

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:

MICHAEL SCOTT JOLLEY,

Respondent.

**STIPULATION AND CONSENT
ORDER**

Docket No. SD-12-0058

The Utah Division of Securities (the Division), by and through its Director of Enforcement, Dave Hermansen, and Michael Scott Jolley (Respondent) hereby stipulate and agree as follows:

1. Respondent was the subject of an investigation conducted by the Division into allegations that he violated certain provisions of the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, *et seq.*, as amended (the Act).
2. In connection with that investigation, the Division initially issued an Order to Show Cause against Respondent on October 3, 2012, alleging securities fraud.
3. Respondent waives any right to a hearing to challenge the Division's evidence and

present evidence on his behalf. Respondent 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. Respondent 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.
5. Respondent 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. Respondent admits the jurisdiction of the Division over him and over the subject matter of this action.

I. THE DIVISION'S FINDINGS OF FACT

THE RESPONDENT

7. Michael Scott Jolley (Jolley) was, at all relevant times, a resident of the state of Utah. Jolley has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

8. Between February and July 2008, Jolley offered and sold securities to an investor, in or from Utah, and collected a total of at least \$35,000.

9. Jolley made material misstatements and omissions in connection with the offer and sale of securities to the investor identified below.

INVESTOR C.B.

10. Jolley initially met C.B. through her son, D.S., when D.S. and Jolley worked for the same mortgage company.
11. Jolley helped C.B. in refinancing her home.
12. Using funds acquired through the refinance process, C.B. then decided to invest in a condominium project that Jolley presented to her.
13. Specifically, in May 2006, C.B. invested \$35,000 with Jolley, thereby providing short-term funding to help build the condominium complex. Jolley told C.B. that her investment would be secured by one of the units in the project.
14. Through that investment, C.B. received a return of her principal plus \$14,000 and considered the transaction to be a success.
15. Later, in February 2008, Jolley reached out to C.B. to discuss an additional investment opportunity. This investment involved Jolley's company, Red Rock Funding Group, Inc. (RRFG).¹
16. Because C.B. had already invested with Jolley and received a return, as promised, she decided to invest a second time.

¹ Red Rock Funding Group, Inc. was a Utah corporation that initially registered with the Utah Division of Corporations on January 2, 2007. As of May 6, 2009, the entity's status changed from active to expired. During its existence, Jolley served as registered agent, president, treasurer, and director of the company.

17. As a result, on July 16, 2008, C.B. wired \$35,000 from her bank account at Washington Mutual into RRFG's bank account at State Bank of Southern Utah.
18. As further evidence of their arrangement, C.B. received a lender agreement and an addendum to that lender agreement.²
19. The lender agreement is dated February 26, 2008 and executed by Jolley. In accordance therewith, it contains the following terms:
 - a. C.B. shall receive 1.5% interest per thirty-day cycle (18% per annum), resulting in monthly interest payments of \$525.00.
 - b. Additionally, the principal would be repaid within six months and five business days of the document's execution.
 - c. Finally, the "loan shall be considered secured and lent directly to [RRFG] for the purpose of business growth and cash flow development."
 - d. The agreement also listed an address, indicating that the property located at that address would serve as collateral for the loan.
20. The addendum is dated July 15, 2008 and unsigned by either party. Its terms include the following:
 - a. The dates of the loan agreement were modified to reflect the date in which RRFG actually received the funds.

² It remains unclear when C.B. actually received the contract and addendum, as she did not execute either document. C.B. states that she received the documents in the mail after she provided the funds to Jolley, but she cannot recall an exact date.

- b. The collateral changed from real property located at 101 N. 1850 W. to 2208 W. Saddleback Dr. in Cedar City, Utah 84720.
 - c. All other terms and conditions remained the same as the original agreement.
- 21. At a time when C.B. believed her investment to be due, she contacted Jolley to inquire about payment.
 - 22. He stated that the company's funds had been used to purchase real property, which should have been sold to a third party; however, the third party had subsequently backed out, and RRFG now owned the property.
 - 23. C.B. asked for her money back, but Jolley stated that the property would need to be sold first.
 - 24. Based on a first in, first out analysis, bank records indicate that Jolley used C.B.'s funds in the following manner:
 - a. \$1,787.81 for automobile and transportation expenses;
 - b. \$11,184.62 for bills and utilities;³
 - c. \$1,917.53 in cash withdrawals;
 - d. \$832.21 in education expenses;
 - e. \$354.49 in entertainment expenses;
 - f. \$0.35 in fees and charges;
 - g. \$674.90 in life insurance premium payments;

³ This amount includes \$9,499 in credit card payments.

