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## Texas State Securities Board

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IN THE MATTER OF ANDREW W. WEST           § **SOAH Docket No. 312-08-1795**  
A/K/A ANDY WEST AND ERIC WILLIAM       §  
KELLER A/K/A ERIC KELLER, RESPONDENTS § **Order No. ENF-09-CDO-1676**

TO: Andrew W. West a/k/a Andy West  
2602 Kings Road  
Dallas, Texas 75214

Eric William Keller a/k/a Eric Keller  
510A Vincent  
Houston, Texas 77009

### ORDER AFFIRMING EMERGENCY CEASE AND DESIST ORDER

Staff of the Texas State Securities Board sought to affirm an Emergency Cease and Desist Order<sup>1</sup> (Emergency Order) entered against Respondents,<sup>2</sup> ordering them to cease and desist from offering for sale and selling any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act,<sup>3</sup> acting as securities dealers or agents in Texas until Respondents are registered with the Securities Commissioner or are acting pursuant to an exemption from registration under the Act, engaging in fraud in connection with the offer for sale and sale of any security in Texas, and offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public. Based upon the unrefuted factual allegations established in the parties' stipulations and Staff's motion for summary disposition, the Administrative Law Judge found that the Emergency Order should be affirmed.

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<sup>1</sup> Texas State Securities Board, *In the Matter of NCL Development LLC; Andrew W. West aka Andy West; and Eric William Keller aka Eric Keller*, Order No. ENF-07-CDO-1628 (May 2, 2007).

<sup>2</sup> An additional Respondent, NCL Development, LLC (NCL Development), was included in the Emergency Order. As further discussed in the statement of the case, NCL Development was dismissed from this action and the May 2, 2007 order remains in full force and effect against NCL Development. Andrew West and Eric Keller are referred to as Respondent West and Respondent Keller.

<sup>3</sup> TEX. REV. CIV. STAT. ANN., art. 581-1 *et seq.* (Vernon 1964 & Supp. 2008) (Act).

## STATEMENT OF THE CASE

On May 2, 2007, the Texas Securities Commissioner issued an Emergency Cease and Desist order against Respondents West and Keller and NCL Development. A request for hearing was made on May 17, 2007, by Respondents West and Keller. The matter was referred to the State Office of Administrative Hearings (SOAH) for hearing and docketed as SOAH Docket No. 312-07-2938.

On July 6, 2007, Staff of the State Securities Board (Staff) moved to dismiss Respondent NCL Development from the contested case.<sup>4</sup> However, the then-presiding Administrative Law Judge inadvertently dismissed the entire case from SOAH's docket. Because Respondents West and Keller wished to proceed with a hearing, the matter was re-docketed at SOAH under the present docket number.

On October 27, 2008, a prehearing conference was held before ALJ Suzanne Formby Marshall (ALJ) in the William P. Clements Building, 300 West 15<sup>th</sup> Street, Fourth Floor, Austin, Texas. Staff was represented by attorneys David Grauer and Travis Iles. Respondents appeared *pro se*. The parties agreed to enter into legal and factual stipulations that would narrow the issues for hearing. On October 28, 2008, the agreed-upon stipulations were filed. Following several procedural actions, the case was set for hearing on May 5-7, 2009.

On March 25, 2009, Staff filed a motion for summary disposition. Respondents did not file a response to the motion. On April 30, 2009, the ALJ issued an order of intent to grant the motion for summary disposition. The record closed that day. Because there are no disputed issues related to notice or jurisdiction, those matters are set forth in the findings of fact and conclusions of law without further discussion.

On June 30, 2009, the ALJ issued her Proposal for Decision Granting Motion for Summary Disposition.

## FINDINGS OF FACT

1. The Commissioner of the State Securities Board (Board) entered an Emergency Cease and Desist Order (Emergency Order) against Respondents Andrew W. West a/k/a Andy West (Respondent West) and Eric William Keller a/k/a Eric Keller (Respondent Keller) on May 2, 2007.
2. The Emergency Order advised Respondents of their right to a hearing.
3. Respondents timely filed a request for hearing.

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<sup>4</sup> The bankruptcy trustee for NCL Development withdrew its request for hearing.

