

Division of Securities
Utah Department of Commerce
160 East 300 South
P.O. Box 146760
Salt Lake City, Utah 84114-6760
Telephone: 801 530-6600

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

IN THE MATTER OF:

ROY N. HAFEN, CRD#1106258

Respondent.

STIPULATION AND CONSENT ORDER

Docket No. SD-06-0042

The Utah Division of Securities ("Division"), through its Director of Compliance, Dave R. Hermansen, and Roy N. Hafen ("Hafen"), hereby stipulate and agree as follows:

1. Hafen has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. §61-1-1, *et seq.*
2. On August 3, 2006, the Division filed an Order to Show Cause against Hafen.
3. Hafen has agreed with the Division to settle this matter by way of this Stipulation and Consent Order ("Order"). If entered, the Order will fully resolve all claims the Division has against Hafen pertaining to the August 3, 2006 Order to Show Cause.
4. Hafen admits the jurisdiction of the Division over him and over the subject matter of this action.
5. Hafen waives any right to a hearing to challenge the Division's evidence and present

evidence on his behalf.

6. Hafen has read the Order, understands its contents, and submits to this Order voluntarily. No promises or other agreements have been made by the Division, nor by any representative of the Division, to induce him to enter into this Order, other than as described in this Order.
7. Hafen has been advised of his right to be represented by legal counsel in this matter and has chosen to represent himself.

I. FINDINGS OF FACT

8. Walnut Street Securities, Inc. ("WSS"), CRD#15840, is a broker-dealer that has been licensed by the Division from October 28, 1985 to the present.
9. Hafen was licensed in Utah as a broker-dealer agent of WSS from April 6, 2000 until February 7, 2002.
10. Hafen's license was suspended by the Division on February 5, 2002 by means of an emergency order. The emergency order alleged that Hafen effected securities transactions away from his broker-dealer and failed to comply with a request for information from the Division.
11. WSS permitted Hafen to resign from his association with WSS on February 7, 2002. Through a stipulation and consent order with the Division entered September 3, 2004, Hafen agreed to the revocation of his broker-dealer agent license.
12. Kelly G. Brady ("Brady"), a Utah resident during the period relevant to this matter, is an individual who solicited funds for Video Venue, an assumed name of Buckingham, LLC ("Video Venue"). Brady is not employed by, or affiliated with, WSS, and has never been

licensed by the Division.

13. Video Venue is a limited liability company based in Oklahoma which actively engaged in business operations in Washington County, Utah. The Video Venue project was represented to investors by Hafen as the production, sale and implementation of a patented screen system whereby advertising would be delivered to gas station customers while pumping fuel.
14. Vedette, LLC (“Vedette”) is an Oklahoma limited liability company which actively engaged in business operations in Washington County, Utah, which owned the technical rights to the Video Venue process.
15. In November 2001, the Division received an investor complaint concerning an unpaid promissory note. The Division thereafter learned that Hafen was acting as an agent for Red Mountain Investment Company, LLC (“Red Mountain”) and Video Venue by selling investments for those companies.
16. Red Mountain was registered with the Utah Division of Corporations on January 10, 2001. Corporate records identify Brady as the manager and registered agent of Red Mountain. Hafen represented to some investors that Red Mountain owned patents and other essential rights necessary for the successful operation of the Video Venue project.
17. Brady began accepting monies for Video Venue in late 1999 and at that time was also accepting funds from investors for his factoring business. Factoring is a type of financial service whereby a firm sells or transfers title to its accounts receivable to a factoring company which then acts as a principal and not an agent in the collection of the receivable. Many of those factoring investments went into one of several bank accounts

used to fund the development of Video Venue.

