ORDER

Respondents are hereby ordered cease and desist from engaging in any further conduct in violation of Utah Code § 61-1 et seq.

Respondents are hereby ordered to pay a fine of \$108,750 to the Utah Division of Securities, with any restitution paid to investors serving to offset the administrative fine on a dollar-to-dollar basis.

All further proceedings in this case are dismissed. This dismissal does not relieve Respondent from complying with the terms of the default order.

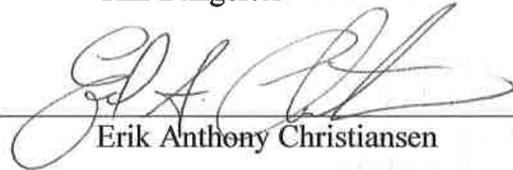
This order shall be effective on the signature date below.

DATED this 5 day of December, 2013

UTAH SECURITIES COMMISSION:



Tim Bangerter



Erik Anthony Christiansen

Brent Baker

Gary Cornia



David Russon

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

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

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of December, 2013 the undersigned served a true and correct copy of the foregoing ORDER ON MOTION FOR DEFAULT by mailing a copy through first-class mail, postage prepaid, to:

Coby Tippetts
CoCapital, LLC
733 Kings Street, #199
Layton, UT 84041

CoCapital, LLC
Attn.: Aaron Dommer, Registered Agent
51 W. Center Street, Suite 503
Orem, UT 84057

and caused a copy to be hand delivered to:

Paul Amann, Assistant Attorney General
Office of the Attorney General of Utah
Fifth Floor, Heber M. Wells Building
Salt Lake City, Utah

Utah Division of Securities
Second Floor, Heber M. Wells Building
Salt Lake City, Utah



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

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

IN THE MATTER OF:

BLUE SOVEREIGN, LLC,
CARTLAN, LLC,
BRETT JASON COBB,
EVAN MCKAY NIELSON,
BRADLEY GARTH GREEN,

Respondents.

**STIPULATION AND CONSENT
ORDER**

Docket No. SD-08-0080
Docket No. SD-08-0081
Docket No. SD-08-0082
Docket No. SD-08-0083
Docket No. SD-08-0084

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Dave R. Hermansen, and Evan McKay Nielson (Nielson) hereby stipulate and agree as follows:

1. Nielson was the subject of an investigation conducted by the Division into allegations that he violated certain provisions of the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, *et seq.*, as amended (the Act).
2. In connection with that investigation, the Division issued an Order to Show Cause against

Nielson on August 7, 2008. Criminal charges were also filed against Nielson on May 27, 2008.¹

3. Nielson waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf. Nielson understands that by waiving a hearing, he is waiving the requirement that the Division prove the allegations against him by a preponderance of the evidence, waiving his right to confront and cross-examine witnesses who may testify against him, to call witnesses on his own behalf, and any and all rights to appeal the findings, conclusions and sanctions set forth in this Stipulation and Consent Order (Order).
4. Nielson understands that he has a right to be represented by counsel, and he voluntarily and knowingly waives the right to have counsel represent him in this matter.
5. Nielson acknowledges that this Order does not affect any enforcement action that might be brought by a criminal prosecutor or any other local, state, or federal enforcement authority.
6. Nielson admits the jurisdiction of the Division over him and over the subject matter of this action.

¹ *State of Utah v. Evan McKay Nielson*, Case No. 081904014, Third Judicial District Court of Utah (2008). Nielson entered into a plea agreement with respect to two counts of attempted securities fraud, Class A misdemeanors, on October 2, 2009, and was ordered to pay \$200,000 in restitution, jointly and severally with his co-defendants, in connection therewith.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENTS

7. Blue Sovereign, LLC (Blue Sovereign) was a Utah limited liability company that registered with the Utah Division of Corporations (Corporations) on June 5, 2006. As of October 6, 2009, its status changed from "active" to "expired." During its existence, Brett Jason Cobb (Cobb) served as sole manager of Blue Sovereign.
8. Cartlan, LLC (Cartlan) was a Utah limited liability company that registered with Corporations on May 25, 2006. As of September 5, 2007, its status changed from "active" to "expired." During its existence, Cobb served as the sole member of Cartlan.
9. Cobb was, at all relevant times, a resident of the state of Utah. Cobb served as manager of Blue Sovereign and member of Cartlan.
10. Nielson was, at all relevant times, a resident of the state of Utah. Nielson acted as an agent of Blue Sovereign and Cartlan.
11. Bradley Garth Green (Green) was, at all relevant times, a resident of the state of Utah. Green acted as an agent of Blue Sovereign and Cartlan.

GENERAL ALLEGATIONS

12. Between March 2006 and December 2007, Cobb, Nielson, and Green, acting on behalf of Blue Sovereign and/or Cartlan (Respondents), participated in various solicitations that collectively raised \$633,275 in investment funds from at least eight Utah investors. A

detailed narrative of the investments made by three of eight Utah investors is included below.

13. Generally, Respondents offered investors the opportunity to invest their money in “equity milling” programs, an emerald mine, or Blue Sovereign promissory notes.
14. Respondents told investors they would receive monthly interest payments of anywhere from one to five percent per month, depending upon the investor. Most investors received an unsecured promissory note from Blue Sovereign to evidence their investment.
15. Blue Sovereign’s “equity milling” programs involved the creation of equity in homes or vehicles, which Blue Sovereign would purportedly invest in an unknown investment opportunity for a profit. Investors were told they could purchase a home or vehicle (financed through a commercial lender) from Blue Sovereign at a significantly higher value than paid by Blue Sovereign, and Blue Sovereign would lease back the home or vehicle from the investor and rent to someone else at the higher price. Investors were told the lease payments received from Blue Sovereign would not only cover payments due to the financial institutions; they would provide the investors with a profit.
16. The emerald mine was purportedly owned by Cobb’s corporation, Fossil Stone Consulting, Inc. (Fossil Stone), and one investor was told that he could invest in the mine and receive monthly interest in return, as described in greater detail below.

