

Utah Securities Commission

Meeting Minutes

February 20th, 2014

Division of Securities Staff Present

Keith Woodwell, Division Director
Maria Skedros, Board Secretary
Brandon Henrie, Lead Examiner
Dave Hermansen, Enforcement Director
Benjamin Johnson, Corporate Finance Director
Karen McMullin, Investor Education Coordinator
Ann Skaggs, Securities Analyst
Kristi Wilkinson, Securities Investigator
Brandon Dalley, Securities Investigator
Matt Edwards, Securities Investigator
Heidie George, Securities Examiner

Other State of Utah Employees:

Jennie Jonsson, Administrative Law Judge, Department of Commerce
Paul Amann, Assistant Attorney General

Commissioners Present

Tim Bangerter, Landmark Wealth Advisors
Erik Christiansen, Parsons Behle & Latimer
David Russon, Investment Management Consultants

Commissioners Absent

Brent Baker, Clyde, Snow & Sessions
Gary Cornia, Brigham Young University

Public Present:

Trent Williams, D. Bryce Prescott, Burke Tervort, Lauren Hosler, Stephen Thaeler, Utah Financial Planning Association.

Minutes: At 9:03 am the meeting was called to order and Commissioner Erik Christiansen made the motion to approve the minutes from the December 5th, 2013 Commission meeting. Commissioner Tim Bangerter seconded the motion and the motion was approved unanimously.

Oral Argument on Motion for Summary Judgment: Landmark Financial Services, LLC; Landmark Reo Club, LLC; Trent D. Williams; Daniel Bryce Prescott: SD-13-0033, SD-13-0034, SD-13-0035, SD-13-0036. The Commission heard oral argument on Respondents' Motion for Summary Judgment and after brief deliberations denied the Motion for Summary Judgment.

Evidentiary Hearing: Curtis S. Olsen SD-13-0037: At 10:37 am Mr. Olsen and his legal representation failed to appear and after an unsuccessful effort to reach Mr. Olsen's attorney a Default Order was entered. The Division requested and the Commission approved a fine of \$15,000.00, offset by \$9,359.00 in restitution and an order for Mr. Olsen to cease and desist from any further violations of the Utah Code.

Grant Request: Utah Financial Planning Association: Mr. Thaeler made a presentation requesting grant money for the Utah Financial Planning Association to educate its members on securities laws and involve the Division of Securities in the Association's annual continuing education conference. Mr. Russon made the motion to approve a grant of \$1,500.00. Mr. Bangerter seconded the motion. The grant was approved in the amount of: \$1,500.00.

Director's Report: Director Woodwell reported on House Bill 142 currently pending before the Utah State Legislature. Director Woodwell expressed concerns that the bill could create a large registration exemption for all securities offerings under \$1,000,000. The bill would allow these offerings to be sold to an unlimited number of unaccredited investors through any means, including general solicitation, and would not impose specific disclosure requirements. Director Woodwell expressed his opposition to the bill and gave an update on his conversations with the sponsor of the bill and the individual who was advocating for the bill. Director Woodwell asked for the Commission's support in opposing the bill.

Future Meetings Scheduled: March 27th, 2014, May 22nd, 2014 and August 11th 2014, September 25th 2014, and November 20th 2014.

Licensing & Compliance Section Report: Brandon Henrie reported that the final Audit Statistics for 2013 from the Licensing & Compliance Section included eighty-three audits. Twenty-two audits were for-cause, which were triggered by investor complaints. There were 14 routine audits and 45 Investment Adviser initial application audits. There are seven administrative actions in progress. Four Orders to Show Cause are filed with respondents currently in settlement negotiations, and two actions are stayed pending a criminal referral. Licensing Renewal Statistics for 2014 are renewal fees totaled \$6,690,090.00 a \$330,900.00 dollar increase over 2013 renewal fees. The total number of state-covered investment advisor firms has reached over 200, a 38% increase since the Dodd-Frank Rule change where IA firms with assets up to \$100m are now state-covered. There are almost 110,000 licensed broker-dealer/investment adviser representatives with Utah licenses.

