

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS



In the Matter of:

HYBRID ASSET MANAGEMENT, LLC,
SUTTON MN, LLC,
REAL DEVELOPMENT CORP.,
CHURCHILL CAPITAL STRATEGIES, INC,
JEFFREY K. WILLIAMS,
SHERRILYNN L. FRIERSON,
MARK K. NORDYKE,
GORDON SCHULTZ,
MICHAEL ELZUFON,
DAVID LUNDBERG,

Docket No. 13 E 012
KSC No. 2013-6055

And their representatives and agents

Respondents.

_____/
Pursuant to K.S.A. 17-12a604

CEASE AND DESIST ORDER

COMES NOW the above-entitled matter for consideration by the Securities
Commissioner of Kansas.

Pursuant to K.S.A. 17-12a602, staff for the Office of the Kansas Securities Commissioner
has conducted an investigation to determine whether the Respondents have violated or are about
to violate the Kansas Uniform Securities Act, K.S.A. 17-12a101 *et seq.* The Commissioner finds
that sufficient evidence exists to provide cause under K.S.A. 17-12a604 to take administrative
action against the Respondents.

Having been notified of the facts revealed in the investigation, the Commissioner finds as
follows:

Findings of Fact

1. Respondent Hybrid Asset Management, LLC (Hybrid) is a Kansas registered limited liability company formed on July 20, 2010, and is currently in good standing with the Office of the Kansas Secretary of State.
2. Respondent Hybrid's current address is 125 N. Market, Suite 1525, Wichita, KS 67212. The Resident Agent is Sherrilynn Frierson.
3. Respondent Sutton MN, LLC, (Sutton) was a limited liability company formed on December 12, 2005, and is currently in forfeited status as of July 15, 2011. The Resident Agent is David G. Crockett.
4. Respondent Real Development Corp. (Real Development) was formed on January 20, 2005, under the laws of Minnesota. On May 6, 2008, Respondent Real filed a Foreign Corporation Application in Kansas. The corporation's status is currently forfeited due to failure to file their annual report. The resident agent is listed as David Lundberg.
5. Respondent Churchill Capital Strategies, Inc. (Churchill) was formed on July 23, 2012 under the laws of Kansas. Respondent Churchill has a mailing address of 125 N. Market, Suite 1525, Wichita, KS 67212. The resident agent is listed as Hybrid Asset Management LLC with the same address listed for Respondent Churchill.
6. Respondent Jeffrey K. Williams, (Williams) is the General Manager of Hybrid with a residential address of [REDACTED].
7. Respondent Sherrilynn Frierson, (Frierson) is the Resident agent for Hybrid with a residential address of [REDACTED].

8. Respondent Mark K. Nordyke, (Nordyke) is a member of Hybrid with a residential address of [REDACTED].
9. Respondent Gordon Schultz, (Schultz) is a Kansas resident with a residential address of [REDACTED]. He is affiliated with Word of Life Traditional School in Wichita, KS.
10. Respondent Michael Elzufon, (Elzufon) is a member of Respondent Sutton and the Co-Founder and CEO of Respondent Real Development and has a residential address of [REDACTED].
11. Respondent David G. Lundberg, (Lundberg) is a member of Respondent Sutton and the Co-Founder for Respondent Real Development. Respondent Lundberg has a residential address of [REDACTED].
12. On October 12, 2012, Randy Mullikin (Mullikin), Director of Compliance and Enforcement from the Office of the Securities Commissioner received a telephone call from [REDACTED], Vice President for [REDACTED], located in Topeka, KS.
13. That same day, Mullikin met with Mr. [REDACTED] and [REDACTED] ([REDACTED]), Executive Vice President/Chief Credit Officer for [REDACTED] at the [REDACTED] [REDACTED] at [REDACTED].
14. Mr. [REDACTED] stated he had been in contact with Respondent Williams, General Manager of Respondent Hybrid, about a delinquent loan associated with the Sutton Building in downtown Wichita, KS.

