

Division of Securities
Utah Department of Commerce
160 East 300 South
P.O. Box 146760
Salt Lake City, Utah 84114-6760
Telephone: 801 530-6600

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

BENJAMIN D. LARSEN, CRD#5785947

Respondent.

STIPULATION AND CONSENT ORDER

Docket No. SD-13-0016

The Utah Division of Securities (“Division”), by and through its Director of Enforcement, Dave R. Hermansen and the Respondent, Benjamin D. Larsen (“Respondent” or “Larsen”), CRD#5785947, hereby stipulate and agree as follows:

1. Respondent has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act (“Act”), Utah Code Ann. §61-1-1, *et seq.*
2. On or about February 19, 2013, the Division initiated an administrative action against Respondent by filing an Order to Show Cause.
3. Respondent hereby agrees to settle this matter with the Division by way of this Stipulation and Consent Order (“Order”). If entered, the Order will fully resolve all claims the Division has against Respondent pertaining to the Order to Show Cause.
4. Respondent admits that the Division has jurisdiction over him and the subject matter of this action.

5. Respondent hereby waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
6. Respondent has read this Order, understands its contents, and voluntarily agrees to the entry of the Order set forth below. No promises or other agreements have been made by the Division, nor by any representative of the Division, to induce Respondent to enter into this Order, other than as described in this Order.
7. Respondent is represented by attorney Paula W. Faerber and is satisfied with the legal representation he has received.

I. FINDINGS OF FACT

8. During the relevant period, Larsen was an insurance agent licensed in Utah.
9. From June 2010 through August 2010, Larsen was licensed in Utah as a broker-dealer agent of Insphere Securities, Inc. ("Insphere"), CRD#136433. From August 2010 through October 31, 2012, Larsen was licensed as a broker-dealer agent of Symetra Investment Services, Inc. ("Symetra"), CRD#19061. He has not been licensed in the securities industry in any capacity since that time.
10. Larsen has taken and passed the FINRA Series 6, Investment Company/Variable Contracts Limited Representative Examination, and Series 63, Uniform Securities Agent State Law Examination.
11. During the period relevant to this action, with the exception of the period between June 2010 and August 2010, Larsen was not licensed to offer or sell any securities products. However, the Series 6 license held by Larsen during that period limited his securities activities to mutual funds and variable annuities. In addition, Larsen's authorized

securities activities were restricted to products reviewed and approved for sale by his broker-dealer, Insphere.

Dee Randall and the Horizon Companies

12. During the period relevant to this action, Larsen was affiliated as an insurance agent with Horizon Financial and Insurance Group, Inc.¹ (“insurance agency”), a general insurance agent for Union Central Life Insurance Company. The insurance agency was owned and controlled by Dee Allen Randall (“Randall”).
13. Larsen and others sold private placement securities investments in “Horizon Notes” which as used herein collectively refers to promissory notes issued by various companies owned and controlled by Randall. Those companies include, but are not limited to, Horizon Auto Funding, LLC, Independent Commercial Lending, LLC, Horizon Financial Center I, LLC, and Horizon Mortgage and Investment, Inc. (collectively referred to at times as “the Horizon entities”).
14. In addition to selling insurance, Randall, through the Horizon entities and Horizon Notes, purported to offer private placement securities investments² in commercial and residential property development and rentals, as well as an automobile loan business for individuals with poor credit.

¹This entity was also known as or affiliated with other entities controlled by Randall, Horizon Financial & Insurance Agency, LLC, and Utah Horizon Financial & Insurance Agency, LLC.

²The Horizon Notes were purportedly sold in reliance on Rule 506 of Regulation D of the 1933 Securities Act.

15. The Horizon entities operated as a Ponzi scheme run by Randall³ in which investor monies were routinely and freely commingled and transferred among the various Horizon entities. New investor monies were used to pay interest to prior investors, or for personal use, including the payment of sales compensation to agents, including Larsen.