4. On February 13, 2008, Staff sent Respondents a notice of hearing by certified mail, return receipt requested, and by facsimile. The notice contained a statement of the allegations.
5. On October 28, 2008, Staff of the Board filed agreed factual and legal stipulations to narrow the issues for hearing.
6. Staff and Respondents stipulated that the hearing would involve only allegation No. 4 of the Emergency Order. They agreed that if Staff proved that allegation, Staff would have met its burden of proof with respect to all findings of fact and conclusions of law set forth in the Emergency Order. The parties further agreed that if Staff failed to prove allegation No. 4 of the Emergency Order, Staff would have failed to meet its burden of proof with respect to all findings of fact and conclusions of law set forth in the Emergency Order.
7. On March 25, 2009, Staff filed a motion for summary disposition related to allegation No. 4 of the Emergency Order. Respondents did not file a response to this motion.
8. Respondent West maintains a last known address at 2602 Kings Road, Dallas, Texas 75214.
9. Respondent Keller maintains a last known address at 510A Vincent, Houston, Texas 77009.
10. Respondents offered and sold bridge loans and promissory notes with an annual interest rate of 12%, secured by membership interests in NCL Development, LLC (NCL), previously known as NewCenturyLiving, LLC, with an option to convert said note and any interest to LLC units in NewCenturyAssociates, LLC (NCA), and a cumulative percentage membership in NewCenturyHighrise, LLC. In certain instances, the notes contained the personal guaranty of Respondent West (convertible notes) for repayment.
11. The convertible notes have not been registered by qualification, notification or coordination and no permit has been granted for their sale in Texas.
12. Respondents West and Keller have not been registered with the Securities Commissioner as dealers or agents at any time material hereto.
13. In connection with the offer for sale and sale of the convertible notes, Respondent West intentionally failed to disclose:
  - a. During and about 1988, Respondent West controlled and operated a real estate development-related company called Triad West, Inc., and Triad West, Inc., previously issued promissory notes guaranteed by Respondent West, as well as stock in Triad West, Inc., and neither Triad West, Inc., nor Respondent West repaid said notes or repaid funds pursuant to the guaranty;

- b. During and about 1991, Triad West, Inc., and Respondent West were sued by Angelo Della Ripa, in a matter captioned *Angelo Della Ripa v. Triad West, Inc., et al.*, (Case Number CV 90 0384917S, Superior Court, Hartford/New Britain JD), in connection with the non-repayment of notes and guarantees and alleging that Respondent West conducted other businesses on the premises of Triad West, Inc., and used Triad West, Inc., funds for such other businesses without reimbursing Triad West, Inc., and Respondent West and Triad West, Inc., were subject to a judgment of over \$100,000 in connection with said law suit;
- c. The judgment against Respondent West and Triad West, Inc., was never satisfied by repayment to the Plaintiff;
- d. During and about 1999, Respondent West controlled and operated a real estate development-related company called Sojourn Development Group, L.L.C. (Sojourn Development Group), and Sojourn Development Group issued notes and equity to investors and failed to repay said notes;
- e. During and about 2000, Respondent West was sued in the matter captioned *New Horizons Investments vs. Andrew W. West, Individually and d/b/a Sojourn Development Group, L.L.C.* (Case Number GN002115, District Court, Travis County, Texas) and judgment was rendered against Respondent West in an amount exceeding \$100,000 in connection with allegations of breach of contract and fraud;
- f. During and about 1999, Respondent West and Sojourn Development Group were evicted from their business premises and judgment rendered against Respondent West in the matter captioned *Szilagyi, Pete v. West, Andrew* (Cause Number 182381, Justice Court, Precinct 5, Travis County, Texas); Respondent West was also evicted and judgment rendered against him during 1999 in regard to the premises at 1106 W. 29th Street, Travis County, Texas, in the matter captioned *Tervlelt, Paul vs. West, Andrew* (Cause Number 180135, Justice Court, Precinct 5, Travis County, Texas); and in or about March 2006, Respondent was also evicted from the business premises of NCL, in the matter captioned *Francis Property Mgmt DBA 404 Rio Grande v. West, Andrew* (Cause No. 204434, Justice Court, Precinct 5, Travis County, Texas);
- g. In connection with Respondent West's eviction, relating to the matter of *Szilagyi, Pete v. West, Andrew*, Plaintiff Szilagyi alleged that Respondent West procured a lease from him by fraud by representing to Szilagyi that his income was \$148,000 and concealing that Respondent West, on or about the same date, represented he was a pauper in an unrelated eviction proceeding;

