

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:

CAPITAL CONCEPTS, LLC,
BLAIR STEVEN ARNELL, CRD# 2914711,
NATHAN ANDREW ARNELL,

Respondents.

**STIPULATION AND CONSENT
ORDER**

Docket No. SD -11-0083
Docket No. SD -11-0084
Docket No. SD -11-0085

The Utah Division of Securities (the Division), by and through its Director, Keith Woodwell, and Nathan Arnell, hereby stipulate and agree as follows:

1. Nathan Arnell and others 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 Nathan Arnell, Blair Arnell, and Capital Concepts, LLC (Respondents) on October 12, 2011, alleging securities fraud. Criminal charges were also filed against Nathan Arnell

and Blair Arnell in connection with the investigation.¹

3. Nathan Arnell waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf. Nathan Arnell 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.
4. Nathan Arnell is represented by Kruse Landa Maycock and Ricks, LLC and is satisfied with the advice and representation he is receiving from that firm in this matter.
5. Nathan Arnell 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.
6. Nathan Arnell admits the jurisdiction of the Division over him and over the subject matter of this action.

¹*State of Utah v. Blair Steven Arnell*, Case No. 111402878, and *State of Utah v. Nathan Andrew Arnell*, Case No. 111402879, Fourth Judicial District Court of Utah. Blair Arnell pleaded guilty to two second degree felony counts of securities fraud on March 21, 2012. The criminal case against Nathan Arnell was dismissed without prejudice.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENTS

7. Capital Concepts, LLC, (CCL) is Utah limited liability company registered on March 8, 2004. Blair S. Arnell is the manager and registered agent. David E. Arnell is a member of CCL. CCL has never been licensed with the Division.
8. Blair Steven Arnell (B. Arnell) was, at all relevant times, a resident of the State of Utah. From 1997 to 2002, B. Arnell successfully completed the Series 6, Series 7, Series 63, and Series 65 exams. B. Arnell had been licensed with the Division as a General Registered Representative, Investment Company Representative, and Variable Products Representative. B. Arnell has not been associated with a firm and/or licensed in the securities industry since June 6, 2002.
9. Nathan Andrew Arnell (N. Arnell) was, at all relevant times, a resident of the State of Utah. N. Arnell has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

10. From October 2007 to April 2008, Respondents offered securities to investors, in or from Utah and collected \$1,049,000.
11. Respondents made material misstatements and omissions in connection with the offer of securities to the investors below.

12. Investors lost all \$1,049,000 of their principal.

INVESTORS K.W. AND J.W. (HUSBAND AND WIFE)

13. K.W. and J.W. met B. Arnell in or about July 2006 at a seminar hosted by Mountain America Credit Union (MACU.)

14. During a meeting with K.W. and J.W., B. Arnell offered several different investment opportunities through him that would be secured by a trust deed.

15. Based on his statements, K.W. and J.W. invested \$40,000 with B. Arnell in August 2006. B. Arnell eventually returned all the investment funds to K.W. and J.W. as promised in August 2007.

16. Shortly after the term of K.W. and J.W.'s first investment, B. Arnell contacted K.W. by telephone and offered investment opportunities that included factoring and real estate. K.W. indicated that he preferred an investment in real estate.

17. During the conversation, B. Arnell made the following statements about a real estate investment with him:

- a. He had been doing this a long time; and
- b. K.W. and J.W.'s investment would be collateralized by a trust deed.

18. Based on B. Arnell's statements, K.W. and J.W. re-invested the proceeds from the original investment along with additional funds for a total of \$45,000 with B. Arnell in

the following manner: On or about December 4, 2007, B. Arnell received a bank wire transfer of \$341,883 from Meridian Title. \$42,735 of the funds belonged to K.W. and J.W. On December 28, 2007, K.W. gave B. Arnell a check for \$2,265.

19. In exchange for the investment funds, on or about December 12, 2007, B. Arnell gave K.W. and J.W. an assigned promissory note in which Kenneth Eugene North² (North) and his entity, Polo Estates, Inc., promised to pay B. Arnell and CCL \$45,000 with simple interest at the rate of 24% per annum. The assignment grants K.W. and J.W. a 100% interest in the promissory note.
20. B. Arnell told K.W. and J.W. that the promissory note was secured by a deed of trust, dated December 4, 2007, and held in the name of CCL.
21. Bank records show that on January 31, 2008, B. Arnell wired \$150,000 of pooled investor funds to North's entity, North Gilger Land Investments, \$45,000 of which was K.W. and J.W.'s investment funds.
22. K.W. and J.W. never received a deed of trust for the promissory note nor did they receive any payments from B. Arnell, CCL, North, or Polo Estates, Inc.
23. Respondents still owe K.W. and J.W. \$45,000 in principal alone.