17. Investors received just a few interest and/or lease payments and received no return of their principal.

Investor AB

18. In or around January 2007, AB met Cobb at Cobb's office in Salt Lake County, Utah to discuss an investment opportunity.
19. AB told Cobb she sold her home and planned to use the \$130,000 profit to build a new home in Eagle Mountain, Utah.
20. AB also told Cobb that her credit score was 800, but she was having trouble getting a construction loan.
21. At the January 2007 meeting, Cobb told AB the following:
 - a. AB should invest the \$130,000 in Blue Sovereign while AB's new home was being built;
 - b. AB's investment would pay \$1,300 per month in interest (one percent per month);
 - c. As soon as AB's home was complete, Cobb would get it appraised for \$600,000;
 - d. Over five years, Cobb would make \$1.5 million on AB's investment, during which time AB could live in her new house for free while receiving monthly interest;
 - e. At the end of five years, Cobb would pay AB's mortgage and give her the deed;and

- f. Cobb was buying property in Alpine, Utah for \$2.8 million, which was actually worth \$4 million, and Cobb planned to invest the difference once it sold.
22. Cobb told AB the following at another meeting around the same time:
- a. Cobb and Nielson paid an unnamed attorney \$600,000 to make sure their investment opportunity was legal;
 - b. The minimum investment was \$50,000; and
 - c. AB would have to provide thirty days' notice to get her money back.
23. On or around January 19, 2007, AB invested \$130,000 in Blue Sovereign, via wire transfer from Mountain West Title Company in Utah to Blue Sovereign's bank account at Mountain America Credit Union.
24. AB met with Nielson at Cobb's office on the same day to complete the paperwork.
25. At that time, AB signed a Blue Sovereign promissory note prepared by Nielson, which Nielson backdated to January 1, 2007 so that AB would receive a full month interest payment.
26. AB did not receive the original note until March 2007.
27. The note bears the signature of Cobb as Managing Director of Blue Sovereign.
28. The note states that AB invested \$130,000 and that she would receive monthly interest of one percent, or \$1,300, beginning February 25, 2007.
29. On or about January 22, 2007, Cobb and AB signed a document entitled "Amendment to

Promissory Note.”

30. In the amended note, AB agreed to “set up her appropriate LLC organization with Blue Sovereign structure in order to participate in its member benefits,” and upon the completion of AB’s home construction, the note would “be converted to a 5 year contract.”
31. In February and March 2007, AB received monthly interest checks of \$1,300 each from Blue Sovereign. These were the only payments AB received.
32. Bank records reveal that after AB’s investment was deposited into Blue Sovereign’s bank account, it was used by Cobb to pay what appear to be personal expenses.

Investor DF

The Auto Leasing Investment

33. On or about December 2006, Nielson met DF and one of DF’s employees at a restaurant in Utah County, Utah to discuss an investment opportunity.
34. At the meeting Nielson told DF about a car buying and leasing program which could make DF a profit. Nielson said sometimes institutions, like Brigham Young University (BYU), need to supplement their fleet of cars with additional vehicles. Nielson said Fossil Stone filled this need by leasing the additional vehicles to BYU. Nielson said Fossil Stone obtained its cars from investors who purchased the cars and allowed Fossil Stone to lease the cars.

35. The following day, DF and his employee met with Cobb, Green, and Nielson at Nielson's office in Salt Lake County, Utah.
36. At the meeting, Cobb told DF the following:
 - a. If DF purchased cars in DF's name, Cobb and Fossil Stone would lease the cars to others;
 - b. Fossil Stone would make the car payments for DF from money collected from leasing the cars; and
 - c. DF would make a minimum of \$200 per month above and beyond the car payment on each vehicle.
37. DF asked what he needed to do to get started. Green replied, "Go out and buy cars."
38. Nielson told DF that Nielson's wife had participated in a "car deal" with Cobb. Green also said he had participated in a few "car deals" and so had a friend.
39. Nielson told DF he had consulted with an unnamed securities attorney about the car deal and that everything was legal.
40. Nielson told DF that Cobb had ownership in a car dealership in Salt Lake City, called Signature Auto Sales and Leasing (Signature Auto Sales). Nielson said Cobb would provide a list of vehicles to Signature Auto Sales for DF to purchase.
41. A few days later, Nielson called DF to see if he was still interested in the car deal. DF said yes.

42. Nielson drove DF to Signature Auto Sales the same day and introduced DF to S. Chaudhry, the owner of Signature Auto Sales.
43. S. Chaudhry said Cobb gave him a list of cars, along with instructions for S. Chaudhry to buy them as cheaply as possible at the auto auction.
44. S. Chaudhry explained that he then obtains financing for the cars at their highest possible value for purchasers like DF, and delivers the cars, and the equity pulled from the cars, to Cobb who has leased the cars from purchasers like DF.
45. DF asked S. Chaudhry if this arrangement would work.
46. In response, S. Chaudhry asked, "Would I put my dealership on the line if I didn't think it would work?"
47. S. Chaudhry arranged for DF to purchase the following cars:

<u>Vehicle</u>	<u>Date Purchased</u>	<u>Financed By</u>	<u>Amt. Financed / Monthly Payment</u>
07 GMC Yukon	12/26/06	America First CU	\$48,670.75 / \$740.53
06 GMC Yukon	12/26/06	Jordan Credit Union	\$46,609.32 / \$706.88
06 Lexus Truck	Unknown	Jordan Credit Union	Unknown / \$720.92
07 Chevy Tahoe	12/26/06	Jordan Credit Union	\$43,624.52 / \$661.61
07 GMC Yukon	12/26/06	America First CU	\$48,670.76 / \$740.53

48. S. Chaudhry arranged the financing for the cars, and DF signed the sales contracts without reading them.

49. DF had no contact with the credit unions that financed the vehicles until DF started making the monthly payments.
50. On or about January 16, 2007, at Cobb's office, Cobb's assistant gave DF a "Capital Lease with Option to Purchase" agreement for each vehicle, which had been signed by Cobb.
51. Each lease agreement was between DF, as the lessor, and Cartlan, as the lessee.
52. DF received no other documents relating to the investment.
53. From January through April 2007, Cobb made the lease payments on the vehicles DF purchased.
54. By June 20, 2007, DF had repossessed all but one of the vehicles from Cobb and Cartlan. DF found one vehicle had been leased to BYU for \$1 per year, and the others were being driven by Cobb's employees.
55. DF made arrangements with America First Credit Union and Jordan Credit Union to sell the vehicles and finance the difference between the sales price and the remainder owed by DF.

The Emerald Mine Investment

56. On or about February 21, 2007, Nielson met DF in Utah County, Utah to discuss an investment opportunity in an emerald mine.
57. Nielson told DF the following regarding the emerald mine investment:

- a. Fossil Stone was going to purchase an emerald mine;
 - b. Fossil Stone had been in business for one year;
 - c. Cobb was the owner of Fossil Stone;
 - d. Fossil Stone had a great record;
 - e. DF had to invest \$35,000 to participate; and
 - f. DF would receive five points up front (\$1,750), plus five percent per month for three months.
58. On the same day, Nielson drove DF to Chase Bank, where DF purchased an official check for \$35,000 made payable to Meridian Title.
59. Nielson then drove DF to Meridian Title in Murray, Utah, where a Meridian Title employee took DF's check and gave Nielson a receipt. Nielson did not give DF a copy of the receipt, even after DF requested a copy.
60. On or about March 2, 2007, DF received his five points (\$1,750) from Blue Sovereign, via wire transfer into his bank account.
61. On or about March 28, 2007, DF received an interest payment of \$1,750, via wire transfer from Blue Sovereign.
62. When the April interest payment did not arrive, DF's wife, TF, contacted Cobb's office and requested a copy of the promissory note associated with DF's investment in the emerald mine.