18. Investors providing money to Brady thought their funds would be used in the purchase and collection of trade receivables. Some investors stated that Brady did not mention Video Venue at the time Brady took their investments.
19. Brady and Hafen told Video Venue investors:
 - a. Video Venue was in need of short-term operating capital to continue the development and installation of its gas pump video advertising screens.
 - b. investors would receive a five percent per-month return on their money.
 - c. the loan period would be for no more than 90 days.
 - d. before the end of the 90 day period, the company's long-term financing, which had already been contractually secured, would arrive and pay off all short-term loans.
20. Beginning on a date uncertain, but at least from early 2000, Hafen offered or sold, either directly or indirectly to thirteen (13) Utah residents, securities in Red Mountain and Video Venue, for which he was paid commissions totaling \$102,000.
21. Hafen misrepresented material facts in the offer and sales of the securities, including the following:
 - a. falsely representing to investors that for every \$300,000 invested in the company they investor would receive a one percent equity ownership interest in Video Venue.
 - b. falsely stating that investor funds would be used to pay Video Venue's ongoing operational expenses when in fact, a large portion of investor funds was used to make payments to prior investors or diverted for personal use.

- c. Representing to investors that there was no risk of loss to their principal.
 - d. Providing financial statements of Buckingham to some investors which materially misstated outstanding short-term loans as capital contributed to the entity.
22. Hafen omitted material facts in connection with the offer and sale of the securities including, but not limited, to the following:
- a. Hafen failed to disclose to investors that Brady was paying commissions to Hafen out of investor funds.
 - b. failing to disclose that Video Venue was in default on numerous contracts when offering new investors a five percent per month return with a required commitment of 30 to 90 days.
 - c. failing to disclose to investors that Video Venue had no system of accounting controls on any of the investor funds sent to Video Venue's office in Florida.
 - d. failing to disclose the business risks faced by the company or the investment risks being assumed by the investor.
 - e. failing to disclose the business and operating history of Video Venue, or to provide financial statements of the company.
 - f. the existence and extent of any conflicts of interest.
 - g. that the investment was a Ponzi scheme in that funds from new investors were used to pay off loans of earlier participants.
 - h. that the securities being offered and sold were not registered with the State of Utah as required.
23. On February 5, 2002, Division auditors attempted to meet with Hafen to discuss his

- involvement with Red Mountain and Video Venue. Hafen disclosed to Division auditors that he had done consultant work and received compensation from Red Mountain.
24. Hafen disclosed that he had personally invested in Red Mountain and had knowledge of many investors in St. George, Utah.
 25. Hafen refused to comply further with the examination and refused to provide the Division with the names of investors.
 26. Hafen subsequently stated that he would not provide immediate access to his business records but would comply and provide investor lists and information regarding his involvement and knowledge of Red Mountain and Video Venue if given an additional week. The requested documentation was never provided.
 27. On February 5, 2002, the Division issued an emergency order to suspend Hafen's broker-dealer agent license for effecting transactions away from his broker-dealer and failing to comply with the Division's request for information.
 28. On February 7, 2002, WSS permitted Hafen to resign.
 29. Hafen subsequently consented to revocation of his broker-dealer agent license in September 2004.
 30. Hafen's solicitation efforts raised approximately \$3,252,000 from the Utah investors, of which \$112,000 was eventually paid back to two investors. Two other investors, who had contributed a total of \$800,000, filed a civil lawsuit which was subsequently settled. Accordingly, the remaining Utah investors are still owed \$2,340,000.
 31. In February 2005, the Division filed a civil action against Hafen and others in the Fifth District Court for Washington County, Utah, Civil No. 050500310. That case was

subsequently dismissed against the other defendants.

32. In October 2007, Brady pled guilty to one federal charge of wire fraud and is presently incarcerated. Brady was ordered to pay restitution totaling \$1,759,100.50.

II. CONCLUSIONS OF LAW

33. The investments offered and sold by Hafen are securities under § 61-1-13(1)(ee)(i) of the Act.
34. Hafen violated § 61-1-7 of the Act by selling unregistered securities that did not qualify for any exemption from registration.
35. Hafen violated § 61-1-1(2) of the Act by misrepresenting and omitting material facts as described in paragraphs 21-22 above, in connection with the offer and sale of securities.
36. Hafen violated § 61-1-1(3) of the Act by engaging in acts, practices, and a course of business which operated as a fraud or deceit on other persons. His violative acts include, but are not limited to, the following:
- a. The pattern of conduct, misrepresentations and omissions referred to in paragraphs 20 and through 26, above.
 - b. Operating a Ponzi type investment program whereby money from new investors was used in part to pay obligations to prior investors.
 - c. Engaging in securities activities not recorded on the books and records of his registered broker-dealer.
 - d. Failing to disclose to WSS the extent of his outside business activities.