Corporate Finance Section Report: Benjamin Johnson reported that Regulation A-Plus would amend the existing Regulation A by creating a second "tier" of offerings. These would permit a company to raise up to \$50 million in a 12-month period and would benefit from federal preemption of state securities regulation. In Tier 2 offerings, investors would be limited in the amount that they can invest, up to 10% of the greater of their annual income or net worth. They would be subject to the following requirements: audited financial statements, and ongoing disclosure and reporting requirements.

Enforcement Section Report: Dave Hermansen reported that the Enforcement Section has 37 cases in investigations, and ten complaints which are backlogged, waiting to be assigned to an investigator. Our goal is to address a case as soon as it comes to the Division, especially if there is statute of limitations and if it appears to be a criminal case. There are 21 cases which are outstanding for criminal prosecutions.

Investor Education Report: Karen McMullin reported that the 2014 goals for Investor Education include: 1) promote financial and retirement education among public employees; 2) continue and enhance the partnership with URS on education efforts; and 3) create alternative delivery methods for investor education. AARP and the Division of Securities are in the early stages of combining forces to create an online program around the "Staying Sharp" program. Future updates will be provided to the Commission as the plans progress. The 2014 Winter Edition of "Investor News" has been emailed to over 400 individuals. Hard copies are also being distributed at events.

Education and Training Fund Report: Benjamin Johnson reported on the expenditures from the Education and Training Fund over the past three months and the new requests for Commission authorization. The spending amounts are in their usual historical averages. Commissioner **David Russon** made the motion to approve the budget and Commissioner **David Russon** seconded the motion. The motion was passed unanimously.

Consideration and Approval of Proposed Orders

James D. Elliot: SD-12-0002: Recommended Order for Default: Dave Hermansen reported that investors were convinced to invest money in a scheme to purchase and resell emeralds and were promised that they would triple their money in 90 days. Criminal charges were filed with Salt Lake County. Charges were not filed in time and the statute of limitations ran out. An Order to Show Cause was filed in January of 2012 and was stayed. In October of 2013, the Order lifting the stay required Mr. Elliot to file a response to the Order to Show Cause within a 30-day period. The Respondent failed to do so. Therefore we are asking for an Order on Motion for Default in this case.

Commissioner **Tim Bangerter** made the motion to approve the proposed Order and Commissioner **David Russon** seconded the motion. The motion was passed unanimously.

Thomas Dean Lakey: SD-13-0017 Stipulation and Consent Order: Dave Hermansen reported that between 2007 and 2009 Mr. Lakey sold promissory notes as well as interest in an LLC that he was creating. Mr. Lakey collected \$1,295,000.00 from 23 investors. The investment was buying and selling homes and property management. Mr. Lakey failed to disclose material information which was necessary in order to make investment decisions. We are asking the Respondent to cease and desist from violating the Utah Uniform Securities Act, that he be barred from associating with or acting as an agent for any issuer soliciting funds. He is ordered to pay restitution in the criminal case.

Commissioner **David Russon** made the motion to approve the proposed Order and Commissioner **Tim Bangerter** seconded the motion. The motion was passed unanimously.

Mark Whitney Keith La Count SD-13-0049 Stipulation and Consent Order: Dave Hermansen reported that from 2007 to 2010 the Respondent sold stock in Ellipse Technology, Inc. and Movieblitz North America, to at least eight investors and collected a total of \$106,500.00. The Respondent made material misstatements and omissions in connection with the offer and sale of securities. Through the related criminal proceedings, the Respondent agreed to pay restitution to the investors with whom he was involved. We are asking that the Respondent cease and desist from violating the Utah Uniform Securities Act, that he be barred from associating with any broker-dealer or investment adviser, and acting as an agent for any issuer soliciting funds. The Respondent is ordered to pay restitution in the criminal proceedings.

