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: **CRAIG TANNER DALY,** **JOSHUA CARL JOHNSON,** **Respondents.**	**STIPULATION AND CONSENT ORDER** **Docket No. SD -12-0017** **Docket No. SD -12-0018**

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Thomas Brady, and Craig Tanner Daly, and Joshua Carl Johnson (Respondents) 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 February 17, 2012, alleging securities fraud and unlicensed activity.

3. Respondents waive any right to a hearing to challenge the Division's evidence and

present evidence on their behalf. Respondents understand that by waiving a hearing, they are waiving the requirement that the Division prove the allegations against them by a preponderance of evidence, waiving their right to confront and cross-examine witnesses who may testify against them, to call witnesses on their own behalf, and any and all rights to appeal the findings, conclusions and sanctions set forth in this Stipulation and Consent Order.

4. Respondents are represented by attorney Justin R. Elswick of Heideman, McKay, Heugly, and Olsen and are satisfied with the representation they have received.

5. Respondents 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. Craig Tanner Daly (Daly) was, at all relevant times, a resident of the State of Utah. Daly has never been licensed in the securities industry in any capacity.

8. Joshua Carl Johnson (Johnson) was, at all relevant times, a resident of the State of Utah. Johnson has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

9. From July 2010 to September 2010, Respondents offered and sold investment contracts to an investor, in or from Utah, and collected at least $165,000.

10. Investment contracts are securities under the Act.

11. Respondents made material omissions in connection with the offer and sale of securities to the investor below.

12. Investor lost $160,800 of his principal.

INVESTOR V.C.

13. In July 2010, V.C. saw an ad on the internet from Freedom Wealth Group, LLC (FWG)[1] offering to teach investors how to FOREX trade. The ad claimed to reduce the amount of risk in FOREX trading and listed Daly as the contact.

14. V.C. contacted Daly via telephone for more information. During the conversation, Daly made the following statements about an investment in FWG:

    a. FWG taught investors how to FOREX trade their own money;

    b. FWG taught investors how to use the daily ONIT trade; and

    c. The program package costs $5,000.

[1] FWG was a limited liability company that registered with the Nevada Secretary of State's office on May 21, 2008. Jessica L. Jones, Kevin W. Jones, Matthew E. Poll, and Epicenter Trading, Inc. were listed as members. FWG registered with the Utah Division of Corporations as a foreign entity on May 11, 2011. Its status, as of June 11, 2012, is listed as delinquent. FWG has never been licensed with the Division.

15. On August 3, 2010, Daly emailed V.C. more information about the ONIT trade. In the email, Daly gave an example of one account that had earned a 225% return. Daly also stated that FWG was now "56 for 56" in successful trades on the account.

16. In an email response, V.C. asked Daly how FWG was able to make such successful trades.

17. On August 3, 2010, Daly responded with another email making the following statements:

    a. There is a steep learning curve with FOREX trading;

    b. Daly would never want V.C. to learn the lessons of trading with his principal;

    c. Daly would personally do all of V.C.'s trading with short thirty-day terms in case V.C. needed his principal back;

    d. It would be easy to return principal plus dividends each month; and

    e. He could have V.C.'s money back with a few days' notice.

18. In another email response, V.C. told Daly that he wanted to put his money in a safe and conservative investment.

19. On August 3, 2010, Daly responded with a third email making the following statements:

    a. Daly had managed other investments before and this would not be anything new; and

    b. He would try to place parameters and limits on himself as the trader in case of

initial losses, in which case Daly would pull out the funds. Daly claimed, however, that he had never had to do this.

20. On August 4, 2010, Daly sent V.C. a follow-up email stating that his example of the trade that gained 225% was due to him leveraging double what he normally leveraged. Daly is more conservative and consistent, resulting in smaller gains.

21. Shortly following the email exchange, Daly and V.C. spoke via telephone. V.C. indicated some reluctance in investing in FWG.

22. Daly then stated the following:

    a. He was a member of the Church of Jesus Christ of Latter-day Saints (LDS);

    b. He was a descendant of LDS apostle Bruce R. McConkie; and

    c. He came from a long line of strong LDS heritage.

23. On or about August 10, 2010, Daly and V.C. met in Salt Lake County, Utah and signed a document titled *Investor & Advisor Agreement* to invest $50,000 with Daly. The agreement states the following:

    a. Daly is the "Advisor;"

    b. Daly will give his best efforts to earn a 5% monthly return for V.C.;

    c. Projected returns are goals and not a guarantee;

    d. The length of the investment is two months, after which, V.C. can cancel the

agreement at any time;

e. The agreement may be null and void after an investor loss of 25% of principal and the remaining principal will be returned to the investor; and

f. There are inherent risks in trading.

24. Based on Daly's statements, V.C. invested $115,000 with Daly. On August 11, 2010, V.C. wired $50,000 to Daly's account. Daly transferred $48,000 of the funds to a FOREX trading account, while Daly retained $2,000.

25. On September 16, 2010, V.C. wired $65,000 to Daly's account. Daly transferred $64,000 of the funds to a FOREX trading account, while Daly retained $1,000.