63. On or about May 9, 2007, Cobb's assistant sent TF a copy of the promissory note via facsimile.
64. The note was from Blue Sovereign to DF, dated February 21, 2007, and promised interest of five percent per month on the \$35,000 investment. The note appears to have been signed by Cobb.
65. After receiving the note, TF requested the return of the principal investment.
66. To date, Cobb has not returned DF's investment, and DF is owed \$35,000 in principal alone.
67. Meridian Title's records reveal that all of DF's \$35,000 was used by Cobb to pay for an extension on a \$326,080 note held by an individual by the name of C. Jackson. The note was secured by a trust deed on Green's home.

Investor NB

68. In mid-January 2007, NB met with Green, at Green's office in Utah County, Utah to discuss an investment opportunity.
69. At the meeting, Green told NB the following:
 - a. The company "mills houses";
 - b. The company purchases properties, sells them to investors / buyers after having stripped the properties of their equity;
 - c. The company rents the homes from the investors / buyers for an amount above the

buyers' monthly payments, which creates positive cash flow for the investors / buyers; and

- d. The company also "mills" cars and snowmobiles, and purchases emeralds which are cut and sold.

- 70. NB left the meeting not knowing the name of the company.
- 71. Approximately one or two weeks after the first meeting with Green, NB met with Green a second time at his office. Present at the second meeting were NB, NB's friend JJ, and Green.
- 72. At the second meeting, Green told NB and JJ the same things Green told NB in the first meeting. Green added that if Blue Sovereign stopped making payments, the investor would need a "back-up plan." Green also said Blue Sovereign had millions of dollars in assets and was not going away.
- 73. NB contacted Blue Sovereign and was told to contact a particular lender and ask for "Matt." Matt approved NB for a \$1.5 million loan over the telephone.
- 74. NB called Green and told Green to start looking for a property for NB to purchase. Green, however, failed to find a suitable property for NB.
- 75. In early February 2007, NB met for a third time at Blue Sovereign, this time with Green and Nielson.
- 76. At the meeting, NB told Nielson that NB and JJ had approximately \$66,000 to invest, and

NB asked if there was a way they could make two to three percent per month with the company.

77. Nielson then asked Cobb to join the meeting.
78. Cobb told NB the following:
 - a. NB could invest in a promissory note, which would pay interest of two percent per month;
 - b. Cobb would waive the minimum investment amount because NB and JJ had been trying to do business with the company; and
 - c. NB would have to sign a document entitled "Agreement of Understanding."
79. Nielson told NB the promissory note sale was Cobb's sale, not Nielson's sale. Nielson said Nielson had a securities license and his role at the company involved securities and investing.
80. At one of the meetings, Green told NB the company had a lot of investors and that Green and Nielson had invested their own money.
81. On February 23, 2007, NB sent \$40,000, via wire transfer, to a local Utah bank per Cobb's assistant's instructions.
82. A few days later JJ invested \$26,808 in the same account.
83. After investing, NB received two promissory notes from Blue Sovereign, both of which were signed by Cobb as the Managing Director of Blue Sovereign. One of the notes was

for JJ's investment.

84. NB's note was dated February 23, 2007, promised interest of two percent per month (\$1,336.30), and matured in one year.
85. NB received just one interest payment of \$800 on or about March 20, 2006.
86. To date, NB has not received a return of his investment from Cobb and is still owed \$40,000 in principal alone.
87. Bank records reveal that some of NB's funds were used by Cobb to pay what appear to be personal expenses.

CAUSES OF ACTION

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

88. The Division incorporates and re-alleges paragraphs 1 through 87.
89. The investment opportunities offered and sold by Nielson are securities under § 61-1-13 of the Act.
90. In connection with the offer and sale of a security (car leasing deal) to DF, Nielson, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. Cobb had ownership in a car dealership in Salt Lake City, Utah.
91. In connection with the offer and sale of a security (the emerald mine / promissory note) to DF, Nielson, directly or indirectly, made false statements, including, but not limited to, the following:

- a. DF's money would be invested in an emerald mine;
 - b. Fossil Stone had a great record, when in fact, Nielson had no reasonable basis on which to make this representation; and
 - c. DF would receive five points up front, plus five percent per month for three months.
92. In connection with the offer and sale of securities, Nielson, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations made, in the light of the circumstances under which they were made, not misleading:
- a. Cobb had an unpaid civil judgment against him by Caldwell Real Estate, LLC for \$106,090 in the Third Judicial District Court from November 2005;
 - b. Nielson and his wife filed for bankruptcy in 1999;
 - c. Nielson had an unpaid civil judgment against him by "Kensington Park" for \$43,422 in the Third Judicial District Court from August 2005;
 - d. Some or all of the information typically provided in an offering circular or prospectus regarding Blue Sovereign, Cartlan, and Fossil Stone, such as:
 - i. Business and operating history;
 - ii. Identities of principals in the companies, along with their experience in that particular type of business;

- iii. Financial statements of the companies;
- iv. The market for the products of the companies;
- v. The nature of the competition for the products;
- vi. Current capitalization of the companies;
- vii. The track record of the companies to investors;
- viii. Risk factors for investors;
- ix. The number of other investors;
- x. The disposition of any investments received if the minimum capitalization is not achieved;
- xi. The liquidity of the investments;
- xii. Discussion of pertinent suitability factors for the investments;
- xiii. The proposed use of investment proceeds.
- xiv. Any involvement of the companies or the principals in certain legal proceedings, including bankruptcy and prior violation of state or federal securities laws;
- xv. Any conflicts of interest the companies, the principals, or the agent may have with regard to the investments;
- xvi. Agent commissions or compensation for selling investments;
- xvii. Whether the investments are registered securities or exempt from

registration; and

xviii. Whether the person(s) selling the investments were licensed.

II. THE DIVISION'S CONCLUSIONS OF LAW

95. Based on the Division's investigative findings, the Division concludes that:

- a. The investment opportunities offered and sold by Nielson are securities under § 61-1-13 of the Act; and
- b. Nielson violated § 61-1-1(2) of the Act by making untrue statements of material fact and omitting to state material facts in connection with the offer and sale of securities, disclosure of which was necessary in order to make representations made not misleading.

III. REMEDIAL ACTIONS/SANCTIONS

96. Nielson admits the Division's findings of fact and conclusions of law and consents to the sanctions below being imposed by the Division.
97. Nielson agrees to the imposition of a cease and desist order, prohibiting him from any conduct that violates the Act.
98. Nielson agrees that he will be barred from (i) associating² with any broker-dealer or investment adviser licensed in Utah; (ii) acting as an agent for any issuer soliciting

²“Associating” includes, but is not limited to, acting as an agent of, receiving compensation directly or indirectly from, or engaging in any business on behalf of a broker-dealer, agent, investment adviser, or investment adviser representative licensed in Utah. “Associating” does not include any contact with a broker-dealer, agent, investment adviser, or investment adviser representative licensed in Utah incidental to any personal relationship or business not related to the sale or promotion of securities or the giving of investment advice in the state of Utah.

investor funds in Utah; and (iii) from being licensed in any capacity in the securities industry in Utah.