15. During an internet search, Mr. [REDACTED] found that the Office of the Kansas Securities Commissioner had issued a Cease and Desist Order against Respondent Williams and he became concerned.
16. In November 2007, [REDACTED] made a construction line of credit loan to Sutton MN, LLC for approximately \$2,000,000. The funds were to be used to improve the Sutton Building in downtown Wichita, Kansas.
17. The City of Wichita approved Tax Incremental Funds (TIF) for the exterior of the Sutton Building in the amount of \$1,000,000 for façade work. The façade work was never completed and the City of Wichita never released the TIF financing.
18. Eventually, the 4th floor of the Sutton Building was completed and leased to the Kansas Department of Labor.
19. The 4th floor of the Sutton Building was sold to a California investor who financed the purchase through Lehman Brothers. After the collapse of Lehman Brothers, Sutton MN, LLC was unable to obtain financing to support their real estate projects.
20. [REDACTED] has been working with Respondents Elzufon and Lundberg over the last several years to pay the note. An appraisal in the spring of 2012 valued the building at \$350,000.
21. On July 10, 2012, Mr. [REDACTED] and [REDACTED], traveled to Wichita, KS to meet with Respondents Elzufon and Lundberg.
22. During this meeting, Respondent Lundberg proposed using life insurance settlements as a tool to pay off the note.

23. Respondent Lundberg stated that [REDACTED] would purchase the Sutton Building for \$850,000 and that the remaining balance owed by Respondent Sutton MN would be guaranteed by Elzufon and Lundberg and secured by life insurance settlements.
24. During this meeting, Mr. Lundberg portrayed [REDACTED] as a wealthy Wichita individual.
25. Mr. Mullikin informed Mr. [REDACTED] and Mr. [REDACTED] that Mr. [REDACTED] had been convicted of narcotics violations in federal court and served time in prison before being paroled to the same halfway house as Respondent Williams where Respondents [REDACTED] and Williams met each other.
26. In August 2012, [REDACTED] filed personal lawsuits against Respondents Elzufon and Lundberg.
27. After serving Respondents Elzufon and Lundberg with the civil lawsuit, the Respondents gave [REDACTED] an additional proposal.
28. Respondents Elzufon and Lundberg proposed having Respondent Schultz purchase the Sutton Building and in return the bank would be assigned an interest in a group of life settlement policies.
29. On October 3, 2012, Mr. [REDACTED] and Mr. [REDACTED] drove to Wichita, KS to meet with Respondent Schultz. The meeting was held at Respondent Hybrid's offices. Respondent Schultz introduced Respondent Williams to Mr. [REDACTED] and Mr. [REDACTED].
30. Respondent Williams represented that he was a graduate of Tulane University and had worked with life insurance products for some time.

31. Respondent Williams told Mr. [REDACTED] that he had spent time in Chicago where he purchased loans and life insurance policies from failed banks that the FDIC had taken over. He stated he had used life insurance settlements in the past to help businesses.
32. Respondent Williams gave Mr. [REDACTED] a life insurance packet to review that included verification of coverage, life expectancy reports, master agreement, and durable power of attorney.
33. Respondents Williams and Schultz proposed that Respondent Schultz would purchase the bank's note, mortgage, and guaranties on Respondent Sutton MN, LLC. In exchange, the bank was to receive between \$100,000 and \$200,000 cash; the bank was to make a loan to [REDACTED]. The loan was to be securitized by Respondent Schultz's personal guaranty, security interest in the note and mortgage, and two life insurance policies. The remaining note would be secured by Respondents Elzufon and Lundberg with the same two life insurance policies.
34. Since the October 3, 2012 meeting, the bank has had numerous correspondence between Respondents Williams, Elzufon, and Lundberg to change the terms. Respondent Williams forwarded an additional life insurance policy loan on October 11, 2012.
35. Mr. [REDACTED] provided Mr. Mullikin copies of the policy portfolio summary presented to [REDACTED] which was a two-page document titled "[REDACTED] – Senior Life Policy Portfolio."
36. The written proposal states that:

██████████ will reduce the outstanding principal balance of the loan to \$850,000. Dr. Gordon Schultz Ph.D will purchase the property for \$950,000 with \$100,000 cash at closing by assuming the \$850,000. Terms of the loan will be as follows: 6% interest per annum, 20 year amortization, 10 year balloon. Loan will be adjusted to prime +1% adjusted annually beginning in the sixth year. Dr. Schultz will personally guarantee the \$850,000 loan. Sutton MN, David Lundberg, and Michael Elzufon will sign a new promissory note for approximately \$1,450,000 with terms as follows: Interest to accrue at 6% per annum with no monthly payments. The note shall be secured by the assignment of beneficial interest in a portfolio of Senior Life Insurance Policies acceptable to the bank. The principal balance of the note shall be repaid by the death benefits of the life policies. If the death benefit of the policies does not repay the note within 10 years the note will balloon.

37. The proposal contains a chart listing five insurance policies: Kohn \$7.5 million, Mechigian \$1 million, Rosenkrautz \$2 million, Rubinchins \$5 million, and Hamilton \$1 million. The proposal states that full payback is estimated in the 4th year. If any of the policies go more than 6 months past the estimated life expectancy, the Sellers will be responsible for the premiums on all polices until they mature. The proposal also contained an ownership breakdown of the portfolio valued at \$16.5 million, listing 12 owners to include a 16% interest to ██████████.

38. ██████████ also provided to Mr. Mullikin a letter in which Respondent Williams gave information and documentation on a proposed life insurance policy that has a face value of \$10,000,000.

39. The letter reads:

In August, 2012 we paid over \$1 million to ensure that the premiums for this policy would be covered beyond the projected LE date, as shown on the attached verification of coverage. The policy also has a current cash value of \$719,000. The cash value

in a policy can be withdrawn (borrowed) or assigned to a third party.

40. Attached was a document that had information about a Phoenix Universal Life Insurance policy. The document appears to be an internet “screen shot” of a webpage for Phoenix Life Insurance.
41. The document has a policy number of [REDACTED] and named the owner as Churchill TRST (GRN) c/o Churchill MSTR TRST 2012 TTE, 125 N. Market, Suite 1525, Wichita, KS 67202. This is also the address of Respondent Hybrid.
42. The document states that the policy insures the life of [REDACTED] who has a date of birth of [REDACTED].
43. The last payment is listed as \$1,050,000 processed on August 18, 2012. The document states the policy is active.
44. On October 18, 2012, Mr. Mullikin electronically sent a copy of the Phoenix documents given to Mr. [REDACTED], to [REDACTED] ([REDACTED]), an Investigative Consultant with Phoenix Life Insurance. Mr. Mullikin requested that Mr. [REDACTED] inspect the documents in order to verify their authenticity.
45. Mr. [REDACTED] responded to Mr. Mullikin’s request on November 1, 2012.
46. Mr. [REDACTED] states that the following information appears inconsistent with Phoenix’s records:
 - a. The date on the document is questionable as Phoenix’s website was not available on June 16, 2012, due to system administration issues.

- b. The owner of the policy is [REDACTED]
[REDACTED] not Churchill Trust(GRN) c/o Churchill
Master Trust 2012 TTEE.
 - c. The policy lapsed with no value on April 21, 2010.
 - d. The last payment on the policy was received April 21, 2010 for
\$95,079.45. It was rejected for insufficient funds.
 - e. The primary beneficiary of the policy is the owner of the policy,
[REDACTED].
 - f. Abacus Settlement is not the servicing agent.
 - g. The producer code of # [REDACTED] is not valid.
47. On October 11, 2012, Respondent Williams sent Mr. [REDACTED] an email regarding an additional life settlement policy. Respondents Lundberg, Frierson, and Nordyke were also sent copies of the email.
48. Attached were documents regarding a New York Life Insurance whole life policy for the life of [REDACTED].
49. The document has a policy number of [REDACTED]. The policy has a paid to date of June 20, 2014, a policy date of June 28, 1999, and a surrender cost basis of \$2,485,024.45, the face amount is \$7,500,000, and the owner is [REDACTED] ([REDACTED]).
50. On October 17, 2012, Respondent Williams sent Mr. [REDACTED] an additional email attachment which was similar to the previous life settlement regarding [REDACTED]. The policy number on the document

was [REDACTED], which is slightly different than the previous policy number. The additional details were the same.

