Division of Securities
Utah Department of Commerce
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Salt Lake City, UT 84114-6760
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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF:	**STIPULATION AND CONSENT ORDER**
CAPSTONE EQUITY CAPITAL, L.L.C. ROBERT R. TY MICHAEL L. BLOXHAM **JONATHON R. WATTS** Respondents.	Docket No. SD -08-0098 Docket No. SD -08-0099 Docket No. SD -08-0100 **Docket No. SD -08-0101**

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Thomas Brady, and Jonathon R. Watts, hereby stipulate and agree as follows:

1. Capstone Equity Capital, L.L.C. (Capstone), Robert R. Ty (Ty), Michael L. Bloxham (Bloxham), and Jonathon R. Watts (Watts) were the subjects 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 that investigation, the Division issued an Order to Show Cause against Respondents on December 4, 2008, alleging securities fraud, sale of an unregistered security,

and sale by an unlicensed agent. Criminal charges were also filed against Watts,[1] Ty,[2] and Bloxham[3] in connection with the investigation.

3. On January 23, 2009, attorney J. Michael Coombs, on behalf of respondents Capstone, Bloxham, and Watts, filed a motion to stay proceedings of the administrative action in light of a forthcoming criminal referral. The motion was never ruled on.

4. Respondent Watts is currently represented by attorney Kimberly Trupiano and is satisfied with this representation.

5. Respondent Watts waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.

6. Watts also acknowledges that this stipulation and consent order does not affect any enforcement action that might be brought by a criminal prosecutor or any other local, state, or federal enforcement authority.

7. Respondent Watts admits the jurisdiction of the Division over him and over the subject matter of this action.

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[1] *State of Utah v. Jonathon R. Watts*, Case No. 091910085, Third Judicial District Court of Utah (2009). Watts later pleaded guilty to one count of securities fraud under § 61-1-1(2) of the Act, a second degree felony, one count of attempted theft, a third degree felony, and one count of pattern of unlawful activity, a second degree felony.

[2] *State of Utah v. Robert Razo Ty*, Case No. 091910086, Third Judicial District Court of Utah (2009). On December 29, 2009, a warrant was issued against Ty. He is believed to have fled the country to the Philippines.

[3] *State of Utah v. Michael Lynn Bloxham*, Case No. 091910084, Third Judicial District Court of Utah (2009). Bloxham later pleaded guilty to three counts of attempted securities fraud, a third degree felony, and two counts of attempted theft, a third degree felony.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENT

8. Watts is a resident of Salt Lake County, Utah. During the time period described herein, Watts was licensed in Utah by the Utah Division of Real Estate as a mortgage lender agent. Additionally, he served as a member and registered agent of Capstone.[4]

GENERAL ALLEGATIONS

9. From approximately November 2006 through January 2008, Respondents offered and sold an investment opportunity to at least ten Utah investors, who invested a total of at least $974,000. A detailed narrative of the investments made by three of the ten Utah investors is included below.

10. The Respondents in general told investors their money would be invested in property in Cedar City, Utah. More specifically, some investors were told Capstone planned on developing property (a condominium project) in Cedar City, Utah, and others were told Capstone would purchase and sell property in Cedar City, Utah for a profit.

11. The Respondents gave investors documents entitled "Trust Deed Note" in return for their investments; however, the notes were unrecorded and failed to give investors any interest in real property. The terms of the notes promised various rates of interest (typically 3% per month) for a term of anywhere from thirty days to one year.

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[4] Capstone was a Utah limited liability company that registered with the Utah Division of Corporations on November 16, 2005. As of February 26, 2007, its status changed to expired. During its existence, Watts served as a member and registered agent, and Bloxham served as a member.

12. The total estimated losses experienced by the ten Utah investors are $789,663.

Investors KN, HN, XN, and HTN

13. Investor KN and her ex-husband, HN, sold their home in Salt Lake County, Utah, in October 2006. KN and HN planned on investing the money from the sale of their home with their realtor for a real estate investment.