Commissioner **Tim Bangerter** made the motion to approve the proposed Order and Commissioner **David Russon** seconded the motion. The motion was passed unanimously.

New Port Financial Services, LLC, Michael Kay Smith, Quintin Fullmer Smith: SD-11-0027, SD-11-0028, SD-11-0029 Stipulation and Consent Order: Dave Hermansen reported that from 2006 and 2009 the Respondents offered investments in New Port Financial Services which funded financing for stores in the Midwest. They collected \$1,005,725.00. The investors lost approximately \$944,729 in principal alone. Omissions and misstatements were made by the Respondents. Criminal charges were filed and the Respondents were ordered jail time and restitution. We are asking that they admit their conduct, cease and desist from violating the Utah Uniform Securities Act and pay restitution as ordered in the criminal case.

Commissioner **Tim Bangerter** made the motion to approve the proposed Order and Commissioner **David Russon** seconded the motion. The motion was passed unanimously.

Sequest of Utah, Mark Anthony Nuñez, SD-11-0091, SD-11-0092 Recommended Order on Default: Dave Hermansen reported that in May of 2012 a Notice of Agency Action was initiated. The proceedings were stayed and the stay was lifted in December of 2013. The Respondents were ordered to respond to the Division's Order to Show Cause by January 6, 2014. The Respondents failed to file a response. We are asking for a Default Order and that the Respondents pay a fine of \$138,570.00.

Commissioner **Tim Bangerter** made the motion to approve the proposed Order and Commissioner **David Russon** seconded the motion. The motion was passed unanimously.

Commissioner **David Russon** made a motion to adjourn the meeting and Commissioner **Tim Bangerter** seconded the motion and it was unanimously approved by the Commission. The meeting concluded at 11:37 am.

Next meeting: May 22nd, 2014.

Approved: _____



Erik Christiansen, Chairman

Date: _____

3/27/14

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:

**LANDMARK FINANCIAL SERVICES, LLC,
LANDMARK REO CLUB, LLC,
TRENT D. WILLIAMS, and
DANIEL BRYCE PRESCOTT,**

Respondents.

**STIPULATION AND CONSENT
ORDER**

**Docket No. SD-13-0033
Docket No. SD-13-0034
Docket No. SD-13-0035
Docket No. SD-13-0036**

The Utah Division of Securities (Division), by and through its Director of Enforcement, Dave R. Hermansen, and Landmark Financial Services, LLC (LFS), Landmark Reo Club, LLC (LRC), Trent D. Williams (Williams), and Daniel Bryce Prescott (Prescott and, collectively with LFS, LRC, and Williams, Respondents), hereby stipulate and agree as follows:

1. Respondents were the subject of an investigation conducted by the Division into allegations that they 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 the investigation, the Division initiated an administrative action

against Respondents through the issuance of an Order to Show Cause and Notice of Agency Action on or about June 27, 2013. The Order to Show Cause alleges that Respondents violated § 61-1-1 (securities fraud) of the Act.

3. In settlement of the Division's action, Respondents waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf. Respondents understand that by waiving a hearing, they are waiving the requirement that the Division prove the allegations against them by a preponderance of evidence, waiving their right to confront and cross-examine witnesses who may testify against them, to call witnesses on their own behalf, and any and all rights to appeal the findings, conclusions and sanctions set forth in this Stipulation and Consent Order (Order).
4. Respondents understand that they have a right to be represented by counsel, that they have had counsel represent them previously, and that they voluntarily and knowingly waive the right to have counsel represent them any further in this matter.
5. Respondents acknowledge 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. Respondents admit the jurisdiction of the Division over them and over the subject matter of this action.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENTS

7. LFS was a Utah limited liability company that registered with the Utah Division of Corporations (Corporations) on May 13, 2009. As of August 20, 2012, its status changed from "active" to "expired." While active, M. Parker Management, LLC¹ and Landmark Investment Group, LC² served as managers of the entity. LFS has never registered with the Division in any capacity.
8. LRC was a Utah limited liability company that registered with Corporations on September 8, 2008. As of January 14, 2013, LRC's status changed from "active" to "expired." While active, M. Parker Management, LLC¹ and Landmark Investment Group, LC² served as managers of the entity. LRC has never registered with the Division in any capacity.
9. Williams was, at all relevant times, a resident of the state of Utah. Williams has never been licensed in the securities industry in any capacity.
10. Prescott was, at all relevant times, a resident of the state of Utah. Prescott has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

11. From January to August 2009, Respondents offered and sold securities, in or from Utah,

¹ The sole member of M. Parker Management, LLC is Prescott.