51. On October 31, 2012, Mr. Mullikin contacted [REDACTED], Senior Associate at New York Life Insurance Company about the New York Life policy on [REDACTED]. Mr. Mullikin asked Ms. [REDACTED] to verify the authenticity of the policy.

52. On November 5, 2012, Mr. Mullikin received an email from [REDACTED], Vice President at New York Life. Mr. [REDACTED] states:

- 1) Policy [REDACTED] is not a valid policy for [REDACTED]. [REDACTED] was insured under policy [REDACTED]. Ms. [REDACTED] died on September 19, 2012.
- 2) Policy [REDACTED] is a valid policy for [REDACTED]. Ms. [REDACTED] died on September 19, 2012. Death claim review is in process.
- 3) Policy paid to date and Owner are wrong. I am not able to validate all figures.
- 4) I cannot determine if the policy information has been accessed via the web.

53. Respondent Williams emailed Mr. [REDACTED] on October 19, 2012, and in a response to a question Mr. [REDACTED] asked Respondent Williams, Respondent Williams stated the following:

The owners of the policies in our inventory are:

- (i) Hy Trust/Churchill Trust (with internal ID) C/o Churchill Capital Strategies, Corp (Jeffrey Williams and Sherrilynn

Frierson, 125 N. Market, Suite 1525, Wichita, Kansas 67202). We also have various investors who pay portions of the premiums associated with our policies in exchange for a return on that investment. Their ownership in and to the policies is fractional.

54. On October 31, 2012, Respondent Lundgren sent Mr. [REDACTED] an email with attachments. The email states that the plan is to assign the bank \$1,600,000 in life policies from two separate policies of \$800,000 each. One policy is the above mentioned policy with Phoenix on the life of [REDACTED]. The second is for \$8,000,000 with [REDACTED] on the life of [REDACTED].
55. Attached is a two-page document titled "Assignment of Beneficial Interest Churchill Master Trust 2012 ("Assignor") and David G. Lundberg and Michael Elzufon ("Assignee").
56. Respondent Williams has been previously convicted of fraud and served time in a federal penitentiary.
57. Respondent Williams pled nolo contendere to one count of misdemeanor theft that arose from an investigation that involved the offer to purchase securities.
58. Respondent Williams is on probation until March 31, 2013.
59. Respondent Williams was ordered to pay restitution in the amount of \$84,875.
60. Respondent Nordyke pled guilty to two counts of misdemeanor theft on July 16, 2012. The facts leading to that plea involved the offer to purchase securities.
61. Respondent Nordyke is on probation until July 15, 2013.
62. Respondent Nordyke was ordered to pay \$84,875 of which approximately \$34,875 is owed.

63. As part of his probation, Respondent Nordyke is required:

To disclose his conviction to any party in which he is soliciting, selling, and/or purchasing financial funding, services related to financial funding, viatical settlements, life settlements, loans or securities of any kind for 10 years.

Respondent Nordyke failed to tell John Johnson of his criminal conviction.

64. Respondent Nordyke is subject to a permanent injunction filed in the U.S. District Court for the Northern District of Illinois Eastern Division, based on an action filed February 12, 2012, on behalf of Gentry Partners, Ltd. (Gentry). Gentry had entered into a possible business arrangement for Lion Share Capital, a predecessor to Hybrid Asset Management, to purchase insurance policies from Gentry, which never materialized. Gentry had provided to Lion Share Capital, insurance policies to review and the injunction arose out of a contact Nordyke had with one of the policy owners which was a breach of the agreement between Gentry and Lion Share.

