

Division of Securities
Utah Department of Commerce
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

FORTIUS GROUP, LLC,
FORTIUS FUND, LLC,
POWDER RIDGE LAND, LLC,
POWDER RIDGE DEVELOPERS I, LTD.,
POWDER RIDGE MANAGEMENT, INC.,
CHAMONIX CAPITAL I, LLC,
AMSTERDAM CAPITAL XII, LLC,
DAVID RYAN BARLOW,
COLBY J. SANDERS,

Respondents.

**STIPULATION AND CONSENT
ORDER**

Docket No. SD-11-0069
Docket No. SD-11-0070
Docket No. SD-11-0071
Docket No. SD-11-0072
Docket No. SD-11-0073
Docket No. SD-11-0074
Docket No. SD-11-0075
Docket No. SD-11-0076
Docket No. SD-11-0078

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

1. Respondents were the subjects 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. On September 21, 2011, the Division issued an Order to Show Cause against Respondents,¹ alleging securities fraud.
3. On May 9, 2012, the Division issued an Amended Order to Show Cause that dismissed Jared Wright, a respondent in the initial Order to Show Cause, from the action. The Division maintains its allegations of securities fraud against all remaining respondents.
4. Sanders waives any right to a hearing to challenge the Division's evidence and present evidence on his own behalf. Sanders understands that by waiving a hearing, he is waiving the requirement that the Division prove the allegations against him by a preponderance of evidence, waiving his right to confront and cross-examine witnesses who may testify against him, to call witnesses on his own behalf, and any and all rights to appeal the findings, conclusions and sanctions set forth in this Stipulation and Consent Order.
5. Sanders understands that he has a right to be represented by counsel, and he voluntarily and knowingly waives the right to have counsel represent him in this matter.
6. Sanders 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. Sanders admits the jurisdiction of the Division over him and over the subject matter of this action.

¹ The Order to Show Cause also named Jared Wright as a respondent in this action; however, he was dismissed from the action in an Amended Order to Show Cause issued May 9, 2012.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENTS

8. The Fortius Group, LLC (Fortius) is a Utah limited liability company, registered on September 26, 2003. Its status as a business entity is expired. Fortius has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. Magnus Opus, Inc.² and Vertical Edge Capital, LLC³ are managers of Fortius.
9. The Fortius Fund, LLC (Fortius Fund) is a Utah limited liability company, registered on June 1, 2005. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. Fortius is manager of Fortius Fund.
10. Powder Ridge Land, LLC (Powder Ridge Land) is a Utah limited liability company, registered on September 6, 2006. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. Powder Ridge Ventures, Inc.⁴ is manager of Powder Ridge Land and David Barlow is registered agent.

²Magnus Opus, Inc. is not registered as a business entity in the state of Utah.

³Vertical Edge Capital, LLC is a Utah limited liability company, registered on November 28, 2005. Its status as a business entity is active. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. Colby J. Sanders is its manager.

⁴Powder Ridge Ventures, Inc. (Powder Ridge Ventures) is a Utah corporation, registered on March 9, 2007. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. David R. Barlow is a director and president of Powder Ridge Ventures and Colby J. Sanders is a director, secretary, and treasurer.

11. Powder Ridge Developers I, Ltd. (Powder Ridge Developers I) is a Utah limited partnership, registered on December 26, 2006. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. Powder Ridge Management Inc. is manager of Powder Ridge Developers I.
12. Powder Ridge Management, Inc. (Powder Ridge Management) is a Utah corporation, registered on November 13, 2006. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. Brent Armstrong is the registered agent.
13. Chamonix Capital I, LLC (Chamonix Capital I) is a Utah limited liability company, registered on June 10, 2005. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. David Barlow is a member of Chamonix Capital I.
14. Amsterdam Capital XII, LLC (Amsterdam Capital XII) is a Utah limited liability company, registered on September 22, 2005. Its status as a business entity is expired. It has never been licensed by the Division as a broker/dealer agent or as an issuer/agent to sell securities. David Barlow is a member of Amsterdam Capital XII.
15. David Ryan Barlow (Barlow) was, at all relevant times, a resident of the State of Utah. Barlow has never been licensed in the securities industry in any capacity.
16. Colby J. Sanders (Sanders) was, at all relevant times, a resident of the State of Utah. Sanders

has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

17. From September 2006 to December 2007, Respondents offered and sold securities to investors, in or from Utah, and collected \$1,549,457.
18. Respondents made material misstatements and omissions in connection with the offer and sale of securities to the investors listed below.
19. The investors lost \$1,510,532 in principal alone.

