

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: RIZEUP LLC, FRED SAMUEL KEELE, Respondents.	STIPULATION AND CONSENT ORDER Docket No. <u>SD-19-0020</u> Docket No. <u>SD-19-0021</u>
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The Utah Division of Securities (“Division”), by and through its Director of Enforcement, Dave Hermansen, and Respondents RizeUp, LLC (“RizeUp”) and Fred Samuel Keele (“Keele”) (collectively referred to herein as “Respondents”) hereby stipulate and agree as follows:

1. Respondents have been the subjects 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 May 9, 2019, the Division initiated an administrative action against 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 may obtain counsel and have elected not to do so..

FINDINGS OF FACTS

THE RESPONDENTS

8. RizeUp is a Utah limited liability company registered with the Utah Division of Corporations and Commercial Code on October 27, 2015. Keele is listed as the sole member and registered agent of the entity.¹ The purported purpose of RizeUp was to develop an online crowd funding platform. RizeUp has never been licensed with the Division, and has never recorded a securities registration, exemption from registration, or notice filing with the Division.

¹RizeUp’s entity documents list a principal address as 1564 S 500 W, Payson, UT 84651. The Utah Division of Corporations and Commercial Code lists the entity’s registration as expired as of January 30, 2018.

9. Keele resided in Utah County, Utah during all times relevant to the allegations asserted herein and was once licensed in the securities industry (examination series 1). Keele is the founder, president, and registered agent for RizeUp, and established entity bank accounts with sole signatory authority.

GENERAL ALLEGATIONS

10. The Division's investigation of this matter revealed that from approximately November 2015 to May 2016, while conducting business in or from the state of Utah, Respondents offered and sold several investment opportunities to at least 4 investors, and raised approximately \$113,000 in connection therewith.
11. The investment opportunities offered and sold by Respondents are investment contracts and/or promissory notes.
12. Investment contracts and promissory notes are securities under §61-1-13 of the Act.
13. In connection with the offer and/or sale of securities, Respondents, either directly or indirectly, made material omissions and/or misrepresentations of material facts.
14. Keele utilized investor funds in a manner inconsistent with the representations Keele made to investors including, but not limited to paying personal expenses, making several cash withdrawals, and paying past investors with new investors' funds.
15. To date, investors are owed at least \$93,301 in principal alone.

INVESTOR INFORMATION

16. From approximately November 2015 to May 2016, Keele solicited at least 4 investors to invest in RizeUp.
17. Investors solicited by Keele believed their funds would be used to develop RizeUp's crowd funding platform.

18. Keele solicited investors located in Utah. The solicitations usually occurred in person.
19. Investors had no role in the business, other than providing investment funds.

RIZEUP INVESTMENT

THE SOLICITATIONS

20. Keele first solicited investor D.B. in or around March 2015 after meeting D.B. through WeShare.² D.B. later introduced Keele to three individuals, J.M., J.F., and L.O., as potential investors in RizeUp.
21. Keele told investors that RizeUp's goal was to develop an online crowd funding platform whereby users of the platform would pay a fee to list a project on the RizeUp website.
22. Keele explained that RizeUp would essentially operate as a multi-level marketing ("MLM") platform whereby users of the platform were encouraged to recruit two other participants to list a project on the website. If users recruited other participants to list projects, the referring user would receive a portion of the fees collected from the user's down line in the MLM.
23. Keele promised investors that they would receive a portion of user fees from the RizeUp platform without having to recruit any users to list projects on the website.
24. During the solicitation, Keele made numerous statements and representations to investors regarding the investment opportunity in RizeUp, including, but not limited to, the following:
 - a. That investor funds would be used to develop RizeUp's crowd funding platform and to finance RizeUp's business operations;

² WeShare LLC is a defunct limited liability company that was registered with the Utah Division of Corporations and Commercial Code. The entity's corporate documents stated that the purpose of WeShare was to create an online shopping mall that markets and sells a large variety of products.

- b. That D.B. would receive a 264% return on his investment;
 - c. That investors would receive top profit-sharing positions within RizeUp; and
 - d. That at least one investor would receive a receipt reflecting his investment in RizeUp.
25. Based on Keele's statements and representations, investors gave Keele approximately \$113,000 in checks and cash to invest in RizeUp.

THE INVESTMENT AGREEMENT

26. In exchange for D.B.'s investment in RizeUp, D.B. received a promissory note signed by Keele, and a security agreement signed by Keele and D.B. agreeing to provide D.B. with a return of \$150,000 in 120 equal monthly installments of \$1,700 in exchange for D.B.'s investment of \$60,000. The monthly installment payments of \$1,700 were to begin immediately. Keele also promised D.B. "The top Profit-Sharing Position within the Profit Sharing Distribution Formula".
27. D.B. and Keele signed a second agreement in which D.B. gave Keele an additional \$8,000 to be paid back in monthly equal installment payments of \$800.
28. Investors J.M., J.F., and L.O. did not receive written investment agreements, but were promised the return of their original investment, and top profit-sharing positions within the profit sharing distribution formula in exchange for their individual investments in RizeUp of \$15,000 each.