99. Nielson agrees to pay restitution as ordered in the criminal case, *State of Utah v. Evan McKay Nielson*, Case No. 081904014, Third Judicial District Court of Utah (2008).
100. For the entire time that restitution remains outstanding, Nielson agrees to notify the Division of any change in his mailing address, within thirty days from the date of such change.

IV. FINAL RESOLUTION

101. Nielson acknowledges that this Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.
102. Nielson further acknowledges that if the Securities Commission does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
103. Nielson 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 his conduct referenced herein.
104. Nielson acknowledges that a violation of this Order is a third degree felony pursuant to § 61-1-21(1)(b) of the Act.

105. The 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 the Order in any way. The Order may be docketed in a court of competent jurisdiction. Upon entry of the Order, any further scheduled hearings are canceled.

RECEIVED

OCT 10 2013

Utah Department of Commerce
Division of Securities

Utah Division of Securities

Date: 10-15-2013

By: 
Dave R. Hermansen
Director of Enforcement

Respondent

Date: 10-2-13

By: 
Evan McKay Nielson

Approved:



Paul G. Amann
Assistant Attorney General
D.P.

ORDER

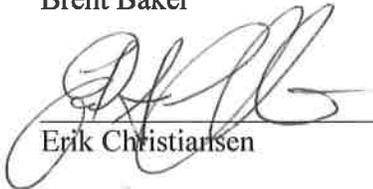
IT IS HEREBY ORDERED THAT:

1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement.
2. Nielson cease and desist from violating the terms of the Act.
3. Nielson is barred from (i) associating with any broker-dealer or investment adviser licensed in Utah; (ii) acting as an agent for any issuer soliciting investor funds in Utah; and (iii) from being licensed in any capacity in the securities industry in Utah.
4. Nielson pay restitution as ordered in the criminal case, *State of Utah v. Evan McKay Nielson*, Case No. 081904014, Third Judicial District Court of Utah (2008).
5. For the entire time that restitution remains outstanding, Nielson notify the Division of any change in his mailing address, within 30 days from the date of such change.

BY THE UTAH SECURITIES COMMISSION:

DATED this 5 day of December, 2013.

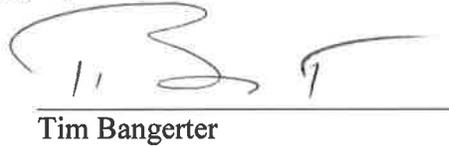
Brent Baker



Erik Christiansen



David Russon



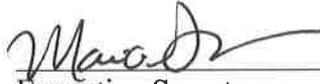
Tim Bangerter

Gary Cornia

Certificate of Mailing

I certify that on the 5th day of December, 2013, I mailed, by regular mail, a true and correct copy of the Stipulation and Consent Order to:

EVAN MCKAY NIELSON
502 WEST 200 NORTH, #B
PAYSON, UT 84651



Executive Secretary

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

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

IN THE MATTER OF:

NATHAN S. TOOLE,

Respondent.

**STIPULATION AND CONSENT
ORDER**

Docket No. SD-12-0077

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Dave R. Hermansen, and Nathan S. Toole (Toole) hereby stipulate and agree as follows:

1. Toole was the subject of an investigation conducted by the Division into allegations that he violated certain provisions of the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, *et seq.*, as amended (the Act).
2. In connection with that investigation, the Division issued an Order to Show Cause against Toole on December 18, 2012. Criminal charges were also filed against Toole on

February 8, 2013.¹

3. Toole waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf. Toole understands that by waiving a hearing, he is waiving the requirement that the Division prove the allegations against him by a preponderance of the evidence, waiving his right to confront and cross-examine witnesses who may testify against him, to call witnesses on his own behalf, and any and all rights to appeal the findings, conclusions and sanctions set forth in this Stipulation and Consent Order (Order).
4. Toole is represented by Mark Pugsley of Ray Quinney and Nebeker and is satisfied with his advice and representation in this matter.
5. Toole acknowledges that this Order does not affect any enforcement action that might be brought by a criminal prosecutor or any other local, state, or federal enforcement authority.
6. Toole admits the jurisdiction of the Division over him and over the subject matter of this action.

¹ *State of Utah v. Nathan S Toole*, Case No. 131901324, Third Judicial District Court of Utah (2013). Toole entered into a plea in abeyance agreement with respect to one count of second degree securities fraud on June 3, 2013 and was ordered to pay \$72,833 restitution in connection therewith.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENT

7. Toole was, at all times relevant to the matters asserted herein, a resident of Utah. Toole has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

8. Between February 2010 and May 2011, while conducting business in Salt Lake County, Utah, Toole offered and sold two investment contracts to one investor, a resident of the state of Pennsylvania.
9. Investment contracts are securities under § 61-1-13 of the Act.
10. Toole made misstatements and omissions of material facts to the investor.
11. The investor lost \$72,833 in principal alone.

INVESTOR A.E.

FIRST OFFER AND/OR SALE OF A SECURITY

12. Toole and A.E. met at a party in Salt Lake City, Utah in or around November 2009.
13. At that time, A.E. learned that Toole was involved in day trading, and over the next few months they stayed in contact with one another.
14. In or around February 2010, A.E. decided to invest with Toole; however, he requested some form of collateral and/or security in exchange for his investment.
15. In response to that request, Toole showed A.E. a copy of a life insurance policy with a

\$200,123.99 payout that Toole expected to receive from his mother's recent passing.

16. Additionally, Toole made the following statements to A.E. regarding a potential investment:
 - a. A.E. was guaranteed to earn 4% interest per month for six months on the investment;
 - b. After six months, Toole would wire the investment funds, with interest, back to A.E.;
 - c. Toole assured A.E. that his investment was safe;
 - d. Additionally, he represented that A.E.'s investment was secured by the amount in Toole's trading account, and Toole would not let that amount fall below what was owed to A.E.; and
 - e. The interest that Toole agreed to pay A.E. would not be affected by the returns earned on Toole's trading account.
17. On February 16, 2010, A.E.'s wired \$9,975 to Toole's Wachovia (now Wells Fargo) bank account.
18. In exchange for the investment, A.E. received an investment agreement signed by Toole and dated February 13, 2010.
19. Using a source and use analysis, Toole used A.E.'s \$9,975 investment from February 16, 2010 to approximately March 4, 2010, in the following manner:

- a. \$4,999.44 paid to Toole's wife's business Borg & Ivey, LLC;
 - b. \$4,462.56 paid to other individuals;
 - c. The remainder of the funds went to pay Toole's personal living and other expenses.
20. On August 10, 2010, Toole paid A.E. \$2,400 in interest on the investment.
 21. At that time, A.E. decided to leave the initial investment of \$9,975 with Toole.
 22. In total, A.E. received \$4,800 in payments from Toole between August 20, 2010 and March 3, 2011.
 23. Toole still owes A.E. \$5,175 in principal alone on the February 2010 investment.