INVESTOR J.M.

20. In or around October 2004, J.M. met Barlow when she and her husband, K.H., moved into a new home in Utah County, Utah. The home is across the street from Barlow. After moving in, J.M. had many conversations with Barlow between October 2004 and August 2006.
21. During those conversations, Barlow made the following statements about investing in Fortius:
 - a. He worked for Fortius and was involved in loans and investments;
 - b. Fortius was involved in several real estate development projects which were “solid investments;”
 - c. Stocks and bonds are not tangible and can be lost. With land, “you can touch it and it appreciates;”
 - d. Fortius was currently working with several businessmen;

- e. Fortius had a history of being successful;
 - f. An investment in Fortius could be trusted;
 - g. He was working on real estate development for Fortius near Powder Mountain Ski Resort (Powder Ridge Project) in Ogden Valley; and
 - h. Powder Ridge Development, Inc.,⁵ an entity supposedly set up by Barlow and his associates, managed the Powder Ridge Project.
22. In the fall of 2006, J.M. visited Barlow several times in Fortius' office in Utah County, Utah to further discuss the investment opportunities that he had offered in Fortius.
23. During her visits, Barlow showed pictures and artist renderings of the Powder Ridge Project as well as profit projections. Over the next several weeks and months, she also met Jared Wright and Sanders and spoke with them about investments.
24. During these conversations, Barlow made the following statements about investing in Fortius:
- a. The Powder Ridge Project was "a good deal;"
 - b. She could not lose;
 - c. It was a "sure thing;"
 - d. They would make her a great deal of money;
 - e. Fortius had forty investors;

⁵ Powder Ridge Development, Inc. is not registered as a business entity in the State of Utah.

- f. Investor funds would be used to buy the property ready for construction;
 - g. The Powder Ridge Project could yield a return of approximately \$800,000 to \$1,000,000 in profit on a minimum investment of \$250,000 by 2010; and
 - h. It was a good investment because it was based in land.
25. J.M told Barlow that she could not afford the minimum investment of \$250,000 because much of her money was in an IRA. Barlow directed her to a service so she could set up a self-directed IRA.
26. Based on Barlow's statements, J.M. invested \$250,000 with Fortius. On September 27, 2006, J.M. wired \$63,000 from her personal bank to Chamonix Capital I. On September 28, 2006, J.M. wired \$170,315 from her IRA with American Pension Services to Chamonix Capital I. On October 31, 2006, J.M. wired \$16,685 from her company's account to Chamonix Capital I.
27. On or about February 13, 2007, J.M. received investor suitability questionnaires and subscription agreements from Fortius in connection with the investment.
28. According to the first subscription agreement, \$229,175 of J.M.'s funds would be invested in Powder Ridge Land, in exchange for a total of 9.167 Class A Non-Voting Member Interests in the company.
29. According to the second subscription agreement, \$20,825 of J.M.'s funds would be invested in Powder Ridge Developers in exchange for a total of .83 Class A Non-Voting Member

Interests in the company.

30. On or about May 7, 2007, Jared Wright wrote to J.M. and K.H.⁶, on behalf of Powder Ridge Management. Jared Wright told them that the “management team” wished to make changes to the structure of the companies involved in the Powder Ridge Project.
31. About that same time, J.M. received a compact disk from Fortius with two amended and revised offering memoranda. One was dated April 12, 2007 and the other May 7, 2007.
32. The offering memoranda disclosed information, such as risk factors, that had not been previously disclosed at the time of the investment.
33. Up until this point, J.M. and K.H. had not previously received any offering memoranda.
34. As requested by Fortius, on May 16, 2007, J.M. and K.H. filled out new investor suitability questionnaires and subscription agreements similar to the ones before, but with two new companies: Powder Ridge Land I and Powder Ridge Developers I.
35. J.M. and K.H. received an operating agreement from Powder Ridge Group. Although the agreement provided that J.M. and K.H. would receive distributions, they never received any distributions.
36. On November 20, 2009, J.M. and K.H. met with Barlow. During the meeting, Barlow made the following statements:
 - a. The Powder Ridge Project had suffered major setbacks;

⁶ K.H. also invested with Fortius, but he invested through his own independent conversations and transactions. See ¶¶ 39-60 below.