Solicitations and Sales by Larsen

16. Between 2009 and 2010, Larsen solicited a number of his insurance clients to purchase Horizon Notes.
17. The Horizon Notes offered and sold by Larsen are securities under the Act.
18. Larsen sold Horizon Notes to thirteen investors, raising approximately \$332,896.
19. None of the notes were sold through a licensed broker-dealer. Instead, Larsen met with potential investors to offer and sell the Horizon Notes and thereafter assisted with the paperwork required to transfer their monies from existing accounts into the Horizon investments. A majority of the monies raised by Larsen came from retirement accounts.
20. Prior to investing, Larsen's investors did not receive audited company financial statements or a Private Placement Memorandum ("PPM") describing the details of the investment.
21. A majority of Larsen's investors only met with Larsen and never met with Randall prior to investing.
22. Larsen and other agents selling the Horizon Notes were compensated for those sales through the insurance agency. Agent compensation usually was calculated as a

³On December 18, 2012, the Division filed an Order to Show Cause against Randall and the Horizon entities, which action is currently pending. For additional information, see: <http://securities.utah.gov/dockets/12007901.pdf>

percentage of the amount of money invested. For investments under \$50,000, compensation was generally 10% of the investment; for investments greater than \$50,000, compensation was 7% of the investment.

23. Payments to agents were made by cash or check, or by other means, including credits applied to monies owed by agents to Randall.⁴ Most of the payments to Larsen were characterized as “agent allowance” payments through the insurance agency. Some of the payments were also documented in the insurance agency records as a “bonus” or “other expense.”
24. In an interview with the Division, Larsen estimated he received compensation for two-thirds of the investors who purchased Horizon Notes, which he believed was equal to 8% to 10% of the invested amount. Larsen estimated the total he received as between \$6,000 and \$7,000.⁵ Based upon the total principal invested by Larsen’s investors, \$332,896, and compensation formulas used by Randall, it is likely that compensation was higher.
25. Larsen and other agents who sold Horizon Notes also received indirect compensation through rent-free use of office space in buildings owned by Randall.

Selling Away

26. Despite selling a Horizon Note to one investor and receiving compensation for that sale during the period in which he was a licensed broker-dealer agent of Insphere, Insphere

⁴Such credits were applied against rent owed, office expenses, or monies owing as a result of “chargebacks” for insurance commissions previously received by agents when policies were later rescinded or canceled.

⁵Insurance agency records show that during the period in which the thirteen investors purchased Horizon Notes, Larsen received approximately \$21,977 in agent allowance compensation.

was not aware of and had not approved Larsen's activities. Larsen's Form U4⁶ failed to disclose his securities activities with Horizon.

Misrepresentations of Material Fact

27. In connection with the offer and sale of Horizon Notes, Larsen misrepresented or omitted material facts to investors, including but not limited to:

- a. the investment was "safe," would pay a 9% annual return, was registered with the SEC, the company had been around for 15 years, and the investor could receive money back at any time;
- b. the investment was "no risk" and "basically a savings account";
- c. the Horizon Notes were "a very sound" investment;
- d. the investment was "no to low risk investment" with a "guaranteed" 9% return, that Larsen personally knew the owner and vouched for the company's integrity; and
- e. the Horizon investment was "safer than anywhere else," would be a good way to get out of debt, pay 10-15% annual interest, and would be in a real estate investment trust (REIT), but the documents provided by Larsen instead authorized a wire transfer to Horizon Auto Funding, which the investor only found out months later after his monies had already been invested in Horizon Auto Funding.

⁶The Form U4, Uniform Application for Securities Registration or Transfer, is filed with FINRA and the Division in order for an individual to become licensed as a securities agent in Utah. Form U4 requires the disclosure of all business activities conducted by licensed individuals. It is the agent's responsibility to ensure the form is accurate.

