

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:

**WINDSOR CAPITAL, LC,
NATHAN WELCH,**

Respondents.

**STIPULATION AND CONSENT
ORDER:**

Docket No. SD-11-0015

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The Utah Division of Securities (the Division), by and through its Director of Enforcement, Michael Hines, and Windsor Capital, LC, and Nathan Welch, 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 (the Act), Utah Code Ann. § 61-1-1, *et seq.*, as amended.

2. In connection with that investigation, the Division issued an Order to Show Cause against Respondents on March 9, 2011.
3. Respondents are represented by attorneys James R. Kruse and Paula W. Faerber of Kruse Landa Maycock & Ricks, LLC, and are satisfied with their representation.
4. Respondents waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf.
5. Respondents also acknowledge 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.
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. Windsor Capital, LC (Windsor), is a manager-managed Utah limited liability company, registered on March 21, 1997. Nathan Welch is a manager of Windsor. Windsor's status as a business entity is expired. Windsor has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities.
8. Nathan Welch (Welch) was, at all relevant times, a resident of the state of Utah. Welch has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

9. In May 2007, Welch offered and sold securities to at least two husband and wife investors, in or from Utah, and collected a total of \$500,000.
10. The Division alleged that Welch made material misstatements and omissions in connection with the offer and sale of a security to the investors below.
11. The investors have thus far been unable to collect approximately \$417,500 of their investment funds.

INVESTORS C.C. AND L.C. (HUSBAND AND WIFE).

12. In early May 2007, C.C. and L.C. met with Welch, a Windsor employee, and two additional parties in Utah County, Utah. The purpose of the meeting was to discuss an investment opportunity in Windsor.
13. Following the initial meeting, C.C. expressed a desire to meet with Welch again in Utah County, Utah, to further discuss an investment in Windsor.
14. Welch discussed a real estate development project near Jordanelle Reservoir in Utah, called Talisman. Welch said that investments could be in the form of a Section 1031 real estate exchange¹ or investing funds with Windsor in return for a promissory note.
15. During the meetings, Welch made the following statements about a potential investment:
 - a. Talisman would comprise of housing, a ski resort, and a golf course;

¹ An exchange of certain types of property under Section 1031 of the United States Internal Revenue Code (26 U.S.C. § 1031) that defers capital gains or losses due upon sale.

- b. C.C. and L.C. would receive a promissory note with an 18% per annum interest rate on a two-year term in exchange for investment funds;
 - c. Investment funds would be used as liquid assets by being placed into a fund, Welch would then borrow against the fund to acquire additional money for Talisman;
 - d. The minimum investment amount was \$250,000;
 - e. Interest would be paid annually, semiannually, or monthly;² and
 - f. C.C. and L.C. would receive their funds back within fifteen to twenty days after giving notice to Windsor.
16. Based on Welch's statements, C.C. and L.C. invested \$500,000 in Windsor.
17. On May 31, 2007, C.C. and L.C. wire transferred \$500,000 to Windsor's Wells Fargo bank account.
18. From July 2007 through April 2008, and in October 2008, C.C. and L.C. received monthly interest payments of \$7,500.
19. After payments stopped in April 2008, C.C. and L.C. requested their investment funds be returned.
20. Welch still owes C.C. and L.C. \$417,500 in principal alone.
21. Bank records show that Windsor used C.C. and L.C.'s \$500,000 investment funds in the following manner³:

² C.C. and Welch agreed on monthly interest payments.

³ On May 31, 2007, Windsor had a separate trading account with a balance of \$2,093,703.

- a. \$416,304 transferred to Prime West Properties;⁴and
- b. \$83,696 transferred to O'Brien & Associates.⁵

CAUSES OF ACTION

Securities Fraud under § 61-1-1 of the Act

- 22. In connection with the offer and sale of a security to the investors, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. All investment funds would be used as liquid assets by being placed into a fund, Welch would then borrow against the fund to acquire additional money for Talisman, when in fact, Welch used the majority of C.C. and L.C.'s funds to pay back a previous investor; and
- 23. 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 statements not misleading:
 - a. Welch had multiple civil suits filed against him, including judgments that totaled \$36,972;
 - b. Welch had filed an involuntary Chapter 7 bankruptcy in 2004 that was dismissed on April 5, 2005⁶; and

⁴ Prime West Properties is a company of which Welch is a manager. The \$416,304 transfer was used to pay back a previous investor, Pine Mountain Holding, LP.

⁵ A futures brokerage firm located in Chicago, Illinois.

⁶ *United States Trustee v. Prime West Properties, LC*, Case #04-20233 (2004).