14. In October 2006, at the closing on KN and HN's home, the purchaser's real estate agent, Ty, told KN and HN about an investment opportunity in Capstone.

15. Ty told KN and HN the following regarding the Capstone investment opportunity:

    a. An investment in Capstone would provide KN and HN with a greater return than investing their money with their realtor;

    b. KN and HN would receive interest of 3% per thirty-day increment;

    c. The investment was guaranteed; and

    d. Ty's mother, father, and sister had invested in Capstone and were receiving monthly interest payments.

16. In November 2006, at Capstone's office in Salt Lake County, Ty introduced KN to Watts, a representative of Capstone.

17. Watts told KN the following regarding the investment opportunity in Capstone:

    a. Capstone needed money to buy land for a development project in Cedar City, Utah;

    b. Once the land was purchased, Capstone would refinance the land and take out equity

to repay KN and KN's family;

c. KN and KN's family would receive interest of 3% every thirty days; and

d. The investments were short-term.

18. On or about November 2006, KN introduced her mother (XN), sister (HTN) and HN to Watts and the investment opportunity in Capstone.

19. Between November 2006 and March 2007, KN, HN, XN, and HTN (the family) made the following investments in Capstone:

Date	Amount	Method
11/30/06	$120,000	Cashier's check from XN made payable to Capstone
12/07/06	80,000	Cashier's check from XN made payable to Capstone
12/07/06	90,000	Cashier's check from KN made payable to Capstone
12/13/06	80,000	Official check from XN made payable to Capstone
02/09/07	140,000	Personal check from HN made payable to Capstone
03/30/07	140,000	Personal check from HTN made payable to Capstone
Total =	$650,000	

20. A large portion of the funds invested came from equity lines of credit that Ty encouraged the family to draw upon.

21. In exchange for their investments, the family received the following five documents entitled "Trust Deed Note" (the original notes) from Capstone, all of which appear to have been

signed by Watts, with the exception of the last note in March 2007, which was pre-printed with Bloxham's signature:

Date	Principal	Lender	Terms
11/30/06	$120,000	XN	3% per 30 days, Matured on 01/15/07
12/07/06	170,000	XN	3% per 30 days, Matured on 02/08/07
12/14/06	80,000	XN	3% per 30 days, Matured on 02/12/07
02/09/07	140,000	XN	3% per 30 days, Matured on 05/04/07
04/01/07	650,000[5]	K2	3% per 30 days, Matured on 12/15/07

22. With the exception of the last note from April 2007, all of the notes were made payable to XN at the request of the family.

23. The March 2007 note was made payable to K2 Investment Group, LLC. On Bloxham's advice, KN, HTN, and XN registered K2 Investment Group in March 2007 as a Utah limited liability company, as a place to hold the family's investments.

24. Using the "first in first out" accounting approach, bank records reveal that the Respondents used some of the family's investment funds for things other than purchasing the property in Cedar City.

25. Bloxham and Watts were the only two individuals with signature authority on Capstone's bank account.

[5] The $650,000 includes the principal investments for the 11/30/06, 12/07/06, and 12/13/06 notes, plus HTN's $140,000 investment on 03/30/07.

26. Between December 2006 and April 2008, the family received a total of $122,166.26 in interest payments from Capstone, Paradigm Lending Solutions, or Bloxham. The payments came in the form of checks made payable to KN, XN, or K2 Investment Group.

27. The following three interest payments from Capstone to K2 Investment Group were returned for "insufficient funds": an August 8, 2007 check in the amount of $25,000 signed by Watts; an August 24, 2007 check in the amount of $10,000 signed by Bloxham; and an April 5, 2008 check for $3,000 signed by Bloxham.

28. When a "Trust Deed Note" matured, KN (and often other family members) went to Capstone's office seeking payment. Each time, KN and her family were told by Watts, or later by Bloxham, that the development in Cedar City had been delayed and Capstone needed more time.