SECOND OFFER AND/OR SALE OF A SECURITY

24. On May 16, 2011, A.E. invested an additional \$73,775 with Toole.
25. In return, A.E. received a new investment contract obligating Toole to pay the principal and 5% monthly interest on the investment for six months.
26. The investment contract is signed by Toole.
27. Additionally, it states that the amount of the investment is \$85,000, though the actual amount A.E. invested in the two investment contracts was \$83,750 (the sum of \$9,975 and \$73,775).
28. A.E.'s decision to invest another \$73,775 with Toole was based in part on account statements Toole sent A.E. regarding his first investment.

29. Specifically, Toole presented statements on Trade Station Securities' (Trade Station)² letterhead that reflected gains on A.E.'s first investment.
30. On September 5, 2012, Trade Station confirmed that the statements Toole sent to A.E. were not official statements from its office. Trade Station also confirmed that at the time A.E. made the first investment, Toole did not have any money in his trading account, contrary to his representations to A.E.
31. Toole's bank records confirm that A.E. transferred \$73,775 on May 16, 2011 into a Mountain America Credit Union account belonging to Toole's wife's business, Borg & Ivey, LLC.
32. Toole did not have signatory authority on the Borg & Ivey account.
33. Bank records show checks written in Toole's handwriting and signed by his wife.
34. Using a source and use analysis, A.E.'s funds were used from May 16, 2011 to approximately June 7, 2011, in the following manner:
 - a. \$56,944.63 transfer to Trade Station Securities; and
 - b. \$16,830.38 spent on personal expenses and payments to other investors and/or individuals.
35. On or around December 19, 2011, A.E. received \$6,117 from Toole.
36. Toole still owes A.E. \$67,658 in principal alone from the second investment.

² Trade Station is a licensed broker dealer with a platform that offers electronic order execution.

CAUSES OF ACTION

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

37. The Division incorporates and re-alleges paragraphs 1 through 36.
38. The investment contracts offered and sold by Toole are securities under § 61-1-13 of the Act.
39. In connection with the offer and sale of securities, Toole, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. The investment funds would be safe;
 - b. Toole would not let his trading account balance drop below the amount A.E. had invested;
 - c. A.E. was guaranteed a 4% and 5% rate of return on his respective investments;
and
 - d. Toole had enough money in the trading account to secure the investments.
40. In connection with the offer and sale of securities, Toole, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make statements made not misleading:
 - a. Toole did not have money in the trading account at the time of A.E.'s first investment;
 - b. Toole sent fabricated statements to A.E. prior to A.E.'s second investment;
 - c. How Toole would earn interest on A.E.'s investments;

- d. That A.E.'s investment funds would be used for Toole's wife's business, paying other individuals, and paying Toole's personal and other expenses;
- e. That Toole had \$16,300.58 in outstanding judgments at the time of A.E.'s second investment; and
- f. Some or all of the information typically provided in an offering circular or prospectus regarding Toole, such as:
 - i. Financial statements;
 - ii. The market for Toole's service(s);
 - iii. The nature of the competition for the service(s);
 - iv. Toole's track record regarding other investors;
 - v. The number of other investors;
 - vi. The risk factors for investors;
 - vii. Discussion of relevant suitability factors for the investments;
 - viii. Any conflicts of interest with regard to the investments;
 - ix. Whether the investment was a registered security or exempt from registration; and
 - x. Whether Toole was licensed to sell the investment.

II. THE DIVISION'S CONCLUSIONS OF LAW

- 41. Based on the Division's investigative findings, the Division concludes that:
 - a. The investment opportunities offered and sold by Toole are securities under § 61-

1-13 of the Act; and

- b. Toole violated § 61-1-1(2) of the Act by making untrue statements of material fact and omitting to state material facts in connection with the offer and sale of securities, disclosure of which was necessary in order to make representations made not misleading.

III. REMEDIAL ACTIONS/SANCTIONS

- 42. Toole admits the Division's findings of fact and conclusions of law and consents to the sanctions below being imposed by the Division.
- 43. Toole agrees to the imposition of a cease and desist order, prohibiting him from any conduct that violates the Act.
- 44. Toole agrees that he will be barred from (i) associating³ with any broker-dealer or investment adviser licensed in Utah; (ii) acting as an agent for any issuer soliciting investor funds in Utah; and (iii) from being licensed in any capacity in the securities industry in Utah.
- 45. Pursuant to § 61-1-20(1)(f) of the Act and in consideration of the guidelines set forth in Utah Administrative Code Rule R164-31-1, the Division imposes a fine of \$75,333 against Toole, with \$72,833 of that fine available to be offset by payments of restitution

³"Associating" includes, but is not limited to, acting as an agent of, receiving compensation directly or indirectly from, or engaging in any business on behalf of a broker-dealer, agent, investment adviser, or investment adviser representative licensed in Utah. "Associating" does not include any contact with a broker-dealer, agent, investment adviser, or investment adviser representative licensed in Utah incidental to any personal relationship or business not related to the sale or promotion of securities or the giving of investment advice in the State of Utah.

to the investor.⁴ The remaining \$2,500 fine shall be paid in full six months from the entry of this Order. If the Division finds that Toole materially violates any term of this Order, thirty days after notice and an opportunity to be heard before an administrative officer solely as to the issue of a material violation, Toole consents to a judgment ordering the unpaid balance of the fine immediately due and payable.

46. Each dollar paid by Toole to the investor toward restitution shall be credited by the Division toward payment of the fine, up to \$72,833. Toole shall send to the Division the cancelled checks for each payment made to the investor.
47. For the entire time that the fine and/or restitution remains outstanding, Toole agrees to notify the Division of any change in his mailing address, within 30 days from the date of such change.

IV. FINAL RESOLUTION

48. Toole acknowledges that this Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.
49. Toole further acknowledges that if the Securities Commission does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
50. Toole acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against him rising 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

⁴ Toole was ordered to pay \$72,833 in restitution through the related criminal case. According to the August 6, 2013 Order for Restitution in that case, payments will be made in the amount of \$350 per month, beginning on August 15th, for the duration of Toole's probationary period. At the conclusion of that time period, the court may review the status of such payments and order any unpaid balance to the Office of State Debt Collection.

of his conduct referenced herein.

51. Toole acknowledges that a violation of this Order is a third degree felony pursuant to § 61-1-21(1)(b) of the Act.
52. The 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 the Order in any way. Upon entry of the Order, any further scheduled hearings are canceled.

Utah Division of Securities

Date: _____

By: _____

Dave R. Hermansen
Director of Enforcement

Respondent

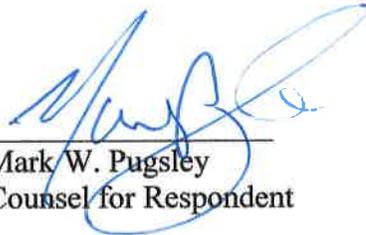
Date: 10/1/2013

By: Nathan S. Toole

Nathan S. Toole

Approved:

Paul G. Amann
Assistant Attorney General
K.W.