² Landmark Investment Group, LC is a Utah limited liability company that registered with Corporations on May 13, 2009. Its status is currently listed as expired. While active, Williams served as manager of that entity.

to two investors and collected a total of \$607,000.

12. Respondents made material misstatements and omissions in connection with the offer and sale of securities to the investors identified below.
13. The investors lost \$360,000 of their investment funds.³

II. THE DIVISION'S CONCLUSIONS OF LAW

14. Based on the Division's investigative findings, the Division concludes that:
 - a. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.
 - b. Respondents 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 were necessary in order to make representations made not misleading.

III. REMEDIAL ACTIONS/SANCTIONS

15. Respondents neither admit nor deny the Division's findings of facts and conclusions of law but consent to the sanctions below being imposed by the Division.
16. Respondents agree to the imposition of a cease and desist order, prohibiting them from any conduct that violates the Act.
17. Respondents agree to provide executed/notarized special warranty deeds or quit claim

³ For a complete recitation of the Division's findings of facts, refer to paragraphs two through fifty-six of the Order to Show Cause issued June 27, 2013.

deeds, as per Article I (E.1.) of the Real Estate Purchase and Sale Agreement (Property Deeds), to the seven properties at issue in the transaction involving investor B.T. on or before the entry of this Order.

18. 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 \$303,000 against Respondents, to be offset by payments of restitution made to investor S.P. Respondents shall make an initial payment of \$5,000 on or before the date of this Order. A second payment of \$58,000 shall be due within ninety (90) days from the entry of this Order. Respondents shall then make quarterly payments of \$12,000 for a period of five years from the entry of this Order until the \$303,000 is repaid in full. Upon the conclusion of the five year time period, Respondents shall make a final payment encompassing any outstanding balance at that time. Respondents shall be held jointly and severally liable for the entire fine amount. If the Division finds that Respondents materially violate 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, Respondents consent to a judgment ordering the unpaid balance of the fine immediately due and payable.
19. Each dollar paid by Respondents to investor S.P. as restitution shall be credited by the Division toward payment of the fine. Respondents shall send to the Division the cancelled check or confirmation of wire transfer for each payment made to investor S.P.

Failure to comply with this provision of the Order, or the payment provisions included in paragraph 18 above, may result in the referral of the fine to the State Office of Debt Collection.

20. Respondents agree not to seek licensure, or engage in any activities that require licensure, in the securities industry in the state of Utah until such time as: 1) Respondents have provided Property Deeds to the seven properties at issue to investor B.T., and 2) Respondents have paid the entire fine amount to the Division or, in the alternative, made restitution in the amount of \$303,000 to investor S.P. Upon satisfaction of these requirements, Respondents may petition the Division for licensure in the securities industry; however, approval of such licensure shall remain subject to the discretion of the Division.
21. For the entire time the fine and/or restitution remains outstanding, Respondents agree to notify the Division of any change in their mailing addresses, within thirty days from the date of such change.

IV. FINAL RESOLUTION

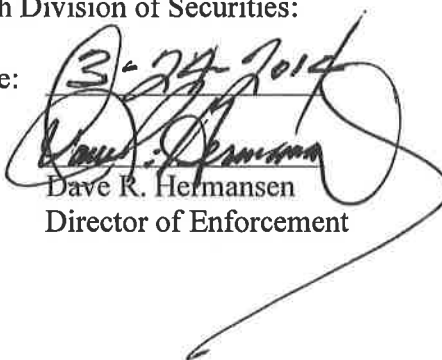
22. Respondents acknowledge that this Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.
23. Respondents further acknowledge that if the Securities Commission does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.