- b. All investor money had been lost;
 - c. The land for the project had been in foreclosure so the investors had no tangible assets to show for their investment;
 - d. He had known these facts for many months but had not told them because they were his neighbors and he was embarrassed; and
 - e. The solutions to the problems had never materialized.
37. Despite J.M.'s requests, J.M. has not received a return of any of her \$250,000 investment from Fortius.
38. Using a source and use analysis, bank records show that Respondents used J.M.'s \$250,000 funds in the following manner:
- a. \$233,315 paid to The Home Abstract and Title Co.;
 - b. \$9,781 paid to Fortius;
 - c. \$6,281 paid to Jonathan Johnson; and
 - d. \$623 paid to Aaron Kennington.

INVESTOR K.H.

First Investment

39. K.H. became interested in learning about an investment opportunity in Fortius from J.M.
40. K.H. was impressed with the affluent lifestyles and apparent wealth of Barlow, Jared Wright, and Sanders as well as the remodeled and impressive office Fortius had.

41. K.H. met with Barlow, Jared Wright, and Sanders on multiple occasions at Fortius' office during the fall of 2006 to discuss investment opportunities in Fortius.
42. During those conversations, Barlow made the following statements about an investment in the Powder Ridge Project:
 - a. "I invest in land, I buy land, I develop it, there is a lot of money in it;"
 - b. "With me, your money is safe;"
 - c. It could not go wrong because Fortius owned the land;
 - d. K.H. was Fortius' preferred type of customer so they would take care of him;
 - e. This was a no-lose deal because the condos were all pre-sold;
 - f. The minimum investment was \$250,000; and
 - g. With a \$250,000 investment, the return would be \$1 million to \$2 million when all phases of the project sold out.
43. During those conversations, Sanders made the following statements about an investment in the Powder Ridge Project:
 - a. This would make K.H. rich;
 - b. The condos were already pre-sold;
 - c. The project was "amazing;"
 - d. Fortius had buyers "waiting in the wings;"
 - e. K.H. could expect a return of \$2 million on a \$250,000 investment; and

- f. The profit for investors would be \$66 million, and the profit for Fortius would be \$54 million.⁷
44. During those conversations, Jared Wright made the following statements about an investment in the Powder Ridge Project:
- a. Fortius was really excited to have K.H. on board with them;
 - b. This was a great project; and
 - c. This would make a lot of money for K.H.
45. Based on Respondents' statements, K.H. invested \$250,000 with Fortius. On November 20, 2006, K.H. wired \$250,000 from his personal bank to the Powder Ridge Land bank account with Zions Bank.
46. On or about February 13, 2007, K.H. received investor suitability questionnaires and subscription agreements in connection with the investment.
47. According to the first subscription agreement, \$229,175 of K.H.'s funds would be invested in "Powder Ridge Land, LLC"⁸ in exchange for a total of 9.167 Class A Non-Voting Member Interests in the company.
48. According to the second subscription agreement, \$20,825 of K.H.'s funds would be invested

⁷ Barlow learned about Sanders' stated projection and told K.H. that they need to be more "conservative" and the returns would be more like \$800,000 to \$1,000,000 per \$250,000 investment.

⁸ Powder Ridge Land, LLC is not registered as a business entity in the state of Utah.

⁹ Powder Ridge Developers I, Ltd. is not registered as a business entity in the state of Utah.

in “Powder Ridge Developers I, Ltd.”⁹

49. Using a source and use analysis, bank records show that Respondents used K.H.’s \$250,000 funds in the following manner:
- a. \$154,850 paid to Stuart Waldrip;
 - b. \$49,900 paid to Ridgeline Equity at Deer Crest;
 - c. \$10,000 paid to Jonathan Johnson;
 - d. \$8,058 paid to Jared Wright;
 - e. \$8,058 paid to Barlow;
 - f. \$8,058 paid to Sanders;
 - g. \$3,880 paid to Accrisoft Corporation;
 - h. \$2,800 paid to Fortius;
 - i. \$2,450 paid to Chamonix Capital I;
 - j. \$794 paid to Delta;
 - k. \$686 paid to Integra Telecom; and
 - l. \$466 paid for dining, lodging, and other miscellaneous expenses.

