

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
Box 146760  
Salt Lake City, UT 84114-6760  
Telephone: (801) 530-6600  
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BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF:

SGS CAPITAL;  
STEVEN LEON SUNYICH;  
MELISSA JOY SUNYICH, aka MELISSA  
JOY GARDNER;

Respondents.

STIPULATION AND CONSENT  
ORDER

Docket No. SD-07-0073

Docket No. SD-07-0074

Docket No. SD-07-0075

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The Utah Division of Securities (the Division), by and through its Director of Enforcement, Michael Hines, and SGS Capital, Steven Leon Sunyich, and Melissa Joy Sunyich, hereby stipulate and agree as follows:

1. SGS Capital, Steven Leon Sunyich, and Melissa Joy Sunyich (Respondents) were the subject of an investigation conducted by the Division into allegations that they violated certain provisions of the Utah Uniform Securities Act (the Act), Utah Code Ann. § 61-1-1, *et seq.*, as amended.

2. In connection with that investigation, on October 15, 2007, the Division issued an Order to Show Cause to the Respondents alleging that they committed securities fraud.
3. The Respondents and the Division have agreed to settle this matter by way of this Stipulation and Consent Order (Consent Order).
4. The Respondents are represented by attorney Jonathan Hafen and are satisfied with the representation they have received.
5. The Respondents admit the jurisdiction of the Division over them and over the subject matter of this action.
6. The Respondents waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf.

#### THE DIVISION'S INVESTIGATIVE FINDINGS

Since July 2007 the Division has been conducting an investigation into this matter which revealed:

7. SGS Capital is an unincorporated entity whose principals appear to be Steven Leon Sunyich and Melissa Joy Sunyich.
8. Steven Leon Sunyich (Sunyich) resides in Washington County, Utah.
9. Melissa Joy Sunyich (Melissa) resides in Maricopa County, Arizona. Melissa is Sunyich's daughter.

10. Utah investor SS met with Sunyich, an acquaintance, in November or December 2006 at Sunyich's office in Washington County, Utah to discuss an investment in real estate.
11. SS told Sunyich he was thinking about investing in FranklinSquires<sup>1</sup> through Engenuity Life<sup>2</sup>, a St. George company closely associated with FranklinSquires. SS told Sunyich that to invest in FranklinSquires, SS would have to pay \$15,000 up-front to attend the FranklinSquires training.
12. Sunyich said he could give SS the same rate of return (3% monthly) SS would receive from a FranklinSquires investment without paying the \$15,000 up-front fee.
13. Sunyich told SS the following about the investment opportunity:
  - a. SS would receive an unsecured promissory note;
  - b. SS's investment would be paid to SGS Capital and then go to Founders Capital, LLC<sup>3</sup> (Founders);
  - c. Founders had real estate assets in excess of \$127 million; and

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<sup>1</sup> According to the FranklinSquires website (<http://franklinsquires.com/index.php>), visited October 1, 2007, "FranklinSquires" refers to FranklinSquires Companies, LLC, a "private capital and business consulting firm."

<sup>2</sup> Engenuity Life is listed as a "portfolio company" on the FranklinSquires website. The portfolio companies are described as entities FranklinSquires "work[s] with . . . to attain profitable bottom lines and long-lasting success."

<sup>3</sup> Founders Capital, LLC is listed as one of FranklinSquires' "portfolio companies" on the FranklinSquires website. Founders was registered as a Utah limited liability company on April 14, 2005, and its current corporate status is "Active." Founders is located in Utah County, and Hill Erickson, LLC is its sole manager.

- d. The worst case scenario was SS would receive the return of principal alone.
14. On February 7, 2007, SS received a promissory note from SGS Capital, which appears to have been signed by Melissa. The note states that the holder would be paid interest of up to 3% monthly (up to \$6,000), on a \$200,000 investment.
  15. On February 8, 2007, SS invested \$200,000 with SGS Capital via wire transfer to SGS Capital's Wells Fargo Bank account in St. George, Utah.
  16. On March 20, 2007, SS received an interest payment check of \$2,143 from Michael Sunyich's personal account. Michael Sunyich is Sunyich's son.
  17. On April 17, 2007, SS received an interest payment check of \$6,000 from Melissa's personal account.
  18. On May 18, 2007, SS received his last interest payment of \$6,000 cash from Sunyich.
  19. In June 2007, when SS did not receive an interest payment, SS spoke to Michael Sunyich. Michael Sunyich said SS's money was invested with Hunters Capital and Paul Bouchard<sup>4</sup>.
  20. After discovering that SS's money was not invested in SGS Capital or Founders Capital, SS contacted Melissa to find out why.
  21. Melissa started forwarding to SS e-mails she received from Paul Bouchard, updating her on Hunters Capital's financial situation.