These representations were false and/or omitted to disclose material facts necessary in order to make the statements made, under the circumstances in which they were made, not misleading.

Omissions of Material Facts

28. In connection with the offer and sale of Horizon Notes, Larsen failed to disclose material facts to investors, including but not limited to:
- a. that he was not licensed to offer or sell securities such as the Horizon Notes;
 - b. that he was not licensed or qualified to give investment advice;
 - c. his lack of experience, qualifications, and training to advise investors about financial planning issues, including retirement planning;
 - d. that, as to one investor during the period in which he was licensed, his broker-dealer, Insphere, had not reviewed or approved his offer and sale of Horizon Notes;
 - e. that Larsen would be compensated through the insurance agency, which was not a broker-dealer, in violation of securities laws and industry rules; and
 - f. relevant disclosures about the Horizon entity issuing the notes, including its financial condition and liabilities.
29. Interest payments due to investors under the Horizon Notes began to arrive late in 2009 or 2010, and payments to most investors ceased entirely in 2010.⁷

⁷Randall declared a personal Chapter 11 bankruptcy on December 20, 2010. Following a September 2011 hearing in which Randall admitted commingling monies among the Horizon entities, a Trustee (the “Trustee”) was appointed. The Trustee subsequently filed a Chapter 11 bankruptcy for each of the Horizon entities, all of which were consolidated with the Randall bankruptcy proceeding to be administered by the Trustee as a single bankruptcy estate.

II. CONCLUSIONS OF LAW

30. Larsen violated Section 61-1-1(2) of the Act by misrepresenting and omitting material in connection with the offer and sale of the Horizon Notes as described above in paragraphs 27 and 28.
31. Larsen violated Section 61-1-1(3) of the Act by selling a Horizon Note to an investor while he was a licensed agent of Insphere, without Insphere's knowledge or approval, and receiving compensation for that transaction from an entity other than his employing broker-dealer. Larsen's conduct constitutes an act, practice, or course of business which operated as a fraud upon the investor and his employing broker-dealer, Insphere, and in so doing exposed Insphere to civil liability.
32. Larsen acted as an unlicensed agent in violation of Section 61-1-3(1) of the Act. The only entity through which Larsen was licensed to sell securities was Insphere. As described above, Larsen conducted securities transactions through and was paid compensation by the insurance agency, which was not licensed as a broker-dealer. Moreover, during the brief time he was licensed, Larsen's Series 6 license limited his securities activities to selling mutual funds and variable insurance products through Insphere.

III. REMEDIAL ACTIONS/SANCTIONS

33. Respondent neither admits nor denies the Division's findings and conclusions, but consents to the sanctions below being imposed by the Division.
34. Respondent represents that the information he has provided to the Division as part of the Division's investigation is accurate and complete.
35. Respondent agrees to cease and desist from violating the Act and to comply with the

requirements of the Act in all future business in this state.

36. Respondent agrees that he will not seek licensure or apply to be licensed by the Division as a broker-dealer agent, investment adviser or investment adviser representative, nor licensing as an agent for any issuer soliciting investor funds, nor licensing in any other capacity in the securities industry in the State of Utah at any time in the future.
37. Respondent agrees to disgorge \$7,000 in commissions he received for sale of the Horizon Notes. Within sixty (60) days following entry of the Order, Respondent agrees to pay \$3,500 to the Trustee for distribution to investors as part of the bankruptcy estate. Thereafter, Respondent agrees to pay at least \$291.66 per month for twelve (12) months to the Trustee until the remaining balance is paid in full.
38. Pursuant to Utah Code Ann. Section 61-1-20, and in consideration of the guidelines set forth in Utah Admin. Code Rule R164-31-1, Respondent shall pay a fine in the amount of \$15,000 to the Division. After Respondent has made full disgorgement as described in paragraph 37, and in consideration of Respondent's financial situation and ability to pay, Respondent shall pay \$187.50 per month to the Division for a period of four (4) years. At that time, if Respondent has made timely payments and complied with all of the requirements of the Order, the Division may, in its sole discretion, waive the remaining \$6,000 of the fine.
39. Respondent agrees that he will provide truthful testimony and cooperation, including production of documents and providing information informally without the necessity of a subpoena or other process, in any state or federal investigation (including investigations conducted by or actions filed by the Trustee) involving Randall, the Horizon entities, and any individuals under investigation as a result of their affiliation with Randall and/or the

Horizon entities. However, this agreement shall not constitute a waiver of Respondent's Fifth Amendment right against self-incrimination.