29. Bloxham gave the family the following new documents entitled "Trust Deed Note" (roll-over notes), promising to pay the family the remaining balance on their original notes:

Date	Principal	Lender	Terms
01/01/07	$120,000	XN	3% per 30 days, Matured 03/15/07
03/30/07	510,000	K2	$110,000 for 30 days, Matured 07/01/07
05/03/07	140,000	K2	$14,500 per 60 days, Matured 06/01/07
02/20/08	660,000	K2	No interest, Matured 05/20/08

30. Each time Bloxham gave the family a roll-over note, Bloxham told them he needed more

money to extend the purchase contract for the Cedar City development until he could get permanent financing.

31. Despite their demands, KN, HN, XN, and HTN, have received no additional payments of principal or interest from any of the Respondents.

32. The Respondents still owe KN, HN, XN, and HTN, a total of $650,000 in principal alone.

Investor LT

33. On or about June 6, 2007, LT met with Bloxham, at Bloxham's office in Salt Lake County, Utah, to discuss an investment opportunity in Capstone.

34. Bloxham told LT the following about the investment opportunity:

a. LT's funds would be used to purchase real estate, which would later be sold at a profit;

b. Others had invested in Capstone and had no problems with their investments;

c. LT would receive interest of 1.5% per thirty-day period;

d. A trust deed note would be recorded in LT's name against the purchased property; and

e. LT would receive principal plus interest in one year.

35. On or about June 7, 2007, at Bloxham's office, LT invested in Capstone by handing Bloxham a cashier's check for $50,000, made payable to Capstone Equity. LT obtained the $50,000 from an inheritance.

36. In return for his investment, LT received a document entitled "Trust Deed Note" from Capstone; however, the note was unrecorded and failed to give LT any interest in real property. The note was dated June 6, 2007, promised interest of 1.5% per thirty-day period (18% annually), and made the balance due on June 6, 2008.

37. Using the "first in first out" accounting approach, bank records reveal that the Respondents used some of LT's money for things other than the purchase of real estate. For example, using LT's funds, the Respondents paid two different investors a total of $30,300 in interest.

38. Between July 2007 and February 2008, LT received a total of $6,000 in interest payments from Capstone and Paradigm Lending Solutions. The payments came in the form of checks made payable to LT.

39. After payments stopped, LT contacted Bloxham to request a return of his investment. Bloxham told LT that Bloxham would work on getting LT's money as soon as possible.

40. Despite his demands, LT has received no additional payments of principal or interest from the Respondents.

41. The Respondents owe LT $50,000 in principal alone.

Investors LV and JV

42. On or about June 5, 2007, in Salt Lake County, Ty told LV and JV, husband and wife, about an investment opportunity in Capstone.

43. Ty told LV and JV the following about the investment opportunity:

a. LV and JV could make a return of 3% on their invested funds;

b. Their money would be used to "flip" a real estate project in Cedar City, Utah;

c. There were fifteen other investors in the project;

d. Ty's wife, sister, and his parents had all invested in the project;

e. Ty invested $350,000 of his own money in the project;

f. Ty was receiving interest payments of $9,000 per month; and

g. Ty guaranteed that Ty would "take care" of their investment.

44. According to LV and JV, they invested a total of $140,000 in Capstone between July 2007 and February 2008, using funds obtained from a home equity loan. The funds were invested via cash, personal checks, and cashier's checks.

45. The bank records for Capstone and Paradigm Lending Solutions reflect a total of $95,000 in deposits that correspond to LV and JV's investments.

46. The statements that Capstone and Paradigm Lending Solutions gave to LV and JV regarding their investments reflect a total investment of $115,000.