26. V.C. has received approximately $4,200 from Daly but is still owed $110,800 in principal alone.

27. Shortly after V.C.'s initial investment, V.C. wanted to invest more funds, and Daly referred V.C. to Johnson.

28. Daly and Johnson met with V.C. to discuss another investment opportunity in FWG. Daly told V.C. that Daly and Johnson work together and discuss whether trades will be successful before trading.

29. Johnson promised V.C. a return of 10% monthly or 120% per annum.

30. Johnson told V.C. that the investment funds would be used for FOREX trading, similar to

V.C.'s previous investment with Daly.

31. Based on Johnson and Daly's statements, V.C. invested $50,000 with Johnson. On August 26, 2010, V.C. wired $50,000 to Johnson's account. Johnson transferred $48,000 of the funds to a FOREX trading account, while Johnson retained $2,000.

32. V.C. has not received any payments from Johnson and is still owed $50,000 in principal alone.

33. In October 2010, V.C. met with Daly and Johnson. Daly and Johnson told V.C. that the investment was going really well.

34. On January 7, 2011, V.C. met with Daly and Johnson. Daly and Johnson told V.C. that FWG incurred some losses, the "buffer zone" was gone, and FWG could "go under."

35. On January 31, 2011, V.C. received an email from Daly stating that he and Johnson had closed the doors to their office due to losses.

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

36. The Division incorporates and re-alleges Paragraphs 1-35.

37. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.

38. In connection with the offer and sale of securities to the investor, 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. Daly would retain $2,000 of V.C.'s $50,000 investment funds;

b. Daly would retain $1,000 of V.C.'s $65,000 investment funds;

c. Johnson would retain $2,000 of V.C.'s $50,000 investment funds;

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

i. Financial statements;

ii. Risk factors;

iii. The number of investors;

iv. Suitability factors for the investment;

v. Whether the investment was a registered security or exempt from registration; and

vi. Whether Respondents were licensed to sell securities.

UNLICENSED ACTIVITY UNDER § 61-1-3(3) OF THE ACT

39. The Division incorporates and re-alleges paragraphs 1 through 35.

40. Respondents acted as investment advisers in the offer and/or sale of securities in Utah.

41. Respondents have not been licensed in the securities industry in any capacity.

42. Respondents failed to meet the exemptions from licensure found in § 61-1-3(3)(b)-(c) of

the Act.

43. Daly received compensation of $3,000 in the offer and/or sale of securities in Utah.

44. Johnson received compensation of $2,000 in the offer and/or sale of securities in Utah.

45. Accordingly, each offer or sale of securities by Respondents violated § 61-1-3(3) of the Act.

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

II. THE DIVISION'S CONCLUSIONS OF LAW

47. 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 omitting to state material facts in connection with the offer and sale of securities, disclosure of which were necessary in order to make representations made not misleading.

c. Respondents violated § 61-1-3(3) of the Act by transacting business in Utah as investment advisers without licenses and without qualifying for exemptions from licensure, as provided in § 61-1-3(3) of the Act.

III. REMEDIAL ACTIONS/SANCTIONS

48. Respondents neither admit nor deny the Division's findings of fact and conclusions of

law and consent to the sanctions below being imposed by the Division.

49. Respondents agree to the imposition of a cease and desist order, prohibiting them from any conduct that violates the Act.

50. Respondents agree that they will be barred from (i) associating[2] 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.

51. 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.

52. 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 $25,900 against Daly, due in full within thirty-six months of the entry of the Stipulation and Consent Order, and a fine of $11,616 against Johnson, due in full within twenty-four months of the entry of the Stipulation and Consent Order. If the Division finds that Daly

[2] "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.

or Johnson 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, Respondents consent to a judgment ordering the entire fine immediately due and payable.

IV. FINAL RESOLUTION

53. Respondents acknowledge that this Stipulation and Consent Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.

54. Respondents 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.

55. Respondents acknowledge 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.

56. 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: 7/11/12

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

Approved:

D. Scott Davis
Assistant Attorney General
A.S.

Respondent Daly:

Date: July 5th 2012

By: Craig T. Daly
Craig Tanner Daly

Respondent Johnson: July 6th 2012

Date:

By: Josh C Johnson
Joshua Carl Johnson

Approved:

Justin R. Elswick
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 agree to be barred from the securities industry in Utah.
4. Respondents agree to cooperate with the Division in any future investigations.
5. The Division imposes a fine of $25,900 against Daly and $11,616 against Johnson.
6. Payment of the fine is due within thirty-six months of the entry of this Order for Daly and within twenty-four months of the entry of this Order for Johnson.
7. If Respondents materially violate any of the terms of this Order, the full fine amount shall be imposed and become due immediately.

DATED this 24 day of January, 2013.

BY THE UTAH SECURITIES COMMISSION:

Brent Baker

Tim Bangerter

Jane Cameron

Erik Christiansen

Laura Polacheck

Certificate of Mailing

I certify that on the 28 day of January, 2013, I mailed a true and correct copy of the fully executed Stipulation and Consent Order to:

Craig Tanner Daly
Joshua Carl Johson
c/o Justin R. Elswick
Heideman, McKay, Heugly & Olsen, LLC
2696 North University Avenue, Suite 180
Provo, UT 84604

Certified Mailing # 7007 0220 0001 0004 8717

Julie Price
Executive Secretary