Second Investment

50. In November 2007, Barlow approached K.H. about another investment in a real estate development near Powder Mountain Ski Resort called Sundown (Sundown Project).
51. Barlow made the following statements about an investment in the Sundown Project:

- a. The Sundown Project was a condo development that was already in place;
 - b. It was expanding and adding new facilities;
 - c. It would be a very short turn-around;
 - d. K.H. could expect a \$1 million to \$2 million return when the project was completed;
 - e. The project included 160 luxury condos on the mountain;
 - f. It was a no-lose investment;
 - g. The project was already pre-sold;
 - h. Fortius already had an investor group from Australia that was ready to buy it;
 - i. In addition to the ski resort, the project was near a golf course and an equestrian park;
 - j. All of the units had been pre-sold, but there was a waiting list if someone dropped out;
 - k. There were four phases on the project;
 - l. This investment would make K.H. even richer than the Powder Ridge Project;
 - m. It was a sure thing; and
 - n. Fortius had already bought the land, so the investment could not go wrong.
52. Based on Barlow's statements, K.H. invested \$249,457 with Fortius. On November 13, 2007, K.H. wired \$249,457 from his IRA to Fortius' bank account with Zions Bank.
53. On November 13, 2007, Barlow signed an unsecured promissory note on behalf of Fortius. Fortius promised to pay K.H. \$249,500 plus "2.083% interest in profits in the Sundown

Development.”

54. Using a source and use analysis, bank records show that Respondents used K.H.’s \$249,457 funds in the following manner:
- a. \$52,620 paid to Blue Diamond;
 - b. \$46,800 paid to Selective Funding, LLC;
 - c. \$46,800 paid to Lending Partners;
 - d. \$37,052 paid to K.H.;
 - e. \$25,000 paid to Northstar Funding;
 - f. \$16,000 paid to Secured Loan Fund II, LLC;
 - g. \$6,000 paid to Sanders;
 - h. \$6,000 paid to Barlow;
 - i. \$5,000 paid to Bob Luzitano;
 - j. \$3,363 paid to Jonathan Johnson;
 - k. \$2,822 paid to Griffith Brothers; and
 - l. \$2,000 paid to Boris Roberts.

Third Investment

55. In late 2007, Barlow approached K.H. about another investment in Fortius for a real estate development near Pineview Reservoir in Utah called Elevation at Pineview (Pineview Project).

56. Barlow made the following statements about an investment in the Pineview Project:
- a. The Pineview Project was intended to finance, build, and sell a development of condominium units near Pineview Reservoir;
 - b. The investment was a sure deal;
 - c. The Pineview Project carried the fastest return of all previous investments;
 - d. The development the Pineview Project was already approved and zoned for condominiums;
 - e. 300 buyers were waiting for contracts;
 - f. The return on investment would be \$1 million to \$2 million for a \$250,000 investment;
 - g. K.H. would receive a 50% return within the first year;
 - h. The investment involved no risk; and
 - i. This project was next to a development that was already complete, and it had been successful.
57. K.H. told Barlow that he could only afford \$200,000 to invest. Barlow agreed to waive the \$250,000 minimum investment and allow a \$200,000 investment, although Barlow said that the return would be slightly less.
58. Based on Barlow's statements, K.H. invested \$200,000 with Fortius.
59. On December 10, 2007, Amsterdam Capital XII executed an unsecured promissory note in

favor of K.H. Amsterdam Capital XII promised to pay K.H. \$200,000 plus “3.3% interest in profits in the Pineview Village Development.”