47. In return for their investments, LV and JV received the following documents entitled "Trust Deed Note" from Capstone and/or Paradigm Lending Solutions, all of which appear to have been signed by Bloxham:

Date	Principal	Lender	Terms
07/11/07	$60,000	JV	3% per 30 days, Matured on 09/11/07

07/27/07	5,000	LV	3% per 30 days, Matured on 10/31/07
07/31/07	25,000	LV	3% per 30 days, Matured on 10/31/07
08/01/07	10,000	LV	3% per 30 days, Matured on 09/01/07
08/16/07	10,000	LV	3% per 30 days, Matured on 11/28/07
01/14/08	10,000	LV	3% per 30 days, Matured on 03/15/08
Total =	$120,000		

48. Between August 2007 and February 2008, LV and JV received a total of $44,500 in interest payments from Capstone. The payments came in the form of checks made payable to LV.

49. On or about February 25, 2008, Bloxham combined all of LV and JV's investments into one document entitled "Trust Deed Note" (roll-over note) promising to pay LV principal of $144,283.81, at the rate of 3% per 30-day period, with a maturity date of May 25, 2008.

50. Despite repeated demands, LV and JV received no additional payments of principal or interest from the Respondents.

51. The Respondents owe LV and JV a total of approximately $115,000 in principal alone.

SECURITIES FRAUD UNDER § 61-1-1(2) OF THE ACT

52. The Division incorporates and re-alleges Paragraphs 1 – 51.

53. In connection with the offer and sale of a security to the investors, Watts directly or indirectly, made false statements, including but not limited to, the following:

a. Watts told KN, HN, XN, and HTN their money would be used to purchase property

in Cedar City, Utah, when in fact, the "first in first out" accounting approach revealed that Respondents used some of the funds for things other than purchasing property in Cedar City; and

b. Watts and Ty told KN, HN, XN, and HTN that the investment was short-term, when in fact, the Respondents were having difficulty closing on the loan for the property and meeting this short-term commitment.

54. In connection with the offer and sale of a security, Watts directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations not misleading:

a. LV and JV were not told that a prior investor initiated a civil suit against Capstone, Bloxham, and Watts on December 19, 2007 to recover funds invested in Capstone;

b. Using the "first in first out" accounting approach, some of the funds invested were used for interest payments to investors, miscellaneous living expenses, and other expenses not associated with developing or purchasing property in Cedar City, Utah;

c. None of the documents entitled "Trust Deed Note" were recorded with the county recorder's office, meaning the notes were unsecured; and

d. Some or all of the information typically provided in an offering circular or prospectus regarding Capstone, such as:

i. Capstone's business and operating history;

ii. The principals' experience with buying, developing, and selling real estate;

iii. Capstone's financial statements;

iv. The market for Capstone's service(s);

v. The nature of the competition for the service(s);

vi. Capstone's current capitalization;

vii. The track record of Capstone to other investors;

viii. The number of other investors;

ix. The minimum capitalization needed to participate in the investment;

x. The disposition of any investments received if the minimum capitalization were not achieved;

xi. Discussion of pertinent suitability factors for the investment;

xii. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;

xiii. Agent commissions or compensation for selling the investment;

xiv. Whether the investment is a registered security or exempt from registration; and

xv. Whether the person selling the investment is licensed.

SALE OF UNREGISTERED SECURITIES UNDER §61-1-7 OF THE ACT

55. The Division incorporates and re-alleges Paragraphs 1 – 51.

56. The documents entitled "Trust Deed Note" (promissory notes) offered and sold by the Respondents are securities under § 61-1-13 of the Act.

56. The securities were offered and sold in this state.

57. The securities offered and sold by the Respondents were not registered under the Act, exempt pursuant to § 61-1-14 of the Act, or notice filed pursuant to § 61-1-15.5 of the Act.