Mark W. Pugsley
Counsel for Respondent

Utah Division of Securities

Date: Oct. 2, 2013

By: 
Dave R. Hermansen
Director of Enforcement

Respondent

Date: _____

By: _____
Nathan S. Toole

Approved:



Paul G. Amann
Assistant Attorney General
K.W.

Mark W. Pugsley
Counsel for Respondent

Utah Division of Securities

Date: _____

By: _____
Dave R. Hermansen
Director of Enforcement

Approved:

Paul G. Amann
Assistant Attorney General
K.W.

Respondent

Date: 9/17/2013

By: Nathan S. Toole
Nathan S. Toole

Mark W. Pugsley
Mark W. Pugsley
Counsel for Respondent

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement.
2. Toole cease and desist from violating the terms of the Act.
3. Toole is barred from (i) associating with any broker-dealer or investment adviser licensed in Utah; (ii) acting as an agent for any issuer soliciting investor funds in Utah; and (iii) from being licensed in any capacity in the securities industry in Utah.
4. The Division impose a fine of \$75,333 against Toole, with \$72,833 of that fine eligible to be offset by restitution payments to the investors. The remaining \$2,500 balance shall be paid within six months of the entry of this Order.
5. If Toole materially violates any of the terms of this Order, the unpaid balance of the fine amount shall be imposed and become due immediately.

BY THE UTAH SECURITIES COMMISSION:

DATED this 5 day of December, 2013.

Brent Baker



Erik Christiansen



David Russon



Tim Bangerter

Gary Cornia

Certificate of Mailing

I certify that on the 5th day of December, 2013, I mailed, by regular mail, a true and correct copy of the Stipulation and Consent Order to:

NATHAN S. TOOLE
c/o MARK PUGSLEY
RAY QUINNEY & NEBEKER
36 SOUTH STATE STREET
SUITE 1400
SALT LAKE CITY, UT 84111



Executive Secretary

DIVISION OF SECURITIES
KEITH WOODWELL, DIRECTOR
DEPARTMENT OF COMMERCE
P.O. BOX 146741
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6711
Telephone: (801) 530-6628

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

IN THE MATTER OF

THE EQUITY ADVANTAGE, INC.;
JOSHUA MICAH SMITH,

RESPONDENTS

**RECOMMENDED ORDER ON MOTION
FOR DEFAULT**

CASE NO. SD-11-0098
CASE NO. SD-11-0099

BY THE PRESIDING OFFICER:

This adjudicative proceeding was initiated pursuant to a notice of agency action served February 28, 2012. A response to the accompanying order to show cause was due within 30 days of service. The notice specified that a failure to comply with the deadline for response would result in the entry of a default order against Respondents without any further notice.

As of the date of this order, Respondents have not filed a response to the Division's order to show cause or made any effort to participate in the proceeding. Therefore, the presiding officer finds that, pursuant to Utah Code § 63G-4-209(1) (c), proper factual and legal bases exist for entering a default order against Respondents.

RECOMMENDED ORDER

Based on the foregoing, the presiding officer recommends that the Utah Securities Commission accept the allegations outlined in the Division's order to show cause as being true, to wit:

1. That the investment opportunities offered and sold by Respondents are securities under Utah Code Ann. § 61-1-13(1)(ee)(i);
2. That in connection with the offer and sale of securities, and in violation of Utah Code Ann. § 61-1-1(2), Respondents directly or indirectly made false statements to investors;
3. That in connection with the offer and sale of securities, and in violation of Utah Code Ann. § 61-1-3(2)(a), Respondents employed an unlicensed agent; and
4. That Respondents' actions, which constitute one or more violations of Utah Code Ann. § 61-1 et seq, are grounds for sanction under the Act.

The presiding officer further recommends that the Utah Securities Commission enter a default order against Respondents, requiring them:

1. To cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1 et seq; and
2. To pay a fine of \$415,125.00 to the Utah Division of Securities, with any restitution paid to investors serving to offset the administrative fine on a dollar-to-dollar basis.

Finally, the presiding officer recommends that, upon entering the default order, the Utah Securities Commission dismiss any further proceedings in this case.

This recommended order shall be effective on the signature date below.

DATED this 28th day of October, 2013.

UTAH DEPARTMENT OF COMMERCE


Jennie T. Jonsson
Presiding Officer

CERTIFICATE OF DELIVERY

I hereby certify that on the 28th day of October, 2013, the undersigned hand delivered a true and correct copy of the foregoing RECOMMENDED ORDER ON MOTION FOR DEFAULT to the following:

Utah Securities Commission
c/o Keith Woodwell, Director, Utah Division of Securities
Heber M. Wells Building, 2nd Floor
Salt Lake City, UT



DIVISION OF SECURITIES
KEITH WOODWELL, DIRECTOR
DEPARTMENT OF COMMERCE
P.O. BOX 146741
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6711
Telephone: (801) 530-6628

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

IN THE MATTER OF

THE EQUITY ADVANTAGE, INC.;
JOSHUA MICAH SMITH,

RESPONDENTS

ORDER ON MOTION FOR DEFAULT

CASE NO. SD-11-0098
CASE NO. SD-11-0099

BY THE UTAH SECURITIES COMMISSION:

The presiding officer's October 28, 2013 recommended order on motion for default in this matter is hereby approved, confirmed, accepted, and entered by the Utah Securities Commission.

ORDER

Respondents are hereby ordered cease and desist from engaging in any further conduct in violation of Utah Code § 61-1 et seq.

Respondents are hereby ordered to pay a fine of \$415,125.00 to the Utah Division of Securities, with any restitution paid to investors serving to offset the administrative fine on a dollar-to-dollar basis.

All further proceedings in this case are dismissed. This dismissal does not relieve Respondent from complying with the terms of the default order.

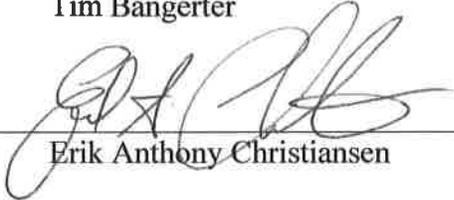
This order shall be effective on the signature date below.