40. Respondent shall notify the Division of any address changes within thirty (30) days.

IV. FINAL RESOLUTION

41. Respondent acknowledges that this Order, upon approval by the Utah Securities Commission, shall be the final compromise and settlement of this matter. Respondent further acknowledges that if the Commission does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.

42. Respondent acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against him arising in whole or in part from his actions, and that the Order does not affect any criminal causes of action that may arise as a result of his conduct referenced herein. Respondent also acknowledges that any civil, criminal, arbitration or other causes of actions brought by third-parties against him have no effect on, and do not bar, this administrative action by the Division against him.

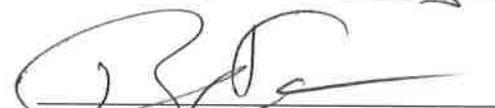
43. This Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Order in any way. Upon entry of the Order, any further scheduled hearings are canceled.

Dated this 30 day of July, 2013



Dave R. Hermansen
Director of Enforcement
Utah Division of Securities

Dated this 11 day of July, 2013



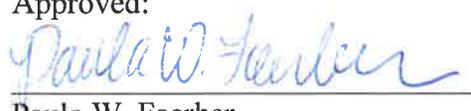
Benjamin D. Larsen

Approved:



Paul G. Amann
Assistant Attorney General

Approved:



Paula W. Faerber
Counsel for Respondent

ORDER

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which are neither admitted nor denied by the Respondent, are hereby entered.
2. Respondent shall cease and desist from violating the Act and comply with the requirements of the Act in all future business in this state.
3. Respondent shall not seek licensure or apply to be licensed by the Division as a broker-dealer agent, investment adviser or investment adviser representative, nor licensing as an agent for any issuer soliciting investor funds, nor licensing in any other capacity in the securities industry in the State of Utah at any time in the future.
4. Respondent shall make disgorgement payments according to the schedule set forth in paragraph 37, after which Respondent shall pay the fine as set in paragraph 38. After Respondent has paid \$9,000 of the fine, if Respondent has made timely payments and complied with all of the requirements of the Order, the Division may, in its sole discretion, waive the remaining \$6,000 of the fine.
5. Respondent shall provide truthful testimony and cooperation, including production of documents and providing information informally without the necessity of a subpoena or other process, in any state or federal investigation (including investigations conducted by or actions filed by the Trustee) involving Randall, the Horizon entities, and any individuals under investigation as a result of their affiliation with Randall and/or the Horizon entities.

BY THE UTAH SECURITIES COMMISSION:

DATED this 14th day of August, 2013



Brent Baker

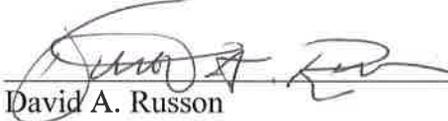


Tim Bangerter

Erik Christiansen



Gary Cornia



David A. Russon

Certificate of Mailing

I certify that on the 14th day of August, 2013, I mailed, by certified mail, a true and correct copy of the fully executed Stipulation and Consent Order to:

Paula W. Faerber
KRUSE LANDA MAYCOCK & RICKS, LLC
136 E. South Temple, 21st Floor
Salt Lake City, UT 84111
Counsel for Respondent

Certified Mail # 7607 0220 0001 0065 6873



Maria Lohse
Executive Secretary