FRAUDULENT CONDUCT: USE OF INVESTOR FUNDS

29. An analysis of RizeUp's bank records revealed that Keele used investor funds in a manner inconsistent with what Keele represented at the time of solicitation.
30. Keele used investor funds in a manner including, but not limited to the following:

- a. Approximately \$38,665 in personal expenses at grocery stores, gas stations, restaurants, hotels, Costco, Sam's Club, and Walmart;
 - b. Several cash withdrawals without producing receipts or other supporting documents to account for a legitimate business purpose for the cash withdrawals; and
 - c. Approximately \$13,967 in payments to a previous investor in RizeUp.
31. Keele spent all investor funds within eight months of receipt of funds.

MISSTATEMENTS AND OMISSIONS

32. In connection with the offer and/or sale of securities, Keele made the following material misstatements to investors including, but not limited to, the following:
- a. That all investor funds would be used for costs associated with developing RizeUp's crowd funding platform, when in fact, this representation was false and Keele used at least \$38,665 of investor funds on personal expenses, and at least \$13,967 of investor funds on returns paid to a past investor;
 - b. That Keele had obtained all authorizations, approvals, registrations or filings with any governmental agency or entity required for the execution, delivery, or performance of D.B.'s security agreement, when in fact, Keele was not licensed to sell securities and had not registered the RizeUp investment offering (Utah Code Annotated § 61-1-7);
 - c. That D.B. would receive a 264% return and, investors would receive a full return of their principal and top profit-sharing positions in RizeUp, when in fact, all investors lost the majority of their investments in RizeUp, no investor received a share of the profits in RizeUp, and RizeUp is now a defunct entity; and
 - d. That at least one investor would receive a receipt reflecting his investment in

RizeUp, when in fact, Keele never produced a receipt or any evidence to show the investment in RizeUp.

33. In connection with the offer and/or sale of securities, Keele failed to disclose material information to investors including, but not limited to, the following:
- a. That Keele would use investor funds for personal use;
 - b. That Keele would routinely make cash withdrawals of investor funds without keeping accurate accounting records supporting a legitimate business use;
 - c. That Keele would use new investor funds to pay returns to a past investor of RizeUp;
 - d. That Keele would fail to maintain accurate recordkeeping practices detailing business expenses and how investor funds would be spent;
 - e. That Keele was not licensed to sell securities;
 - f. That Keele had an outstanding judgement in the amount of \$3,634.11 at the time of solicitation;
 - g. That Keele was charged with theft by deception, a Utah state felony, in December 2000 which was settled by a diversion agreement and full payment of restitution;³ and
 - h. 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;

³ See case number 011910469.

- v. Risk factors;
 - vi. Suitability factors for investment; and
 - vii. Whether the securities offered were registered in the state of Utah.
34. To date, investors are owed at least \$93,301 in principal alone on their investments in RizeUp.

KEELE'S PARALLEL CRIMINAL PROCEEDING

35. On July 31, 2019, Keele was charged with Securities Fraud and Pattern of Unlawful Activity in a parallel criminal action in Utah's Fourth District Court, in Provo, Utah (Utah County), Case Number 191402137 (the "Criminal Action").
36. On October 12, 2021, Keele plead guilty to Pattern of Unlawful Activity, a second degree felony.
37. In the Criminal Action, Keele was ordered by the court to pay restitution of \$93,301 (plus interest) to investors D.B, J.M., J.F., and L.O. Keele was ordered to pay \$1,000 each month with the first payment due on January 1, 2022 and the last payment due on June 1, 2030.
38. Keele was also ordered by the court to be placed on probation for 60 months, serve 90 days in jail, register on the White-Collar Crime registry, and not to offer or sell securities or have direct control over investor funds.

CONCLUSIONS OF LAW

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

39. Based upon the Division's investigative findings, the Division concludes that the investment opportunities offered and sold by Respondents are investment contracts and/or promissory notes, which are securities under §61-1-13 of the Act.

40. 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.
41. 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

42. In violation of § 61-1-3(1) of the Act, Respondents 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 Respondents conversion and misuse of investor funds for purposes not disclosed to or authorized by investors.

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

43. In violation of § 61-1-3(2)(a) of the Act, RizeUp acted as an unlicensed broker-dealer at the time of the offering, and employed Keele, an unlicensed agent of RizeUp.

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

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

REMEDIAL ACTIONS/SANCTIONS

45. Respondents admit to the Division's Findings of Fact and Conclusions of Law, and consent to the below sanctions being imposed by the Division.
46. Respondents represent that the information they have provided to the Division as part of its investigation is accurate and complete.

47. 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.
48. 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.
49. Keele agrees to pay restitution (\$93,301 plus interest), to investors D.B, J.M., J.F., and L.O. as ordered in the Criminal Action.
50. Pursuant to Utah Code Ann. §61-1-20, and in consideration of the factors set forth in Utah Code Ann. §61-1-31, the Division imposes a total fine amount of \$10,000 (paid jointly and severally) against Respondents. Respondents agree to pay \$2,000 of the fine to the Division within 30 days of entry of the final Order by the Commission.
Respondents agree to pay the remaining fine of \$8,000 to the Division after Keele has completed his final restitution payment ordered in the Criminal Action. If Keele timely pays restitution ordered in the Criminal Action, the Division will waive the remaining \$8,000 fine payment to the Division.