DATED this 5 day of December, 2013

UTAH SECURITIES COMMISSION:



Tim Bangerter



Erik Anthony Christiansen

Brent Baker

Gary Cornia



David Russon

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

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

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of December, 2013 the undersigned served a true and correct copy of the foregoing ORDER ON MOTION FOR DEFAULT by mailing a copy through first-class mail, postage prepaid, to:

The Equity Advantage, Inc.
Joshua Micah Smith
1052 White Sands Dr.
Washington, UT 84780

and caused a copy to be hand delivered to:

Paul Amann, Assistant Attorney General
Office of the Attorney General of Utah
Fifth Floor, Heber M. Wells Building
Salt Lake City, Utah

Utah Division of Securities
Second Floor, Heber M. Wells Building
Salt Lake City, Utah



1 Division of Securities
Utah Department of Commerce
2 160 East 300 South
Box 146760
3 Salt Lake City, UT84114-6760
Telephone: (801) 530-6600
4 FAX: (801) 530-6980

5
6 BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
7 OF THE STATE OF UTAH

8 IN THE MATTER OF:

**STIPULATION AND CONSENT
ORDER**

9
10 **UBS FINANCIAL SERVICES, INC.,**
11 **CRD#8174**

Docket No. SD-13-6051

12 Respondent.

13
14 The Utah Division of Securities (“Division”), by and through its Director of Licensing and
15 Compliance, Kenneth O. Barton, and UBS Financial Services, Inc. (“UBS”) hereby stipulate and
16 agree as follows:

17
18 WHEREAS, UBS Financial Services, Inc. (“UBS”) is a broker-dealer registered in the State
19 of Utah, with a Central Registration Depository (“CRD”) number of 8174; and

20 State securities regulators, as part of a North American Securities Administrators
21 Association (“NASAA”) working group (the “NASAA Working Group”), have conducted an
22 investigation into the registration of UBS Client Service Associates (“CSAs”) and UBS’s
23 supervisory system with respect to the registrations of CSAs; and

24 UBS has cooperated with state securities regulators and the NASAA Working Group
25 conducting the investigation by responding to inquiries, providing documentary evidence and other
26 materials, and providing access to facts relating to the investigations; and

UBS has advised the NASAA Working Group of its agreement to resolve the investigation

1 pursuant to the terms specified in this Stipulation and Consent Order ("Order") and pursuant to the
2 multi-state resolution recommended by theNASAA Working Group; and

3 UBS has made certain changes in its supervisory system with respect to the registration of
4 CSAs, and will make certain payments in accordance with the terms of this Order; and

5 UBS elects to waive permanently any right to a hearing and appeal under the Utah
6 Administrative Procedures Act, Title 63G, Chapter 4 of the Utah Code with respect to this Order;
7 and

8 Solely for the purpose of terminating the NASAA working group investigation, and in
9 settlement of the issues contained in this Order, UBS, without admitting or denying the findings of
10 fact or conclusions of law contained in this Order, consents to the entry of this Order.

11 NOW, THEREFORE, the Division, as administrator of the Utah Uniform Securities Act
12 ("Act"), hereby enters this Order:

13 **I.**

14 **FINDINGS OF FACT**

15 1. UBS admits the jurisdiction of the Division in this matter.

16 Background on Client Service Associates

17 2. The CSAs function as sales assistants and typically provide administrative and sales
18 support to one or more of UBS's Financial Advisors ("FAs"). There are different titles within the
19 CSA position, including Client Service Associate, Registered Client Associate, and Senior
20 Registered Client Service Associate.

21 3. The responsibilities of CSAs specifically include, among other things:

- 22 a. Extending invitations to UBS-sponsored events;
- 23 b. Providing published quotations to clients, if asked;
- 24 c. Inquiring whether a current or prospective client wishes to discuss investments with
25 a registered representative of UBS; and
26

1 d. Entering an order, provided the order was accepted by an appropriately registered
2 individual in those instances where the CSA is not registered in the state in which
3 the client is located.

4 4. In addition to the responsibilities described above, and of particular significance to this
5 Order, some CSAs are permitted to accept orders from clients. As discussed below, UBS's written
6 policies and procedures require that any CSAs accepting client orders first obtain the necessary
7 licenses and comply with self-regulatory organization and state registration requirements.

8 5. UBS issued a revised policy on registration requirements on March 28, 2007, which
9 stated, inter alia, that managers are responsible for ensuring that all employees under their
10 supervision are appropriately registered and licensed to perform the functions of their position.

11 6. During the period of 2004 to 2010, UBS employed, on average, approximately 2,277
12 CSAs per year.

13 Licensing¹ Required

14 7. Section 61-1-3(1) of the Act provides that it is unlawful for a person to transact
15 securitiesbusiness in Utah as a broker-dealer or agent unless the person is licensed with the
16 Division. Section 61-1-3(2)(a) further provides that it is unlawful for a broker-dealer to employ or
17 engage an agent unless the agent is licensed.

18 8. Pursuant to the general prohibition under 61-1-3(1), a person cannot accept unsolicited
19 orders in Utah without being licensed with the Division.

20 9. Pursuant to Section 61-1-6(2)(a)(ii)(J) of the Act, a broker-dealer may be fined for
21 selling securities in Utah through agents other than licensed agents.

22 UBS Requires Registration of Client Service Associates

23 10. UBS requires CSAs to become properly registered, licensed, and appointed with the
24 necessary self-regulatory organizations, state regulators, and business entities before taking
25 solicited or unsolicited transaction orders from clients in securities or other financial products,

26 ¹ With respect to securities professionals and the firms with which they are associated, the Utah Uniform Securities Act uses the term "licensing" in the same manner other jurisdictions may use the term "registration". For purposes of this Order the two terms should be considered synonymous.

1 receiving transaction-related compensation, or otherwise engaging in the offer or sale of securities
2 or other financial products.

3 11. UBS's policies and procedures state that CSAs engaging in securities activities must
4 register in, at a minimum, the state from which they conduct business (i.e. home state).

5 12. Additionally, UBS also required CSAs to register in states in which a CSA anticipated:

- 6 a. Maintaining an additional place of business;
- 7 b. Prospecting clients;
- 8 c. Soliciting new accounts;
- 9 d. Servicing existing accounts; or
- 10 e. Effecting any securities transactions and/or receiving compensation as a result of
11 such transactions.

12 Regulatory Investigation and Findings

13 13. In March 2010, state securities regulators initiated an investigation into the practices of
14 UBS in connection with its CSA registrations.

15 14. The multi-state investigation focused on systemic issues with UBS's CSA registrations
16 and related supervisory structure instead of attempting to identify each incidence of unregistered
17 activity. Specifically, with respect to the order entry process, the investigation found:

- 18 a. After accepting a client order, UBS CSAs accessed UBS's automated
19 Consolidated Order Entry System ("COE") to enter the order;
- 20 b. When entering an order through the COE, CSAs were asked by the system "Did
21 another person receive this order?" If the question was answered "no," the order
22 was processed. If the question was answered "yes," a free text field appeared for
23 the CSA to enter the name or employee code of the person who accepted the order;
- 24 c. In some instances, when this question was answered "yes," CSAs did not include
25 a name or code of the employee who accepted the order in the free text field. In
26 other instances, the free text field did not contain accurate identifying information
about the employee who accepted the trade;

1 d. Further, while UBS maintained a system to verify that the FA of record for a
2 particular account was registered in the state where the client resided, UBS did not
3 maintain a system to verify the registration status of the employee accepting a client
4 order when that employee was not the FA for the account.

5 15. The multi-state investigation found that on certain occasions some UBS CSAs, while
6 Series 7 registered and registered in one or more other states, accepted unsolicited orders to buy or
7 sell securities from clients residing in Utah at times when the CSAs were not appropriately
8 registered in Utah.