² On June 28, 2011, the Division filed an order to show cause naming North as a respondent. The order alleges securities fraud, unlicensed activity, and sale of an unregistered security. Criminal charges were filed for related conduct. *State of Utah v. Kenneth Eugene North*, Case No. 111904452 in Third District Court (2011).

INVESTOR A.V.

24. In or about December 2007, a friend referred A.V. to CCL for investment purposes.
25. A.V. contacted N. Arnell by phone from her home in California. N. Arnell was in Utah during the call.
26. During the conversation, N. Arnell made the following statements about an investment with CCL:
 - a. A.V. could not lose her investment;
 - b. The worst-case scenario would be that she might receive less interest; and
 - c. B. Arnell ran the company and David Arnell, N. Arnell's uncle, was the "financial guy."
27. N. Arnell then sent A.V. an email listing the types of investments CCL offered. N. Arnell also stated that CCL could work with investment funds from IRAs, non-IRA savings, cash value in life insurance policies, and money from home equity or other real estate.
28. In or about January 2008, A.V. received an email from CCL describing an investment in Polo Estates, Inc.:
 - a. B. Arnell had just spent two days in La Quinta "getting fully educated on New

Century Builders [sic] new Fractional Ownership Project called Polo Estates;”

- b. There was no minimum investment;
 - c. The investment term was one year;
 - d. Investment funds would be used to build “fractionals;”
 - e. New Century had a management staff with extensive experience in marketing and managing all types of resort properties;
 - f. New Century was raising \$1-\$6 million, as needed;
 - g. The interest rate was 24% per year paid quarterly;
 - h. The collateral would be the model home, clubhouse, and the first three homes built in the project; and
 - i. Additional collateral was the personal guarantee of North.
29. Based on the statements of B. Arnell and N. Arnell, A.V. invested \$354,000 with CCL to invest in Polo Estates, Inc in the following manner: On January 7, 2008, A.V. invested \$230,000 and in exchange received an Assignment of Promissory Note signed by B. Arnell. The promissory note granted A.V. a 100% interest in a promissory note held in the name of CCL, made by North and his entity Polo Estates, Inc. The promissory note was purportedly secured by a deed of trust.
30. On January 25, 2008, A.V. invested \$124,000 and in exchange received an Assignment

of Promissory Note signed by B. Arnell. The promissory note grants the custodian of A.V.'s IRA a 100% interest in a promissory note held in the name of CCL, made by North and his entity Polo Estates, Inc. The promissory note was purportedly secured by a deed of trust.

31. In or about March 2008, A.V. received an email from CCL describing an investment in Teton Air Ranch and stated the following:
 - a. The Teton Air Ranch project was located in Driggs, Idaho;
 - b. The Teton Air Ranch project was approximately thirty-five acres that are adjacent to Driggs Reed Memorial Airport;
 - c. The minimum investment was \$100,000, but could be negotiated down;
 - d. The investment term was nine months;
 - e. Investment funds would be used to build thirty eight airplane hangars;
 - f. The anticipated profit from the project was \$27 million;
 - g. Construction of the first twelve hangars was expected to be completed by September 1, 2008 and sold by the end of the year;
 - h. Sale of the first twelve hangars would pay off all investors;
 - i. Current capitalization of the project was \$12 million with \$3.9 million being the developer's personal funds;

- j. Investments were collateralized by trust deeds;
 - k. There were no other liens on the property;
 - l. CCL was raising an additional \$3.5 million which would be personally guaranteed by the developer;
 - m. The developer's net worth was \$25 million; and
 - n. Interest rate was 24% per year paid quarterly.
32. Based on B. Arnell and N. Arnell's statements, A.V. invested an additional \$60,000 with CCL to invest in Teton Air Ranch on or about April 1, 2008. In exchange for the investment funds, A.V. received an Assignment of Promissory Note signed by B. Arnell. The assignment grants A.V. a 100% interest in a promissory note held in the name of CCL, made by Bryce Karl³ (Karl) and his entity Teton Air Ranch, LLC. The promissory note is purportedly secured by a deed of trust.
33. A.V. never received a deed of trust for the promissory note nor did she receive any payments from B. Arnell, CCL, North, Polo Estates, Inc., Karl, or Teton Air Ranch, LLC.
34. Respondents still owe A.V. \$414,000 in principal alone.

INVESTOR V.Y.