60. On December 11, 2007, K.H. wired \$200,000 from his IRA to Amsterdam Capital XII. Using a source and use analysis, bank records show that Respondents used K.H.’s \$249,457 funds in the following manner:
- a. \$61,967 paid to Selective Funding, LLC;
 - b. \$57,633 paid to Lending Partners;
 - c. \$52,620 paid to R.C. Willey Home Furnishings;
 - d. \$10,566 paid to Edgewood Builders;
 - e. \$3,750 paid to Steve G. Black, LC;
 - f. \$3,232 paid to Bob Luzitano;
 - g. \$3,000 paid to Robert Helber;
 - h. \$2,500 paid to Boris Roberts;
 - i. \$1,873 paid to K.H.;
 - j. \$1,658 transferred to Fortius;
 - k. \$600 paid to Revco Leasing; and
 - l. \$601 used for miscellaneous expenses.

Investors J.Q. and L.S.

61. J.Q. and L.S. are business partners in the entity SQ Development, LLC. In or about May

2006, J.Q. first approached Sanders to purchase a seven acre piece of real estate at the Powder Mountain Ski Resort in Weber County, Utah from Fortius.

62. Within a couple of weeks of initially contacting Sanders, J.Q. and L.S. signed a purchase contract on behalf of their company and put down \$70,000 in earnest money on the real estate, contingent upon zoning approval to build a minimum of 35 condominium units on the property. J.Q. and L.S. each contributed \$35,000 of the \$70,000.
63. The real estate purchase eventually fell through due to zoning restrictions on the land, which were a requisite to completing the purchase of the land. J.Q. and L.S. did not receive their earnest money back.
64. In or about July 2006, Sanders informed J.Q. of a number of “upper lots” near the original property J.Q. and L.S. had attempted to purchase. Sanders stated he intended to develop the land with roughly two hundred and six condominiums and two parcels of land. Sanders stated he wanted to raise investor funds and pool them to purchase the lots and develop the land. Sanders stated he was preparing to pre-sell the condominium units.
65. Sanders told J.Q. that he had experience in doing hard money loans and had successfully done millions of dollars in land developments. Sanders invited J.Q. to bring in other investors.
66. In or about July 2006, there was a meeting at the business office of Sanders and Barlow in Alpine, Utah. Present at this meeting were Sanders, Barlow, J.Q. and L.S.

67. Both Sanders and Barlow stated they had experience in doing hard money loans and had successfully done millions of dollars in hard money loans. They further stated they had been involved in successful real estate developments in Utah and California.
68. L.S. asked repeatedly if his and J.Q.'s money was going to be used to completely purchase the property, and if the land would be subject to a loan. Barlow and Sanders responded that the investor pool of funds would be used to completely purchase the land, and they had nothing to worry about. The development would start right away once the land was purchased. J.Q. offered to help with the land purchase but Sanders declined.
69. Prior to investing, Sanders, either by phone or by email, offered J.Q. and L.S. two rates of return based on whether they invested in the first phase of the development or in the entire development. The entire cost of the property was approximately \$9,000,000.
70. Prior to J.Q. and L.S. investing, Sanders and Barlow made the following statements to them:
 - a. They were very successful hard money lenders;
 - b. They had "extensive experience in land development," including other resort developments;
 - c. They had over \$100 million in assets;
 - d. They were moving investors from the hard money lending into real estate investing; and

- e. Investor funds would be used to purchase real estate.
71. On or about August 7, 2006, an account in the name of Landmaster Development, LLC and L.S. wired \$300,000 to Chamonix Capital I, LLC. J.Q. and L.S. authorized these funds exclusively to purchase real estate adjacent to the Powder Mountain Ski Resort.
72. Approximately two months after investing, J.Q. received disclosure documents by email.
73. Prior to accepting J.Q.'s and L.S.'s investment, neither Sanders nor Barlow discussed with, or provided the following information to, J.Q. or L.S.:
- a. What percentage ownership Sanders and Barlow were retaining in the development project;
 - b. While the proposed investment project needed approximately \$9 million, the total number of investors or how much had already been raised was not disclosed;
 - c. Whether Sanders or Barlow would receive a commission out of investor funds;
 - d. No audited financials for Fortius were provided;
 - e. There was no discussion of risk of loss;
 - f. There was no discussion of minimum investment; and
 - g. There was no discussion of what would happen if the entire \$9 million was not raised.
74. After J.Q. and L.S. invested, construction began but Fortius lost the property. Sanders told J.Q. and L.S. he would transfer their investment to 100 acres Fortius held at Eagle

Mountain. Sometime thereafter, Sanders told J.Q. and L.S. that Fortius never actually owned the Eagle Mountain property and offered to transfer their investment to a project in Pineview.