- h. \$1,128.88 in food and dining expenses;
 - i. \$3,576.00 in gifts and donations;
 - j. \$561.40 in health and fitness expenses;
 - k. \$2,078.49 in mortgage costs;
 - l. \$1,155.06 in miscellaneous expenses;
 - m. \$30.00 for personal care;
 - n. \$3,669.06 in shopping expenses;
 - o. \$5,206.00 transferred;⁴
 - p. \$618.72 in travel expenses; and
 - q. \$224.48 in legitimate business expenses, including a business license for RRFG, office cooler repair, E Commerce Group membership, and a fax service.
25. As of December 20, 2012, C.B. has received a complete return of her \$35,000 investment.

CAUSES OF ACTION

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

- 26. The Division incorporates and re-alleges paragraphs 1 through 25.
- 27. The investment opportunities offered and sold by Respondent are securities under § 61-1-13 of the Act.
- 28. In connection with the offer and sale of securities to investor C.B., Respondent, directly

⁴ Three transfers went to a bank account at JPMorgan Chase.

or indirectly, made false statements, including, but not limited to, the following:

- a. The funds would be used as an investment in his business, when in fact, Respondent used the majority of the funds for personal expenses.

29. In connection with the offer and sale of securities to investor C.B., Respondent, 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. Some or all of the information typically provided in an offering circular or prospectus regarding Respondent or an investment in RRF, such as:
 - i. Financial statements;
 - ii. Risk factors;
 - iii. Total number of investors;
 - iv. Suitability factors for the investment;
 - v. Whether the investment was a registered security or exempt from registration; and
 - vi. Whether Respondent was licensed to sell securities.

II. THE DIVISION'S CONCLUSIONS OF LAW

30. Based on the Division's investigative findings, the Division concludes that:

- a. The investment opportunities offered and sold by Respondent are securities under § 61-1-13 of the Act;
- b. Respondent 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

31. Respondent 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.
32. Respondent agrees to the imposition of a cease and desist order, prohibiting him from any conduct that violates the Act.
33. Respondent agrees not to seek licensure in any capacity in the securities industry in Utah.
34. Respondent 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.
35. Pursuant to Utah Code Ann. § 61-1-20, and in consideration of the guidelines set forth in Utah Admin. Code Rule R164-31-1, Respondent agrees to pay a fine to the Division in the amount of \$35,000.
36. Each dollar paid by Respondent to the investor towards restitution shall be credited by the Division toward payment of the fine.⁵

IV. FINAL RESOLUTION

⁵ On December 20, 2012, Jolley provided the Division with proof of complete repayment of the \$35,000 investment to the investor, thereby offsetting the above-stated fine to the Division.

37. Respondent acknowledges that this Stipulation and Consent Order, upon approval by the Securities Commission, shall be the final compromise and settlement of this matter.
38. Respondent 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.
39. Respondent 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.
40. Respondent acknowledges that a violation of this Stipulation and Consent Order is a third degree felony pursuant to § 61-1-21(1)(b) of the Act.
41. 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.

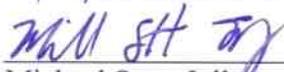
Utah Division of Securities

Date: JANUARY 10, 2013

By: 
Dave Hermansen
Director of Enforcement

Respondent

Date: 1/9/2013

By: 
Michael Scott Jolley

Approved:



D. Scott Davis
Assistant Attorney General
N.M.

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. Respondent ceases and desists from violating the Utah Uniform Securities Act.
3. Respondent will not seek to be licensed in the securities industry in the state of Utah.
4. Respondent will cooperate with the Division, the State of Utah, and the Federal Government in any future investigations and/or prosecutions relevant to the matter herein.
5. The Division imposes a fine of \$35,000 against Respondent, offset by restitution payments to the investor.⁶

⁶ On December 20, 2012, Jolley provided the Division with proof of complete repayment of the \$35,000 investment to the investor, thereby offsetting the fine to the Division.

BY THE UTAH SECURITIES COMMISSION:

DATED this 27 day of January, 2013.



Brent Baker



Tim Bangerter

Jane Cameron


Laura Polacheck



Erik Christiansen

Certificate of Mailing

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

MICHAEL JOLLEY
2208 W. SADDLEBACK DR.
CEDAR CITY, UT 84720



Executive Secretary