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<sup>4</sup> Hunters Capital is not a registered entity in Utah. Paul Bouchard holds himself out to be a principal of Hunters Capital.

22. SS requested part or all of his principal back in June 2007, and Sunyich gave him an official check for \$30,000.
23. On July 19, 2007, SS received a second promissory note via e-mail from Melissa, which appears to have been signed by Melissa. The note states that Melissa would pay SS his remaining principal of \$170,000 plus any interest accrued on or before September 15, 2007, as long as SS ceased all communication with members or associates of FranklinSquires, Founders Capital, and Hunters Capital.
24. Although SS has made several requests, he has received no additional payments of principal or interest from Sunyich, Melissa, or SGS Capital.
25. SGS Capital, Sunyich, and Melissa still owe SS \$155,857 in principal alone.

Misrepresentations and Omissions

26. In connection with the offer and sale of a security to SS, SGS Capital, Sunyich, and Melissa, directly or indirectly, made false statements, including, but not limited to, the following:
  - a. SS's investment would be paid to SGS Capital, and then go to Founders Capital, when in fact, SS's money was sent to Hunters Capital and Paul Bouchard;
  - b. Founders Capital had real estate assets in excess of \$127 million; and
  - c. The worst case scenario was SS would receive the return of principal alone.

27. In connection with the offer and sale of a security to SS, SGS Capital, Sunyich, and Melissa, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations made not misleading:

- a. That Sunyich had unpaid civil judgments against him of over \$50,000;
- b. That Melissa had an unpaid civil judgment against her of \$10,747;
- c. Some or all of the information typically provided in an offering circular or prospectus regarding SGS Capital and Founders Capital, such as:
  - i. The business and operating history for SGS Capital and Founders Capital;
  - ii. Identities of the principals for SGS Capital and Founders Capital, along with their experience in real estate investments;
  - iii. Financial statements for SGS Capital and Founders Capital;
  - iv. The market for SGS Capital's and Founders Capital's service(s);
  - v. The nature of the competition for the service(s);
  - vi. The current capitalization for SGS Capital and Founders Capital;
  - vii. The track record of SGS Capital and Founders Capital to investors;
  - viii. Risk factors for investors;
  - ix. The number of other investors;
  - x. The minimum capitalization needed to participate in the investment;

- xi. The disposition of any investments received if the minimum capitalization were not achieved;
- xii. The liquidity of the investment;
- xiii. Discussion of pertinent suitability factors for the investment;
- xiv. The proposed use of the investment proceeds;
- xv. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;
- xvi. Agent commissions or compensation for selling the investment;
- xvii. Whether the investment is a registered security or exempt from registration; and
- xviii. Whether the person selling the investment is licensed.

#### THE DIVISION'S CONCLUSIONS

28. Based on the Division's investigative findings, the Division concludes that:
- a. The promissory note offered and sold by the Respondents to SS is a security under § 61-1-13 of the Act; and
  - b. the Respondents violated § 61-1-1 of the Act by making misrepresentations of material fact and omitting to state material facts in connection with the offer and sale of a security.

29. The Respondents neither admit nor deny the substance of the Division's investigative conclusions but consent to the Division entering an Order:
- a. Requiring the Respondents to cease and desist from engaging in any conduct in violation of the Utah Securities Act;
  - b. Requiring SGS Capital pay a fine of two hundred fifty thousand dollars (\$250,000) to the Division by July 31, 2010.
  - c. Requiring Steven Leon Sunyich and Melissa Joy Sunyich pay no fine to the Division so long as they do the following:
    - i. Violate no provision of the Act for a period of three years from the date of this Consent Order;
    - ii. Subordinate 100% of Respondents' claim to any principal or interest payments the Respondents receive from Hunters Capital or Paul Bouchard, to SGS Capital's investors, by immediately forwarding those payments, pro-rata, to SGS Capital's investors; and
    - iii. Provide continuing truthful testimony and cooperation (including production of documents) with any State or Federal investigation involving Hunters Capital or Paul Bouchard.
  - d. Requiring that in the event Steven Leon Sunyich or Melissa Joy Sunyich fail to abide by any of the terms in subsection (c) above, they are ordered to pay a fine of

twenty five thousand dollars (\$25,000) each, to the Division, within one month of the date of the Division's written notice to the Respondents informing them of the failure.