³ On February 16, 2011, the Division filed an order to show cause naming Karl as a respondent. The order alleges securities fraud. Criminal charges were filed for related conduct. *State of Utah v. Bryce Lee Karl*, Case No. 111902202 in Third Judicial District Court (2011).

35. In or about December 2007, a friend referred V.Y. to CCL for investment purposes.
36. V.Y. contacted B. Arnell and N. Arnell by phone from her home in Texas. B. Arnell and N. Arnell were in Utah during the calls.
37. During the conversations, B. Arnell and N. Arnell both made the following statements about an investment with CCL:
 - a. It was very safe; and
 - b. It was secured by real estate.
38. In or about January 2008, V.Y. received an email from CCL describing an investment in Polo Estates, Inc. (*See Paragraph 28 for details*).
39. Based on the statements of B. Arnell and N. Arnell, V.Y. invested \$100,000 with CCL to invest in Polo Estates, Inc. On or about February 22, 2008, V.Y. invested \$100,000 and in exchange received an Assignment of Promissory Note signed by B. Arnell. The assignment granted the custodian for V.Y.'s IRA a 100% interest in a promissory note held in the name of CCL, made by North and his entity Polo Estates, Inc. The promissory note was purportedly secured by a deed of trust.
40. In or about March 2008, V.Y. received an email from CCL describing an investment in Teton Air Ranch (*See Paragraph 31 for details*).
41. Based on B. Arnell and N. Arnell's statements, V.Y. invested an additional \$100,000

with CCL to invest in Teton Air Ranch on or about April 1, 2008. In exchange for the investment funds, V.Y. received an Assignment of Promissory Note signed by B. Arnell. The assignment grants the custodian of V.Y.'s IRA a 100% interest in a promissory note held in the name of CCL, made by Bryce Karl and his entity Teton Air Ranch, LLC. The promissory note is purportedly secured by a deed of trust.

42. V.Y. never received a deed of trust for the promissory note nor did she receive any payments from B. Arnell, CCL, North, Polo Estates, Inc., Karl, or Teton Air Ranch, LLC.
43. Respondents still owe V.Y. \$200,000 in principal alone.

INVESTOR C.S.

44. In or about December 2007, a friend referred C.S. to CCL for investment purposes.
45. On or about December 28, 2007, C.S. received an email from N. Arnell introducing CCL.
46. C.S. then had various telephone conversations with N. Arnell while in Salt Lake County, Utah. N. Arnell also forwarded to C.S. emails from B. Arnell discussing details of investments with Polo Estates, Inc. and North.
47. In or about January 2008, C.S. received an email from CCL describing an investment in Polo Estates, Inc. (*See Paragraph 28 for details*).
48. Based on the statements of B. Arnell and N. Arnell, C.S. invested \$30,000 with CCL to invest in Polo Estates, Inc. On or about January 23, 2008, C.S. wired \$30,000 from his

personal account to CCL's account at Utah First Credit Union.

49. In exchange for the investment funds, C.S. received an Assignment of Promissory Note signed by B. Arnell. The assignment granted C.S. an interest in a promissory note held in the name of CCL, made by North and his entity Polo Estates, Inc.
50. C.S. never received a deed of trust for the promissory note nor did he receive any payments from B. Arnell, CCL, North, or Polo Estates, Inc.
51. Respondents still owe C.S. \$30,000 in principal alone.

INVESTOR R.M.

52. In or about October 2007, a friend referred R.M. to CCL for investment purposes.
53. R.M. contacted B. Arnell by phone. B. Arnell was in Utah during the call.
54. During the conversation, B. Arnell made the following statements about an investment with CCL:
 - a. There was plenty of money in CCL's projects; and
 - b. If something unexpected happened, R.M. would not lose his funds.
55. R.M. informed B. Arnell that he had IRA funds that he wanted to invest. B. Arnell directed R.M. to company that provided for a self-directed IRA. N. Arnell helped R.M. transfer the funds to the self-directed IRA.
56. Based on B. Arnell's statements, R.M. invested \$50,000 in CCL to be used for the

Talisman project, which involved a man named Nathan Welch⁴ (Welch). On or about October 25, 2007, R.M. wired \$50,000 to CCL's account and in exchange received an Assignment of Promissory Note signed by B. Arnell. The promissory note granted the custodian of R.M.'s IRA a 100% interest in a promissory note held in the name of CCL, made by Welch. The promissory note was purportedly secured by a deed of trust.

