

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:

**T&A INVESTMENT, INC. and
ALAN EUGENE NORTHCUTT,**

Respondents.

**STIPULATION AND CONSENT
ORDER AS TO T&A INVESTMENT,
INC. AND ALAN EUGENE
NORTHCUTT**

Docket No.

Docket No.

SP-11-0042
SP-11-0043

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Michael Hines, and T&A Investments, Inc. (T&A) and Alan Eugene Northcutt (Northcutt), hereby stipulate and agree as follows:

1. T&A and Northcutt 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. T&A, Northcutt and the Division have agreed to settle this matter by way of this Stipulation and Consent Order.
3. T&A and Northcutt have read this Order, understand its contents, and enter into this Order voluntarily. No promises or threats have been made by the Division, nor by any representative of the Division, other than as contained herein, to induce T&A and Northcutt to enter into this Order.
4. T&A and Northcutt admit the jurisdiction of the Division over them and over the subject matter of this action.
5. T&A and Northcutt waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf in this matter.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENTS

6. T&A was, at all times relevant, a Utah corporation. T&A incorporated in Utah on July 16, 2006. T&A's status is expired as of November 6, 2008. T&A is not and has never been registered with the Division as an investment firm.
7. Northcutt was, at all relevant times, a resident of Utah County, Utah. Northcutt is not

licensed as a broker-dealer, agent, investment advisor, or investment advisor representative in Utah.

GENERAL ALLEGATIONS

8. From approximately June 2006 to September 2006, T&A and Northcutt offered and sold securities to five groups of investors, in or from Utah, and collected a total of at least \$500,000.
9. T&A and Northcutt made material misrepresentations and omissions regarding at least \$215,000 invested by two of the groups of investors referenced.
10. The two groups of investors lost \$199,075 in principal alone.

INVESTOR BI

11. Prior to June 2006, BI met with Northcutt in BI's home in Utah County, Utah. Northcutt spoke to BI about an investment opportunity with T&A.
12. During the conversation with BI, Northcutt made the following representations:
 - a. T&A was collecting funds to invest with TSS Investments¹ (TSS;)

¹TSS Investments, LLC (TSS) is a Utah limited liability company. TSS organized in Utah on March 10, 2004. TSS's status is expired as of July 7, 2008. TSS is not and has never been registered with the Division as an investment firm. Sonny Jensen is listed as the registered agent and a member.

- b. T&A offered 2-3% per month return on investment funds; and
 - c. The investment involved the purchase of real estate through an investment company.
13. Based on Northcutt's representations, BI invested a total of \$60,000 in T&A. BI gave Northcutt two checks between June and September 2006 totaling \$60,000.
 14. In exchange for the funds, Northcutt provided BI with two promissory notes for the \$60,000.
 15. The first note offered a 2% per month return for a \$10,000 investment, while the second note offered 2.5% per month on a \$50,000 investment.
 16. Both notes stated funds would be returned with a sixty day advanced written notice.
 17. BI received monthly interest payments from Northcutt from June 2006 until about August 2007.
 18. BI requested his funds back from Northcutt in October 2007, but has not received them.
 19. To date, BI has received about \$16,375 in interest payments from T&A and Northcutt.

INVESTOR BO

20. BO has known Sonny Jensen (Jensen) and Northcutt since 2000, when the tree worked together.

21. In about June or July 2003, Jensen contacted BO by telephone to solicit an investment opportunity.
22. During the conversation Jensen made the following representations:
 - a. The investment opportunity involved Koerber and Franklin Squires;
 - b. Jensen and Koerber were business partners;
 - c. Koerber had developed a way to earn money using real estate;
 - d. Koerber's program allowed anyone to invest;
 - e. Investors could use home equity as a source of funds to invest;
 - f. There was no risk with the investment;
 - g. BO would earn 3% per month return on the investment;
 - h. BO would receive real estate training on how BO could purchase his own real estate;
 - i. The interest payments would allow BO to quit his job and focus on Koerber's real estate training.
23. BO decided not to invest at this time.
24. In or about July 2006, BO met with Northcutt, Jensen, and another individual named Jeremy Parkin at Northcutt's offices, located in Orem, Utah.

25. During the meeting Jensen made the following representations:
- a. BO could use his money to make a 2.5% per month return for funds instead of trading his time for money;
 - b. There was no way BO could lose the investment funds;
 - c. That Jensen and Northcutt were in the business of making money, not losing money;
 - d. Jensen would use BO's funds to purchase properties and construction projects;
 - e. Real estate is a century old profession which has a proven history of making people rich;
 - f. Real estate professionals did not know as much as Jensen did about real estate; and
 - g. BO would have been "well off" had BO invested when Jensen first sought investment funds.
26. Following the meeting in July 2006, BO expressed interest in investing with Jensen. Jensen advised BO to work with Northcutt if BO wanted to invest.
27. BO met with Northcutt at Northcutt's office in Orem, Utah about ten times over a two month period to ask follow up questions.