65. Respondent Frierson pled guilty to one misdemeanor count of debt adjusting. The facts leading to that plea involved the offer to purchase securities;

66. Respondent Frierson is on probation until March 25, 2013.

67. Respondent Frierson was ordered to pay \$46,874 in restitution.

68. On December 11, 2009, Respondents Williams, Frierson, and Nordyke were issued a Cease and Desist order in which they were ordered to immediately:

CEASE AND DESIST in the State of Kansas from soliciting offers to purchase or making offers to sell, or effecting or transacting sales of securities, or the securities of any other person or issuer, or directly or

indirectly aiding and assisting in the same or attempting to do the same, unless and until the Respondents refrain from all acts and practices which constitute violations or are about to constitute violations of the Kansas Uniform Securities Act.

69. Respondent Schultz declared personal bankruptcy on November 8, 2006.

Conclusions of Law

1. The proposed interests in life insurance policies that were given to [REDACTED] and unknown investors are securities pursuant to K.S.A. 17-12a102(28)(D).
2. Pursuant to K.S.A. 17-12a102(28)(E) an investment contract includes viatical investments as defined by rule adopted or order issued under the act.
3. K.A.R. 81-7-2(b)(13) adopts the NASAA Guidelines Regarding Viatical Investments, including appendix A.
4. Section I(B)(14) of the NASAA Guidelines Regarding Viatical Investments defines a viatical investment as the contractual right to receive any portion of the death benefit or ownership of a life insurance policy or certificate, for consideration that is less than the expected death benefit of the life insurance policy.
5. In connection with the offer, sale or purchase of a security, Respondents made misrepresentations of the following material facts, in violation of K.S.A. 17-12a501(2):
 - a. That [REDACTED] was a wealthy resident of Wichita, Kansas. In fact, Mr. [REDACTED] was convicted of narcotics violations in federal court and served time in prison.

b. That Respondent Williams was a graduate of Tulane University and had worked with life insurance policies to help businesses before.

c. In regards to the Phoenix Universal Life Insurance policy on the life of

[REDACTED]:

- i. That the life insurance verification document had a production date of June 16, 2012. In fact, Phoenix's system was not available on June 16, 2012, due to system administration issues.
- ii. That the owner of the policy is Churchill Trst (GRN) c/o Churchill Master Trust 2012 TTEE. In fact the owner of the policy is [REDACTED].
- iii. That the policy was in force and that in August 2012, Respondent Hybrid paid over \$1 million to ensure that the premiums for the policy were covered beyond the projected life expectancy date. In fact, the policy lapsed with no value on April 21, 2010. The last payment on the policy was received April 21, 2010, for \$95,079.45. It was rejected for insufficient funds
- iv. That the beneficiaries of the policy are Churchill Master Trust 2012, Bobker Financial Grp, David Grunwal, and Chruchill Trust (GRN). In fact, the primary beneficiary is

the owner of the policy, [REDACTED]
[REDACTED].

v. That the servicing agent is Abacus Settlement. There is no servicing agent.

d. In regards to a whole life New York Life Insurance policy on the life of [REDACTED]:

i. That policy number [REDACTED] is paid to date through June 20, 2014. In fact that policy is invalid and the policy was issued under [REDACTED]. The paid to date is incorrect.

ii. That the owner of the policy is [REDACTED] ([REDACTED]). In fact, the owner of the policy is not [REDACTED] ([REDACTED]).