9 UBS's Remedial Measure and Cooperation

10 16. In November 2010, after the initial inquiry by state securities regulators, UBS enhanced
11 the COE System to automatically validate the registration of employees during the order entry
12 process.

13 17. Specifically with respect to branch support staff (i.e. CSAs), employees are now
14 required to indicate the person who directly accepted the order from a client by selecting "self" or
15 "other" within the electronic ticket on the COE.

16 18. If a CSA selects "self", the COE validates whether the CSA who accepted the order is
17 properly registered in the state where the client resides.

18 19. If a CSA selects "other," the CSA must provide identifying information of the person
19 who accepted the order. The COE system subsequently validates whether the identified person
20 who accepted the order is properly registered in the state where the client resides.

21 20. If the identified person is not properly registered in the client's state of residence, the
22 order is routed to branch management who must ensure that a properly registered person accepts or
23 confirms the order before execution.

24 21. UBS provided timely responses and substantial cooperation in connection with this
25 regulatory investigation.
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II.

CONCLUSIONS OF LAW

1. The Division has jurisdiction over this matter pursuant to Section 61-1-6 of the Act.

2. UBS's failure to establish an adequate system to monitor the registration status of persons accepting client orders constitutes failure to reasonably supervise under Section 61-1-6(2)(a)(ii)(J) of the Act.

3. UBS's maintenance of order tickets which do not accurately identify the person who accepted client orders constitutes a failure to maintain books and records, as required by Section 61-1-5 of the Act and Utah Admin. Code Rule R164-5-1(C).

4. UBS's acceptance of orders for purchases and sales of securities from clients residing in Utah through CSAs not registered in Utah constitutes violations of Section 61-1-3(2)(a) for employment of unlicensed agents.

5. UBS's acceptance of orders for purchases and sales of securities in Utah through agents not registered in Utah constitutes bases to order UBS to cease and desist engaging in the sale of securities in Utah through unregistered agents.

6. Pursuant to 61-1-6(2)(a)(ii)(J), the violations described above constitute bases for the assessment of an administrative fine against UBS.

7. The Division finds the following relief appropriate and in the public interest.

III.

ORDER

On the basis of the Findings of Facts, Conclusions of Law, and UBS's consent to the entry of this Order,

IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the Division and any other action that

1 the Division could commence against UBS and its officers, directors and present or former employees
2 under applicable Utah law on behalf of Utah as it relates to unregistered activity in Utah by UBS's
3 CSAs and UBS's supervision of CSA registrations during the period from January 1, 2004 through
4 December 31, 2010.

5 2. This Order is entered into solely for the purpose of resolving the referenced multi-
6 state investigation, and is not intended to be used for any other purpose. For any person or entity
7 not a party to the Order, this Order does not limit or create any private rights or remedies against
8 UBS including, limit or create liability of UBS, or limit or create defenses of UBS, to any claims.

9 3. UBS is hereby censured and ordered to cease and desist from engaging in the
10 acceptance of orders for purchases and sales of securities in the Utah through persons not registered
11 with the Division as agents of UBS.

12 4. UBS is hereby ordered to pay the sum of seventy thousand two hundred eighty-eight
13 dollars thirty five cents (\$ 70,288.35) as an administrative fine to the Division within twenty days of
14 the entry of this Order.

15 5. This order is not intended by the Division to subject any Covered Person to any
16 disqualifications under the laws of the United States, any state, the District of Columbia, Puerto
17 Rico, or the U.S. Virgin Islands, or under the rules or regulations of any securities or commodities
18 regulator or self-regulatory organization, including, without limitation, any disqualification from
19 relying upon the state or federal registration exemptions or safe harbor provisions. "Covered
20 Person," means UBS or any of its affiliates and their current or former officers or former officers,
21 directors, employees, or other persons that could otherwise be disqualified as a result of the Orders
(as defined below).

22 6. This Order and the order of any other State in any proceeding related to UBS's
23 agreement to resolve the above referenced multi-state investigation (collectively, the "Orders")
24 shall not disqualify any Covered Person from any business that they otherwise are qualified,
25 licensed or permitted to perform under applicable securities laws or regulations of the State of Utah
26 and any disqualifications from relying upon this state's registration exemptions or safe harbor

1 provisions that arise from the Orders are hereby waived.

2 7. This Order shall be binding upon UBS and its successors and assigns as well as to
3 successors and assigns of relevant affiliates with respect to all conduct subject to the provisions
4 above and all future obligations, responsibilities, undertakings, commitments, limitations,
5 restrictions, events, and conditions.

6 8. UBS acknowledges that this Order, upon approval by the Utah Securities Commission
7 (“Commission”) shall be the final compromise and settlement of this matter. UBS further
8 acknowledges that if the Commission does not accept the terms of the Order, it shall be deemed null
9 and void and without any force or effect whatsoever.

10 9. This Order constitutes the entire agreement between the parties herein and supersedes
11 and cancels any and all prior negotiations, understandings, or agreements between the parties. There
12 are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way.

13 Utah Division of Securities

14 Date: 28 October, 2013

15 By: Kenneth Barton
16 Kenneth O. Barton
17 Director of Licensing and Compliance

CONSENT TO ENTRY OF CONSENT ORDER BY UBS FINANCIAL SERVICES, INC.

UBS hereby acknowledges that it has been served with a copy of this Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

UBS admits the jurisdiction of the Division, neither admits nor denies the Findings of Facts and Conclusions of Law contained in this Order, and consents to entry of this Order by the Division as settlement of the issues contained in this Order.

UBS agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any administrative monetary penalty that UBS shall pay pursuant to this Order.

UBS states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

Ilene Marquardt represents that he/she is Managing Director of UBS and that, as such, has been authorized by UBS to enter into this Order for and on behalf of UBS.

Dated this 24 day of October, 2013.

UBS FINANCIAL SERVICES, INC.

By: [Signature]
Title: Managing Director

SUBSCRIBED AND SWORN TO before me this 24 day of October, 2013.

[Affix seal]

Ivan Sterling
Notary Public, State of New Jersey
My Commission Expires February 15, 2018
ID #2281122

[Signature]
Notary Public

My Commission expires:

BY ORDER OF THE UTAH SECURITIES COMMISSION:

The foregoing Stipulation and Consent Order is hereby accepted, confirmed, and entered by the Utah Securities Commission.

DATED this 5TH day of December, 2013

Brent Baker



Tim Bangerter



Erik Christiansen

Gary Cornia



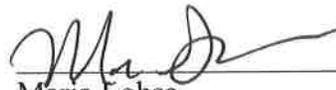
David A. Russon

Certificate of Service

I certify that on the 5th day of December, 2013, I served the foregoing Stipulation and Consent Order by mailing a copy to:

Eric Bernstein
UBS Financial Services, Inc.
NEED MAILING ADDRESS

Via email: eric.bernstein@ubs.com



Maria Lohse
Executive Secretary

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