28. During these meetings Northcutt made the following representations:
- a. The investment made money by purchasing properties throughout the country and then flipping them for a profit or by starting construction projects;
 - b. Northcutt and Jensen made the decisions on how to use the funds;
 - c. Jensen had a talent for investing money and would not invest in anything which was not making a great return;
 - d. BO did not have to worry about his funds because BO could ask for the money back at any time and Northcutt would return the funds within sixty days of a request;
 - e. There was no risk with the investment;
 - f. BO had the option to reinvest his monthly interest;
 - g. Northcutt would receive 0.5% per month on BO's investment.
29. Based on Northcutt's representations, BO decided to invest with T&A. On or about the end of September 2006, BO told Northcutt Northcutt was unsure how to acquire funds to invest.
30. Northcutt told BO that Jensen worked with a company to get BO qualified for a home equity loan.

31. Northcutt introduced BO to a loan representative with an office in the same building as Jensen.
32. On or about September 25, 2006, BO received a \$155,000 loan.
33. BO invested by using the funds to purchase a \$155,000 cashier's check made payable to T&A.
34. In return for the investment funds, Northcutt issued BO a \$155,000 promissory note.
35. Between November 2006 and August 2007, BO received \$3,875 per month in interest payments and a partial payment of \$800 for September 2007.
36. BO requested his funds back in early October 2007 and made a written request for the funds to be returned on or about October 16, 2007. BO is owed \$155,450 in principal alone.

MATERIAL MISREPRESENTATIONS AND OMISSIONS

37. In connection with the offer and sale of a security, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. Northcutt told BO there was no risk with the investment and there was no way BO could lose his investment, when in fact, BO has been unable to recoup his principal funds.

38. In connection with the offer and sale of a security, Respondents, 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. Some or all of the information typically provided in an offering circular or prospectus regarding T&A, such as:
 - i. The name of the investment company;
 - ii. T&A's financial statements;
 - iii. The business and operating history of T&A;
 - iv. The risk factors for T&A investors;
 - v. Discussion of pertinent suitability factors for the investment;;
 - vi. Specific projects for which funds would be used;
 - vii. Whether the return of the investment funds would be contingent upon receiving funds back from either Jensen or the other unnamed investment company;
 - viii. How the investors would get the funds returned if the money was tied up in real estate;
 - ix. Whether the investment is a registered security or exempt from registration; and

- x. Whether the person selling the investment is licensed.

II. THE DIVISION'S CONCLUSIONS OF LAW

- 39. Based on the Division's investigative findings, the Division concludes that:
 - a. The investment opportunities offered and sold by T&A and Northcutt are securities under § 61-1-13 of the Act; and
 - b. T&A and Northcutt violated § 61-1-1 of the Act by misrepresenting and omitting to state material facts in connection with the offer and sale of a security.

III. REMEDIAL ACTIONS/SANCTIONS

- 40. T&A and Northcutt admit the Division's findings and conclusions and consent to the sanctions below being imposed by the Division.
- 41. T&A and Northcutt represent that any information they provided to the Division as part of the Division's investigation of this matter is accurate.
- 42. T&A and Northcutt agree to the entry of a cease and desist order, prohibiting them from any conduct that violates the Act.
- 43. Pursuant to Utah Code Ann. § 61-1-6(1)(d) and in consideration of the guidelines set forth in Utah Admin. Code Rule R164-31-1, the Division imposes a fine of \$250,000.
- 44. \$249,000 of the fine amount shall be held in abeyance for sixty months from the entry of

this Consent Order.

45. Payment of the remaining fine amount (\$1,000) shall be paid to the Division within one year from the entry of this Consent Order.
46. If Respondents materially violate any of the terms of this Order within sixty months of the entry of this Consent Order, after notice and opportunity to be heard before an administrative officer, a fine of \$249,000 shall be imposed against the Respondents, jointly and severally, and become due immediately.
47. T&A and Northcutt agree to cooperate with the Division, the State of Utah, and the Federal Government in any future investigations and/or prosecutions involving or related to FranklinSquires, Founders Capital, or TSS Investments, LLC.

IV. FINAL RESOLUTION

48. T&A and Northcutt acknowledge that this Order, upon approval by the Securities Commission shall be the final compromise and settlement of this matter.
49. T&A and Northcutt 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.
50. T&A and Northcutt 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 their conduct referenced herein.

51. T&A and Northcutt acknowledge that the Division is required to file a Notice of Agency Action before commencing an action. Furthermore, T&A and Northcutt knowingly and voluntarily waive that requirement.
52. The Stipulation and Consent Order constitute 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.

Utah Division of Securities

Date: 6/7/10

By: [Signature]

Michael Hines

Director of Enforcement

Respondent Northcutt

Date: 5-31-10

By: [Signature]
Alan E. Northcutt

Approved:

[Signature]

Scott Davis
Assistant Attorney General
J.N.

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 desists from violating the Utah Uniform Securities Act.
3. The Division imposes a fine of \$250,000.
4. \$249,000 of the fine amount shall be held in abeyance for sixty months.
5. If Respondents materially violate any of the terms of this Order the full fine amount shall be imposed against the Respondents, jointly and severally, and become due immediately.
6. Respondents cooperate with the Division in any future investigations.

BY THE UTAH SECURITIES COMMISSION:

DATED this 24th day of June, 2010.



Tim Bangerter



Jane Cameron



Erik Christiansen

Laura Polacheck



Michael O'Brien

Certificate of Mailing

I certify that on the 29th day of JUNE, 2010, I mailed, by certified mail, a true and correct copy of the Stipulation and Consent Order to:

Alan E. Northcutt
9086 North Silver Lake Dr.
Cedar Hills, UT 84062
Certified Mailing #

7008 1140 0004 1072 2842

Julie Rice
Executive Secretary