FINAL RESOLUTION

51. Respondents acknowledge that this Order, upon approval by the 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.

52. 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 becomes immediately due and payable, less any payments already made. 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.
53. 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.
54. 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.
55. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way. Upon entry of the Order, any further scheduled

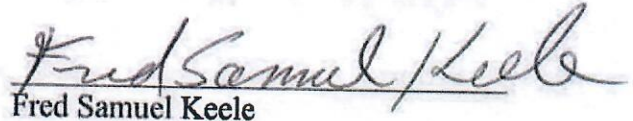
hearings involving Respondents are canceled. The Order may be docketed in a court of competent jurisdiction.

Dated this 18 day of April, 2022



Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 9 day of Feb, 2022

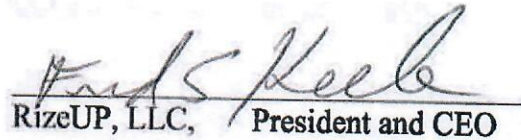


Fred Samuel Keele

Approved:

Stephen Gillies Digitally signed by Stephen Gillies
Date: 2022.02.18 11:55:19 -07'00'

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



RizeUP, LLC, President and CEO

ORDER

IT IS HEREBY ORDERED THAT:

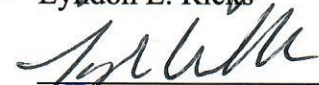
1. The Division's Findings and Conclusions, which Respondents admit are hereby entered.
2. Respondents shall cease and desist from violating the Act and comply with the requirements of the Act in all future business in the state of Utah.
3. Respondents shall be barred from associating with any broker-dealer 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 to investors D.B, J.M., J.F., and L.O. 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 \$10,000 to the Division pursuant to the terms set forth in paragraph 50.

BY THE UTAH SECURITIES COMMISSION:


DATED this 28 day of April, 2022



Lyndon L. Ricks




Lyle White



Peggy Hunt



Mark Zimbelman



Brent Cochran

CERTIFICATE OF SERVICE

I certify that on the 28 day of April, 2022, I mailed a true and correct copy of the Stipulation and Consent Order to:

Fred Samuel Keele
58 S. 810 E.
American Fork, UT 84003

RizeUp, LLC
58 S. 810 E.
American Fork, UT 84003

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



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

UTAH DEPARTMENT OF COMMERCE

Division of Securities

MARGARET W. BUSSE
Executive Director

JASON STERZER
Division Director

Division of Securities – Payment Schedule

Respondent: RIZEUP LLC, FRED SAMUEL KEELE

Docket No.: SD-19-0020, SD-19-0021

Please make your fine and/or restitution payments according to the Order signed by the Utah Securities Commission.

For your convenience, we have created this payment schedule for you to follow to stay up to date on your payments. Please contact the Division at securities@utah.gov with questions or comments.

Payment Due	Payment Amount	Payee
May 28, 2022	\$2,000.00	Utah Division of Securities
TBD ¹	\$8,000.00	Utah Division of Securities
TOTAL	\$10,000.00	

¹ Per the Order, Respondents agree to pay the remaining fine of \$8,000 after Keele has completed his final restitution payment ordered in the Criminal Action, and the Division will waive the remaining \$8,000 fine payment if Keele timely pays restitution ordered in the Criminal Action.



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

UTAH DEPARTMENT OF COMMERCE

Division of Securities

MARGARET W. BUSSE
Executive Director

JASON STERZER
Division Director

Division of Securities – Payment Instructions

The Utah Division of Securities accepts the following payment types: checks and wire payments. Instructions for each of these methods are listed below. Please contact the Division at securities@utah.gov with questions or comments.

1. TO PAY BY CHECK:

Checks should be made payable to Utah Division of Securities. Payment by check may be mailed to the address at the right.

NOTE: Include your case number on the check (Example “SD-10-0000”)

**Utah Division of Securities
PO Box 146760
Salt Lake City, Utah
84114-6741**

2. TO PAY BY WIRE TRANSFER:

If the payments are \$1,000 or larger, you may still send a check, or you can use the information at the right to send a wire transfer.

NOTE: Payers are responsible for covering any wire fees or cost. This fee **MUST** be paid for by the payer and not deducted from the total amount. Upon sending a wire transfer, please notify the Division by sending an email to securities@utah.gov with the case number (Example “SD-10-0000”) and the amount of the wire transfer.

Financial Institution Information	
Beneficiary Name:	Utah Department of Commerce
Beneficiary Account Number:	510801129
Bank Name:	Wells Fargo Bank
Address:	420 Montgomery St. San Francisco CA, 94104
Bank Routing Information (ABA #):	121000248
Swift Code	WFBIUS6SXXX
Memo:	Stipulation