6. In connection with the offer, sale or purchase of a security, Respondents omitted the following material facts, in violation of K.S.A. 17-12a501(2):

- a. Respondent Williams has been previously convicted of fraud and served time in a federal penitentiary;
- b. Respondent Williams pled nolo contendere to one count of misdemeanor theft that arose from an investigation that involved the offer to purchase securities;
- c. Respondent Williams is on probation until March 31, 2013;
- d. Respondent Williams was ordered to pay restitution in the amount of \$84,875;
- e. Respondent Nordyke pled guilty to two counts of misdemeanor theft on July 16, 2012. The facts leading to that plea involved the offer to purchase securities.
- f. Respondent Nordyke is on probation until July 15, 2013;

- g. Respondent Nordyke was ordered to pay \$84,875 of which approximately \$34,875 is owed.
- h. Respondent Nordyke is required:
 - To disclose his conviction to any party in which he is soliciting, selling, and/or purchasing financial funding, services related to financial funding, viatical settlements, life settlements, loans or securities of any kind for 10 years.
- Respondent Nordyke failed to tell [REDACTED] of his criminal conviction.
- i. Respondent Nordyke is subject to a permanent injunction filed in the U.S. District Court for the Northern District of Illinois Eastern Division, based on an action filed February 12, 2012, on behalf of Gentry Partners, Ltd. (Gentry). Gentry had entered into a possible business arrangement for Lion Share Capital, a predecessor to Hybrid Asset Management, to purchase insurance policies from Gentry, which never materialized. Gentry had provided to Lion Share Capital, insurance policies to review and the injunction arose out of a contract Nordyke had with one of the policy owners which was a breach of the agreement between Gentry and Lion Share.
- j. Respondent Frierson pled guilty to one misdemeanor count of debt adjusting. The facts leading to that plea involved the offer to purchase securities;
- k. Respondent Frierson is on probation until March 25, 2013.
- l. Respondent Frierson was ordered to pay \$46,874 in restitution.
- m. On December 11, 2009, Respondents Williams, Frierson, and Nordyke were issued a Cease and Desist order in which they were ordered to immediately:

CEASE AND DESIST in the State of Kansas from soliciting offers to purchase or making offers to sell, or effecting or transacting sales of securities, or the securities of any other person or issuer, or directly or indirectly aiding and assisting in the same or attempting to do the same, unless and until the Respondents refrain from all acts and practices which constitute violations or are about to constitute violations of the Kansas Uniform Securities Act.

- n. Respondent Schultz declared personal bankruptcy on November 8, 2006.

Cease and Desist Order

IT IS, THEREFORE, ORDERED by the Commissioner that the Respondents and their officers, agents, servants, employees, and any person in concert or participation with them who receives actual notice of this Order, shall immediately CEASE AND DESIST in the State of Kansas from soliciting offers to purchase or making offers to sell, or effecting or transacting sales of securities, or the securities of any other person or issuer, or directly or indirectly aiding and assisting in the same or attempting to do the same, unless and until the Respondents refrain from all acts and practices which constitute violations or are about to constitute violations of the Kansas Uniform Securities Act.

Opportunity for Hearing

If the Respondents wish to contest the facts alleged above, the Respondents must file a request for hearing within thirty (30) days after service of this Order. The request for hearing must be in the manner and form prescribed by K.A.R. 81-11-5, and it must be filed with the Office of the Securities Commissioner, 109 SW 9th St. Suite 600, Topeka, Kansas, 66612. The request for hearing must be verified under oath by the Respondents and, if the Respondents dispute any of the allegations of fact or law set forth above, the Respondents shall specifically deny the allegations or they will be deemed admitted. In addition, the Respondents may offer evidence and argument to mitigate the alleged facts. If the allegations are properly disputed, a

hearing officer will be appointed and the matter will be set for hearing. If no request for hearing is filed within thirty-three (33) days after the date of mailing shown on the Certificate of Service for this Order, the Commissioner will issue a final Order without further proceedings.

The Office of the Securities Commissioner shall be represented in this matter by Erin M. Hoestje, Senior Counsel, 109 S.W. 9th Street, Suite 600., Topeka, Kansas, 66612, (785) 296-5215.

IT IS SO ORDERED BY THE COMMISSIONER this 7th day of November, 2012.




AARON JACK
Securities Commissioner