58. Based upon the foregoing, Watts violated § 61-1-7 of the Act.

SALE BY AN UNLICENSED AGENT UNDER § 61-1-3 OF THE ACT

57. The Division incorporates and re-alleges Paragraphs 1 – 51.

58. Respondent Watts offered or sold securities in Utah.

59. When offering and selling these securities on behalf of Capstone, Watts was acting as an agent of an issuer.

60. Watts has never been licensed to sell securities in Utah as an agent of this issuer, or any other issuer.

61. Based on the above information, Watts violated § 61-1-3(1) of the Act.

II. THE DIVISION'S CONCLUSIONS OF LAW

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

a. The investment opportunities offered and sold by Watts are securities under § 61-1-13 of the Act;

b. Watts violated § 61-1-1(2) of the Act by misstating and omitting to state material

facts in connection with the offer and sale of a security;

c. Watts violated § 61-1-7 of the Act by selling an unregistered security; and

d. Watts violated § 61-1-3(1) of the Act by acting as an agent of an issuer without a securities license.

III. REMEDIAL ACTIONS/SANCTIONS

63. Watts admits the Division's findings and conclusions and consents to the sanctions below being imposed by the Division.

64. Watts represents that any information he provided to the Division as part of the Division's investigation of this matter is accurate.

65. Watts agrees to the imposition of a cease and desist order, prohibiting him from any conduct that violates the Act.

66. 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 $20,000 with the following provisions:

a. The $20,000 fine will be held in abeyance contingent on no securities laws violations throughout the duration of Watts' probationary period set forth in *State of Utah v. Jonathon Watts*, Case No. 091910085, Third Judicial District Court of Utah (2009).

b. If Watts materially violates any of the terms of this Stipulation and Consent Order within the abeyance period following the entry of the Order, after notice and

opportunity to be heard before an administrative officer, the entire fine shall become immediately due.

67. Watts agrees that he will be barred from (i) associating[6] 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.

68. Watts agrees to cooperate with the Division, the State of Utah, and the Federal Government in any future investigations and/or prosecutions relevant to the matter herein.

69. Watts agrees to pay restitution as ordered in the criminal case, *State of Utah v. Jonathon Watts*, Case No. 091910085, Third Judicial District Court of Utah (2009).

IV. FINAL RESOLUTION

70. Watts acknowledges that this Stipulation and Consent Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.

71. Watts further acknowledges that if the Securities Commission does not accept the terms of the Stipulation and Consent Order, it shall be deemed null and void and without any force or effect whatsoever.

72. Watts acknowledges that the Stipulation and Consent Order does not affect any civil or

[6] "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.

arbitration causes of action that third parties may have against him rising in whole or in part from his actions, and that the Stipulation and Consent Order does not affect any criminal causes of action that may arise as a result of his conduct referenced herein.

73. Watts acknowledges that a violation of this Stipulation and Consent Order is a third degree felony pursuant to § 61-1-21(1)(b) of the Act.

74. The Stipulation and 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 the Stipulation and Consent Order in any way.

Utah Division of Securities

Date: 11/9/12

By: Thomas A. Brady
Thomas A. Brady
Director of Enforcement

Approved:

D. Scott Davis
Assistant Attorney General
J.S.

Respondent Watts

Date: 10/25/12

By: Jonathon R. Watts

Approved:

Kimberly J. Trupiano
Attorney 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. Watts cease and desist from violating the Utah Uniform Securities Act.
3. Watts pay a fine of $20,000. The fine will be waived contingent on no securities laws violations during the abeyance period.
4. Watts is permanently barred from the securities industry.
5. Watts cooperate with the Division in any future investigations.
6. Watts pay restitution as ordered in the criminal case, *State of Utah v. Jonathon Watts*, Case No. 091910085, Third Judicial District Court of Utah (2009).

BY THE UTAH SECURITIES COMMISSION:

DATED this 24 day of January, 2013.

Brent R. Baker

Tim Bangerter

Jane Cameron

Erik Christiansen

Laura Polacheck

Laura Polacheck

Certificate of Mailing

I certify that on the 28th day of January, 2013, I mailed, by certified mail, a true and correct copy of the Stipulation and Consent Order to:

Jonathon R. Watts
c/o Attorney Kimberly J. Trupiano
5872 S. 900 E., Ste. 260
Salt Lake City, UT 84121

Certified Mailing # 7007 0220 0001 0004 8700

Julie Ruiz
Executive Secretary