57. In or about January 2008, R.M. received an email from CCL describing an investment in Polo Estates, Inc. (*See Paragraph 28 for details*).
58. Based on the statements of B. Arnell and N. Arnell, R.M. invested \$75,000 with CCL to invest in Polo Estates, Inc., in the following manner: On or about January 25, 2008, R.M. invested \$75,000 and in exchange received an Assignment of Promissory Note signed by B. Arnell. The promissory note granted the custodian of R.M.'s IRA a 100% interest in a promissory note held in the name of CCL, made by North and his entity Polo Estates, Inc. The promissory note was purportedly secured by a deed of trust.
59. In or about March 2008, R.M. received an email from CCL describing an investment in Teton Air Ranch (*See Paragraph 31 for details*).
60. Based on B. Arnell and N. Arnell's statements, R.M. invested an additional \$50,000 with CCL to invest in Teton Air Ranch on or about March 10, 2008. In exchange for the

⁴ On March 9, 2011, the Division filed an order to show cause naming Welch as a respondent. The order alleges securities fraud.

investment funds, R.M. received an Assignment of Promissory Note signed by B. Arnell. The assignment granted the custodian of R.M.'s IRA a 100% interest in a promissory note held in the name of CCL, made by Bryce Karl and his entity Teton Air Ranch, LLC. The promissory note is purportedly secured by a deed of trust.

61. R.M. never received a deed of trust for the promissory notes nor did he receive any payments from B. Arnell, CCL Welch, North, Polo Estates, Inc., Karl, or Teton Air Ranch, LLC.
62. Respondents still owe R.M. \$175,000 in principal alone.

INVESTOR A.B.

63. In 2004, A.B. met B. Arnell while B. Arnell was working with MACU as retirement accounts specialist.
64. In 2007, B. Arnell phoned A.B. several times to discuss different investments in property developments using A.B.'s IRA funds.
65. During the conversation, B. Arnell made the following statements about an investment with CCL:
 - a. Each investor would receive a share of the development;
 - b. The investor's name would be placed on the title of a unit in the development or the investor would receive full title to a specific unit;

- c. Only once had something gone wrong with a CCL investment, but if something did go wrong, he would handle it and would hire an attorney to represent A.B.
66. Based on B. Arnell's statements, A.B. invested \$67,000 in CCL to be used for a development project in St. George, Utah. A.B. wired the funds to a self-directed IRA, which then transferred the funds to CCL's account.
67. In March 2008, B. Arnell contacted A.B. and told her he was pulling her investment funds out of the St. George project because she was not making a return. B. Arnell then discussed an investment opportunity in Teton Air Ranch.
68. During the conversation B. Arnell made the following statements about an investment in the Teton Air Ranch project:
- a. A.B. would make 24% interest per annum;
 - b. The payout would be quarterly;
 - c. A.B.'s principal and interest would be paid in full on July 2009;
 - d. The investment was secured by real property; and
 - e. A.B.'s name would be placed on the deed in first position.
69. In or about March 2008, A.B. received an email from CCL describing an investment in Teton Air Ranch (*See Paragraph 31 for details*).
70. B. Arnell returned A.B.'s initial \$67,000 to her self-directed IRA account.

71. Based on B. Arnell statements, A.B. invested \$185,000 with CCL to invest in Teton Air Ranch. In exchange for the investment funds, A.B. received an Assignment of Promissory Note signed by B. Arnell. The assignment grants A.B. a 100% interest in a promissory note held in the name of CCL, made by Karl and his entity Teton Air Ranch, LLC. The promissory note is purportedly secured by a deed of trust, which A.B. received; however, CCL was named on the deed instead of A.B.
72. Respondents still owe A.B. \$185,000 in principal alone.

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

73. The Division incorporates and re-alleges Paragraphs 1-72.
74. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.
75. 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. Investments would be collateralized by deeds of trust, when in fact, this was not true;
 - b. Worst-case scenario for investing with CCL was not receiving all of the interest when due, when in fact, Respondents had no reasonable basis for making such a statement;

- c. Investors could not lose their money, when in fact, Respondents had no reasonable basis for making such a statement; and
 - d. The investment was “very safe,” when in fact, Respondents had no reasonable basis for making such a statement.
76. In connection with the offer and sale of a security to the investors, Respondents, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make statements made not misleading:
- a. B. Arnell had lost a significant amount of previous investors’ funds through defaulted investments in companies owned by Rick Koerber⁵;
 - b. In 2007, B. Arnell had been named as a defendant in a lien/mortgage foreclosure⁶;
 - c. North had filed for Ch. 7 bankruptcy in 1993⁷;
 - d. North had filed for Ch. 13 bankruptcy twice in 1995⁸;
 - e. From 1992 to 2006, North had at least forty-five legal actions taken against him

⁵ On July 26, 2011, N. Arnell told an investigator for the Division that he knew about the default investments with Rick Koerber and did not discuss them with subsequent investors. On May 12, 2008, B. Arnell filed a civil action against Rick Koerber to recover the lost funds. *Blair Arnell v. C. Rick Koerber*, Case No. 080401493 in Fourth Judicial District Court (2008).