75. J.Q. and L.S. asked for their money back after being offered the interest in Pineview. Sanders responded that Fortius would try to find another investor to take J.Q.'s and L.S.'s place in the project. J.Q. and L.S. have not received any of their investment back.

Investors A.B. and L.W.

76. A.B. and L.W. operate a construction company together. In early 2006, A.B. heard about an opportunity to invest in the development of Powder Mountain condominiums from J.Q. J.Q. briefly described the investment as being land that could be bought and developed, and the land was going to be purchased for a good price. J.Q. then referred A.B. to meet with Sanders and Barlow.
77. In or about spring of 2006, A.B. met a couple of times with Sanders and Barlow at their office in Alpine, Utah. Present at all of these meetings were A.B., Sanders, Barlow, J.Q., L.S. and a couple of other individuals A.B. did not know.
78. At these meetings, Sanders and Barlow made the following representations:
- a. They were investing in a piece of land and trying to raise money to buy the property with investor equity;
 - b. They wanted to have enough investors to buy the land free and clear;

- c. They wanted to avoid doing the project with any liens against the land;
 - d. The development project would go through a couple of phases of building condominiums;
 - e. The project would yield a great return of double or triple the invested amount;
 - f. Sanders and Barlow had experience in development projects, having completed some and still working on others; and
 - g. Barlow stated they had enough investor capital to buy the land.
79. As equal partners, A.B. and L.W. invested a total of \$300,000 with a check made to Fortius Group in September 2006 in the amount \$80,000 and a bank wire to Fortius Group from US Bank in September 2006 for \$220,000.
80. Prior to accepting A.B.'s and L.W.'s investment, neither Sanders nor Barlow discussed with, or provided the following information to, A.B. or L.W.:
- a. Investors were not provided with audited financials for Fortius;
 - b. No discussion of risk of loss;
 - c. No discussion of minimum investment;
 - d. No discussion of what would happen if the entire \$9 million was not raised;
 - e. What percentage ownership Sanders and Barlow would retain in the development project;
 - f. While the proposed investment project needed approximately \$9 million, the total

- number of investors or how much had already been raised was not disclosed; and
- g. Whether Sanders or Barlow would receive a commission out of investor funds.
81. A.B. and L.W. received disclosure documents approximately three months after they invested.
82. A.B. and L.W. demanded a return of their investment funds in 2010 because the terms of the investment were not being met. However, A.B. and L.W. have not received any of their investment back.

SECURITIES FRAUD UNDER § 61-1-1 OF THE ACT

83. The Division incorporates and re-alleges Paragraphs 1-82.
84. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.
85. In connection with the offer and sale of securities to the investors, Respondents, directly or indirectly, made false statements, including, but not limited to the following:
- a. Fortius was involved in several real estate development projects which were “solid investments,” when in fact, Respondents had no reasonable basis for making such a statement;
- b. Fortius investments were a good deal, they were a sure thing, and Fortius was going to make investors a great deal of money, when in fact, Respondents had no reasonable basis for such statements;

- c. That Barlow and Sanders were successful hard money lenders;
 - d. That Barlow and Sanders had extensive experience in land development including other resort developments;
 - e. That Barlow, Sanders and Foritus had over \$100 million in assets; and
 - f. That investor funds would be used to purchase real estate.
86. In connection with the offer and sale of securities to the investor, Respondents, directly or indirectly, failed to disclose material information, which was necessary in order to make representations made not misleading, including, but not limited to the following:
- a. A prospectus prior to the investment;
 - b. Investors could be subject to capital contribution calls if the company needed additional funds;
 - c. Information typically provided in an offering circular or prospectus regarding Respondents, such as:
 - i. Financial statements, including but not limited to audited financial statements for Fortius and the other entities involved;
 - ii. Risk factors;
 - iii. Track record with other investors;
 - iv. Respondents' business experience and operating history;
 - v. Whether Respondents were licensed to sell securities;

- vi. Whether the investment was a registered security or exempt from registration;
- vii. What percentage of ownership Barlow and Sanders would retain in the development project;
- viii. How many investors were involved and how much money had been raised;
- ix. Whether Barlow and Sanders would be paid any commission out of investor funds;
- x. Whether or not a minimum investment was required from investors; and
- xi. What would happen if the money for the project(s) was not raised.