30. The Respondents acknowledge that this Consent Order, upon approval by the Division Director, shall be the final compromise and settlement of this matter. The Respondents further acknowledge that if the Division Director does not accept the terms of the Consent Order, it shall be deemed null and void and without any force or effect whatsoever.
31. The Respondents acknowledge that the Consent Order does not affect any civil or arbitration causes of action that third parties may have against the Respondents arising in whole or in part from their actions, and that the Consent Order does not affect any criminal cause of action that a prosecutor might bring.
32. This Consent 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 Consent Order in any way.
33. The Respondents represent that any information they have provided to the Division is accurate and complete to the best of their knowledge.
34. Violation of this Consent Order is a third degree felony pursuant to § 61-1-21(1) of the Act.

35. The Respondents have read this Consent Order, understand its contents, and enter into this Consent Order voluntarily.

Utah Division of Securities

Date: 5/19/08

By: [Signature]  
Michael Hines  
Director of Enforcement

Respondent SGS Capital

Date: 5-19-08

By: [Signature]  
Its: Manager

Respondent Sunyich

Date: 5/19/08

By: [Signature]  
Steven Sunyich

Respondent Melissa

Date: 5-19-08

By: [Signature]  
Melissa Joy Sunyich

Approved:

  
~~Jeff Buckner~~ *D. Scott Davis*  
Assistant Attorney General

  
Jonathan Hafey  
Attorney for Respondents

## ORDER

Pursuant to the terms of the Stipulation and Consent Order defined above, the Director of the Utah Division of Securities hereby orders that:

- a. SGS Capital, Steven Leon Sunyich, and Melissa Joy Sunyich cease and desist from engaging in any conduct in violation of the Utah Securities Act.
- b. SGS Capital pay a fine of two hundred fifty thousand dollars (\$250,000) to the Division by July 31, 2010.
- c. Steven Leon Sunyich and Melissa Joy Sunyich pay no fine to the Division so long as they do the following:
  - i. Violate no provision of the Act for a period of three years from the date of this Consent Order;
  - ii. Subordinate 100% of Respondents' claim to any principal or interest payments the Respondents receive from Hunters Capital or Paul Bouchard, to SGS Capital's investors, by immediately forwarding those payments, pro-rata, to SGS Capital's investors; and
  - iii. Provide continuing truthful testimony and cooperation (including production of documents) with any State or Federal investigation involving Hunters Capital or Paul Bouchard.

- d. In the event Steven Leon Sunyich or Melissa Joy Sunyich fail to abide by any of the terms in subsection (c) above, they are ordered to pay a fine of twenty five thousand dollars (\$25,000) each, to the Division, within one month of the date of the Divison's written notice to the Respondents informing them of the failure.

**BY THE UTAH SECURITIES COMMISSION:**

DATED this 28<sup>th</sup> day of April, 2010.



\_\_\_\_\_  
Tim Bangerter



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Jane Cameron



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Erik Christiansen



\_\_\_\_\_  
Laura Polacheck



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Michael O'Brien

**Certificate of Mailing**

I certify that on the 29th day of April, 2010, I mailed, by certified mail, a true and correct copy of the Order to Show Cause and Notice of Agency Action to:

Melissa Joy Sunyich, aka Melissa Joy Gardner  
Individually and on behalf of SGS Capital  
2925 E. Riggs Rd. #8-207  
Chandler, AZ 85249

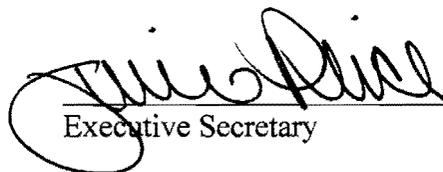
Certified Mail # 7009 2820 0001 2595 4907

Steven Leon Sunyich  
Individually and on behalf of SGS Capital  
1812 W. Sunset Blvd. #1-323  
St. George, UT 84770

Certified Mail # 7009 2820 0001 2595 4974

Jonathan Hafen, Attorney  
185 S. State St. #1300  
Salt Lake City, UT 84111

Certified Mail # 7009 2820 0001 2595 4981

  
Executive Secretary