⁶ *SN Custom Railing Inc. v. Press Realty Advisors II, LLC*, Case No. 070916436 in Third Judicial District Court (2007).

⁷ *In re North*, Case No. 93-20434 (Bankr. D. Utah 1993).

⁸ *In re North*, Case No. 95-22189 (Bankr. D. Utah 1995); *In re North*, Case No. 95-23647 (Bankr. D. Utah 1995).

resulting in \$168,017 in judgments and tax liens with \$42,178 not satisfied;

- f. How North's personal guarantee would serve as collateral;
- g. How B. Arnell would be compensated by North⁹;
- h. Some or all of the information typically provided in an offering circular or prospectus regarding CCL, B. Arnell, and N. Arnell, such as:
 - i. Financial statements;
 - ii. Risk factors;
 - iii. Suitability factors for the investment;
 - iv. Nature of competition;
 - v. Whether the investment was a registered security or exempt from registration; and
 - vi. Whether Respondents were licensed to sell securities.

II. THE DIVISION'S CONCLUSIONS OF LAW

77. Based on the Division's investigative findings, the Division concludes that:
- a. The investment opportunities offered and sold by Nathan Arnell are securities under § 61-1-13 of the Act;
 - b. Nathan Arnell violated § 61-1-1(2) of the Act by making misrepresentations of

⁹ On July 7, 2011, B. Arnell told an investigator from the Division that he was to receive a 1% to 1.5% commission on investor funds placed with North and Karl.

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

78. Nathan Arnell neither admits nor denies the Division's findings and conclusions and consents to the sanctions below being imposed by the Division.
79. Nathan Arnell agrees to the imposition of a cease and desist order, prohibiting him from any conduct that violates the Act.
80. Nathan Arnell 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.

IV. FINAL RESOLUTION

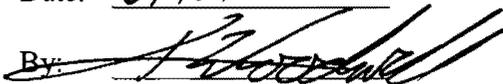
81. Nathan Arnell acknowledges that this Stipulation and Consent Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.

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

82. Nathan Arnell further acknowledge 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.
83. Nathan Arnell acknowledges that the Stipulation and Consent Order does not affect any civil or 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.
84. 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

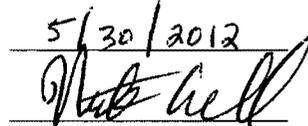
Date: 6/12/2012

By: 

Keith Woodwell
Director

Respondent

Date: 5/30/2012

By: 

Nathan Andrew Arnell

Approved:



D. Scott Davis
Assistant Attorney General



KRUSE LANDA MAYCOCK &
RICKS, LLC
Counsel for Respondent

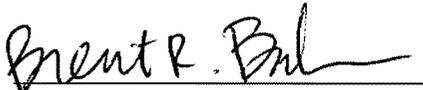
ORDER

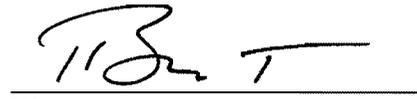
IT IS HEREBY ORDERED THAT:

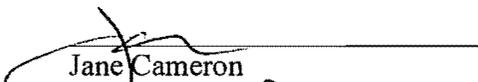
1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement.
2. Nathan Arnell shall cease and desist from violating the Utah Uniform Securities Act.
3. Nathan Arnell agrees to be barred from the securities industry in Utah.

DATED this 19th day of July, 2012.

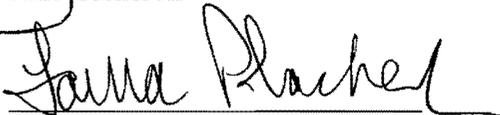
BY THE UTAH SECURITIES COMMISSION:


Brent Baker


Tim Bangerter


Jane Cameron

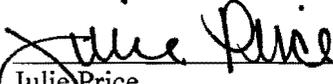

Erik Christiansen


Laura Polacheck

Certificate of Mailing

I certify that on the 20th day of JULY, 2012, I mailed a true and correct copy of the fully executed Stipulation and Consent Order to:

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



Julie Price
Executive Secretary