III. REMEDIAL ACTIONS/SANCTIONS

37. Hafen neither admits nor denies the Division's findings and conclusions, but consents to the sanctions below being imposed by the Division.
38. Hafen is permanently barred from a) associating with any broker-dealer or investment adviser licensed in Utah; and b) acting as an agent for any issuer soliciting investor funds in Utah.
39. Hafen shall permanently cease and desist from engaging in any further conduct in violation of Utah Code Ann. §§ 61-1-1, -7 or any other section of the Act
40. Pursuant to Utah Code Ann. § 61-1-20(1)(f) and in consideration of the guidelines set forth in Utah Admin. Code Rule R164-31-1, the Division imposes a fine of \$125,000. The fine shall be reduced by up to \$102,000 for all monies paid back to investors from the commissions Hafen earned, as set forth below.
41. Hafen agrees to disgorge the \$102,000 he received, paying each of the 13 investors a total of \$7,846.15, according to the following terms:
 - a. Beginning in January 2010, Hafen shall pay at least \$500.00 per month until the balance has been paid in full.
 - b. Checks shall be made payable to the investors, mailed to the Division, and received by the 15th day of each month.
 - c. The Division will forward payments to individual investors.
 - d. In order to protect the privacy of the investors, their names are not recited herein.
 - e. After all payments are made to investors, the remaining fine may be paid to the Division by monthly payment of at least \$500.00 until paid in full.

42. Following the entry of this Order, the Division will file a Notice of Dismissal with prejudice of the pending civil case against Hafen.

IV. FINAL RESOLUTION

43. Hafen represents that the information he has provided during the Division's investigation of this matter is accurate and complete.

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

45. Hafen 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.

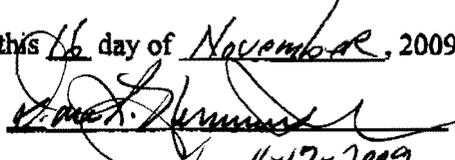
46. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in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

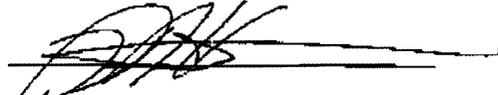
Utah Division of Securities

Dated this 16 day of November, 2009

Dated this 16 day of November, 2009

By:


11-17-2009



Dave R. Hermansen
Director of Compliance

Roy N. Hafen

Approved:



D. Scott Davis
Assistant Attorney General

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. Hafen is permanently barred from a) associating with any broker-dealer or investment adviser licensed in Utah; and b) acting as an agent for any issuer soliciting investor funds in Utah.
3. Hafen permanently cease and desist from engaging in any further conduct in violation of Utah Code Ann. §§ 61-1-1, -7 or any other section of the Act.
4. Hafen is fined \$125,000, which will be reduced by up to \$102,000 for all monies paid back to investors as set forth in paragraphs 40 and 41 above.
5. The Division dismiss with prejudice the pending civil action against Hafen.

BY THE UTAH SECURITIES COMMISSION:

DATED this 18TH day of NOVEMBER, 2009.

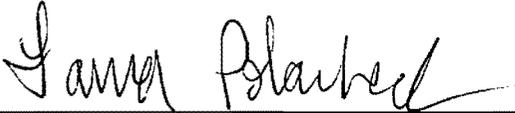


Tim Bangerter


Jane Cameron


Erik Christiansen

Michael O'Brien


Laura Polacheck

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of November 2009, I mailed, by certified mail, a true and correct copy of the forgoing **Stipulation and Consent Order** to:

Roy N. Hafen
3075 Santa Clara Drive
Santa Clara, UT 84765

Certified Mail: 7009 0080 0000 0284 0235



Pamala Radzinski
Executive Secretary