- c. Some or all of the information typically provided in an offering circular or prospectus regarding Welch, such as:
- i. Financial statements;
 - ii. Risk factors;
 - iii. Suitability factors for the investment;
 - iv. Track record to investors;
 - v. Welch's and Windsor's business experience and operating history;
 - vi. Nature of competition;
 - vii. Whether the investment is a registered security or exempt from registration; and
 - viii. Whether Welch was licensed to sell securities.

24. Based upon the foregoing, Welch violated § 61-1-1(2) of the Act.

II. THE DIVISION'S CONCLUSIONS OF LAW

25. 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 misstating and omitting to state material facts in connection with the offer and sale of a security.

III. REMEDIAL ACTIONS/SANCTIONS

26. Respondents neither admit nor deny the Division's findings and conclusions and consent to the sanctions below being imposed by the Division.
27. Respondents represent that any information they provided to the Division as part of the Division's investigation of this matter is accurate.
28. Respondents agree to the imposition of a cease and desist order, prohibiting them from any conduct that violates the Act.
29. 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 \$417,500 with the following provisions:
 - a. The \$417,500 fine will be held in abeyance and waived contingent on no securities laws violations for sixty months from entry of this Order.
 - b. Each dollar paid by Respondents to the investors towards restitution (\$417,500) shall be credited by the Division toward payment of the fine. Respondents shall send to the Division the cancelled checks for each payment made to the investors.
 - c. If Respondents materially violate any of the terms of this Stipulation and Consent Order within the sixty-month abeyance period following the entry of the Order, thirty days after notice of default and opportunity to be heard before an administrative officer on the sole issue of compliance with this Order, Respondents consent to a judgment ordering the entire fine immediately due.

30. Welch agrees that for a minimum of five years and thereafter until full restitution is made, he will be barred from: (i) associating⁷ 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.
31. Respondents agree 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.

IV. FINAL RESOLUTION

32. Respondents acknowledge that this Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.
33. 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.
34. 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 their conduct referenced herein.

⁷ "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.

35. 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 that modify, interpret, construe, or otherwise affect the Order in any way.

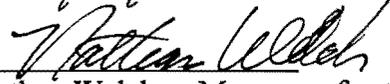
Utah Division of Securities

Date: 8/24/11

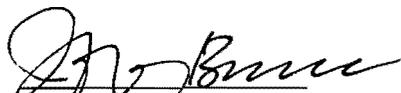
By: 
Michael Hines
Director of Enforcement

Respondent Windsor Capital, LC

Date: 08/19/2011

By: 
Nathan Welch as Manager of entity and
as individual

Approved:


Jeff Buckner
Assistant Attorney General
J.N.

Approved:


James R. Kruse
Attorney for Respondents

Approved:


Paula W. Faerber
Attorney for Respondents

ORDER

IT IS HEREBY ORDERED THAT:

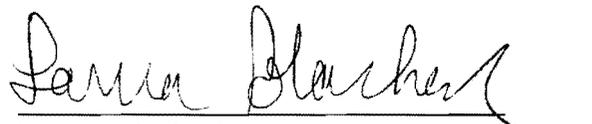
1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement.
2. Respondents cease and desist from violating the Utah Uniform Securities Act.
3. Respondents pay a fine of \$417,500 to the Division. The fine will be held in abeyance and waived contingent on no securities laws violations for sixty months from the date of the entry of the Order and may be off-set by restitution.
4. Welch has agreed to be barred from the securities industry for a minimum of five years and thereafter until the restitution (\$417,500) is paid in full.
5. Respondents have agreed to cooperate with the Division in any future investigations.

BY THE UTAH SECURITIES COMMISSION:

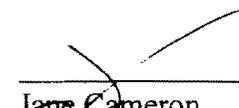
DATED this 27 day of October, 2011.



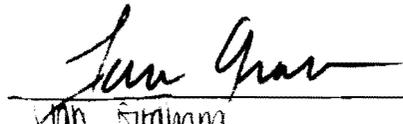
Tim Bangerter



Laura Polacheck



Jane Cameron



Jon Straman

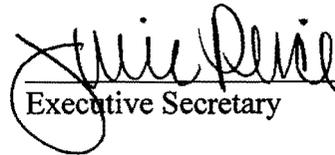
Erik Christiansen

Certificate of Mailing

I certify that on the 28th day of October, 2011, I mailed, by certified mail, a true and correct copy of the Stipulation and Consent Order to:

Nathan Welch
c/o Attorney Paula Faerber
Kruse Landa Maycock & Ricks, LLC
136 E. South Temple, 21st Floor
Salt Lake City, UT 84111

Certified Mailing # 7007 0220 0001 0002 0455


Executive Secretary