II. THE DIVISION'S CONCLUSIONS OF LAW

87. 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 making untrue statements of material fact and omitting to state material facts in connection with the offer and sale of securities, disclosure of which was necessary in order to make representations made not misleading.

III. REMEDIAL ACTIONS/SANCTIONS

88. Sanders neither admits nor denies the Division's findings of fact and conclusions of law but consents to the sanctions below being imposed by the Division.

89. Sanders represents that any information he provided to the Division as part of the Division's investigation of this matter is accurate.
90. Sanders agrees to the imposition of a cease and desist order, prohibiting him from any conduct that violates the Act.
91. Sanders agrees that he will be barred from (i) associating¹⁰ 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.
92. Pursuant to § 61-1-20(1)(f) of the Act and in consideration of the guidelines set forth in Utah Administrative Code Rule R164-31-1, the Division imposes a fine of \$30,000 against Sanders, due in full within twelve months of the entry of the Stipulation and Consent Order. If the Division finds that Sanders materially violates any term of this Stipulation and Consent Order, thirty days after notice and an opportunity to be heard before an administrative officer solely as to the issue of a material violation, Sanders consents to a judgment ordering the entire fine immediately due and payable.
93. Each dollar paid by Sanders to the investors toward restitution shall be credited by the Division toward payment of the fine. Sanders shall send to the Division the cancelled checks for each payment made to the investors.

¹⁰ "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

94. Sanders 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.

IV. FINAL RESOLUTION

95. Sanders acknowledges that this Stipulation and Consent Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.
96. Sanders 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.
97. Sanders acknowledges that the Stipulation and Consent Order does not affect any civil or arbitration causes of action that third-parties may have against them rising in whole or in part from their actions, and that the Stipulation and Consent Order does not affect any criminal causes of action that may arise as a result of their conduct referenced herein.
98. This 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 this Stipulation and Consent Order in any way.

related to the sale or promotion of securities or the giving of investment advice in the State of Utah.

Utah Division of Securities

Date: Aug. 13, 2012

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

Respondent Sanders

Date: July 30, 2012

By: Colby J. Sanders
Colby J. Sanders

Approved:

D. Scott Davis
D. Scott Davis
Assistant Attorney General
D.W.

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. Sanders ceases and desists from violating the Utah Uniform Securities Act.
3. Sanders is barred from (i) associating with any broker-dealer or investment adviser licensed in Utah; and (ii) acting as an agent for any issuer soliciting investor funds in Utah.
4. The Division imposes a fine of \$30,000 against Sanders, offset by restitution payments to the investors.
5. Payment of the fine is due within twelve months of the entry of this Order.
6. If Sanders materially violates any of the terms of this Order, the full fine amount shall be imposed and become due immediately.
7. Sanders agrees to cooperate with the Division in any future investigations.

BY THE UTAH SECURITIES COMMISSION:

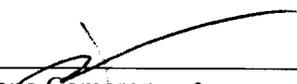
DATED this 29th day of October, 2012.



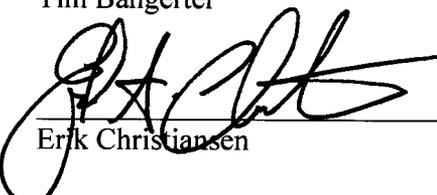
Brent Baker



Tim Bangerter



Jane Cameron



Erik Christiansen



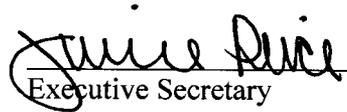
Laura Polacheck

Certificate of Mailing

I certify that on the 20th day of October, 2012, I mailed, by certified mail, a true and correct copy of the Stipulation and Consent Order to:

Colby Sanders
254 North 3050 West
Layton, UT 84041

Certified Mailing # 707022000100078052


Executive Secretary