24. 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.
25. Respondents acknowledge that a violation of this Order is a third degree felony pursuant to § 61-1-21(1)(b) of the Act.
26. 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 any court of competent jurisdiction. Upon entry of the Order, any further scheduled hearings are canceled.

Utah Division of Securities:

Date:

By:


Dave R. Hermansen
Director of Enforcement

Respondent Williams:

Date: _____

By: _____

Trent D. Williams,
individually and on behalf of
Landmark Financial Services, LLC
and Landmark Reo Club, LLC

Approved:

Paul G. Amann
Assistant Attorney General
M.E.

Respondent Prescott:

Date: _____

By: _____

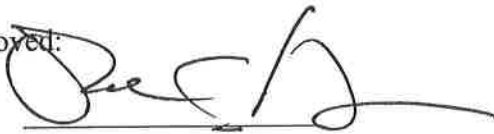
Daniel B. Prescott,
individually and on behalf of
Landmark Financial Services, LLC
and Landmark Reo Club, LLC

Utah Division of Securities:

Date: _____

By: _____
Dave R. Hermansen
Director of Enforcement

Approved:



Paul G. Amann
Assistant Attorney General
M.E.

Respondent Williams:

Date: Mar 24, 2014

By: Trent D. Williams
Trent D. Williams (Mar 24, 2014)
Trent D. Williams,
individually and on behalf of
Landmark Financial Services, LLC
and Landmark Reo Club, LLC

Respondent Prescott:

Date: Mar 24, 2014

By: D. Bryce Prescott
D. Bryce Prescott (Mar 24, 2014)
Daniel B. Prescott,
individually and on behalf of
Landmark Financial Services, LLC
and Landmark Reo Club, LLC

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. Respondents cease and desist from violating the Act.
3. Respondents provide Property Deeds to the seven properties at issue in the transaction involving investor B.T. on or before the entry of this Order.
4. The Division impose a fine of \$303,000 against Respondents, to be offset by payments of restitution made to investor S.P. Respondents shall make an initial payment of \$5,000 on or before the date of this Order. A second payment of \$58,000 shall be due within ninety (90) days from the entry of this Order. Respondents shall then make quarterly payments of \$12,000 for a period of five years from the entry of this Order. Upon the conclusion of the five year time period, Respondents shall make a final payment encompassing any outstanding balance at that time.
5. Respondents are held jointly and severally liable for the entire fine amount.
6. If Respondents materially violate any term of this Order, the unpaid balance of the fine amount shall be imposed and become due immediately.

7. Respondents not seek licensure, or engage in any activities that require licensure, in the securities industry in the state of Utah until such time as: 1) Respondents have provided Property Deeds to the seven properties at issue to investor B.T., and 2) Respondents have paid the entire fine amount to the Division or, in the alternative, made restitution in the amount of \$303,000 to investor S.P.
8. For the entire time that the fine and/or restitution remains outstanding, Respondents notify the Division of any change in their mailing addresses, within thirty days from the date of such change.

DATED this 27th day of March, 2014.

BY THE UTAH SECURITIES COMMISSION:



Brent Baker



Erik Christiansen



David Russon



Tim Bangerter

Gary Cornia

Certificate of Mailing

I certify that on the 28th day of March, 2014, I mailed a true and correct copy of the fully executed Stipulation and Consent Order to:

TRENT WILLIAMS
51 WEST CENTER STREET, SUITE 605
OREM, UT 84057

LANDMARK REO CLUB, LLC
LANDMARK FINANCIAL SERVICES, LLC
C/O CORPORATE CONSULTING GROUP, LLC
51 WEST CENTER STREET, SUITE 605
OREM, UT 84057

D. BRYCE PRESCOTT
P.O. BOX 91062
SALT LAKE CITY, UT 84109



Executive Secretary