- h. Whether or not there existed any signed contracts among NCA, NewCenturyHighrise, LLC, and NCL relating to the transfers of units and percentage memberships, as set forth in the convertible notes;
  - i. The intended uses of convertible note investor funds and the uses of prior NCL investor funds;
  - j. The specific assets securing the guaranty made to convertible note investors and/or offerees by Respondent West;
  - k. The specific business history of Respondent West's casino development business, including the loss of approximately \$1 million in connection with that business;
  - l. The amount of money owed by NCL to Respondent West, Respondent Keller and other staff of NCL pursuant to compensation agreements;
  - m. Whether or not any options had actually been acquired on the property that was to be the location of NCL's first building in Dallas, known as SKYe;
  - n. The indebtedness of Respondent West to Gilbane Building Company or any affiliate;
  - o. The total percentage of equity NCL transferred to prior NCL investors, prior and current NCL staff and/or employees or agents, or third parties;
  - p. That from in or about 2004 until 2007, the following corporations for which Respondent West is listed as a principal and/or Director, forfeited their charters or certificates of authority, pursuant to the Texas Tax Code: Early Stage Forum, a Texas company, and Early Stage Network, Inc.; Emerald City Development, Inc.; Freedom: One Technology, Inc.; AWEquities, Inc.; and NCL;
  - q. The amount of funds invested by Respondent West and prior NCL investors with NCL; and
  - r. During and about 1990, a judgment was rendered against Respondent West, in a Connecticut lawsuit styled *Hunt v. West*, 21 Conn. App. 819, 576 A.2d 593, for indemnification for monies owed pursuant to a guaranty.
14. In connection with the offer for sale and sale of said convertible notes, NCL and Respondent West misrepresented the following relevant facts: the amount of funds Respondent West invested in NCL; the amount of funds invested with NCL; and the existence of a guaranteed maximum price contract with Gilbane Building Company, or any affiliate, the purported construction company to be involved in the construction of a high rise condominium.

15. In connection with the offer for sale and sale of the convertible notes, Respondents represented that Respondent West, in the past, has participated in real estate and casino development, which was materially misleading or otherwise likely to deceive the public, in light of the above-referenced alleged undisclosed facts.
16. In connection with the offer for sale and sale of the convertible notes, Respondents represented that NCL is a Texas limited liability company, which is materially misleading or otherwise likely to deceive the public, in light of the fact that it had forfeited its charter with the Texas Secretary of State.
17. In connection with the offer for sale and sale of the convertible notes, Respondents represented that Respondent Keller is a highly motivated entrepreneur with a background in real estate, which is materially misleading or otherwise likely to deceive the public, in light of the fact that Respondent Keller was previously affiliated with Sojourn Texas Development, Inc., a Texas corporation, with no disclosure of the existence of this venture in the instant offering; the fact that it accepted funds from investors and is now defunct; and that it has forfeited its corporate charter.
18. In connection with the offer for sale and sale of the convertible notes, Respondents represented that NCL treats its innovations as provisional patents, which is materially misleading or otherwise likely to deceive the public, in light of the fact that no patents had been applied for by Respondent NCL.
19. In connection with the offer for sale and sale of the convertible notes, Respondents represented that construction costs were guaranteed, or that there was a guaranteed maximum price contract, which is materially misleading or otherwise likely to deceive the public, in light of the non-existence of any such guarantees by the purported construction company.
20. In connection with the offer for sale of the convertible notes, Respondent Keller intentionally failed to disclose:
  - a. Respondent Keller's compensation and the terms of his deferred compensation arrangement with NCL, as well as the compensation/deferred compensation of other prior or current staff of NCL;
  - b. The total percentage of equity NCL transferred to prior NCL investors, prior and current NCL staff and/or employees or agents, or third parties;
  - c. The intended use of NCL investor funds, the uses of prior NCL investor funds, and the amount of funds invested with NCL;
  - d. The prior eviction of Respondent West from a location at which NCL conducted business;
  - e. During and about 1999 until 2003, Respondent Keller was affiliated with Sojourn Texas Development, Inc., a Texas corporation, with no disclosure of

the existence of this venture in the instant offering; the fact that it accepted funds from investors and is now defunct; that it has forfeited its corporate charter and the business has failed; and that Respondent Keller was previously associated with Respondent West and Sojourn Development Group, L.L.C., in connection with this venture;

- f. That from in or about 2002 until 2007, the following corporations, for which Respondent Keller is listed as a principal and/or Director, forfeited their charters or certificates of authority pursuant to the Texas Tax Code: Kablars, LLC; Roly Poly, LLC; Emerald City Development, Inc.; and Sojourn Texas Development, Inc.; and
  - g. Whether or not there existed any signed contracts among NCA; NewCenturyHighrise, LLC; and NCL relating to the transfers of units and percentage memberships, as set forth in the convertible notes.
21. On August 11, 2006, NCL executed a promissory note wherein it agreed to pay to Antonia Spalding (creditor) the sum of \$5,000 "with an annual interest rate of twelve percent (12%)." The promissory note was accepted by NewCenturyLiving, LLC, and signed by Eric Keller, Manager, NCL Development, LLC.
  22. In August 2006, Antonia G. Spalding and Eric Keller, manager, NCL Development, LLC, executed a "Convertible Bridge Loan Note, NCL Development, LLC - NewCenturyAssociates, LLC, NewCenturyHighrise, LLC." The convertible bridge loan note provided that the creditor (Ms. Spalding) "will loan NCL \$5,000 for 6 months at an annual interest rate of 12% and secured by the membership interests in NCL, with the option to convert the note and any interest earned to a \$10,000 unit in NewCenturyAssociates, LLC, a cumulative 5% Member of NewCenturyHighrise, LLC."
  23. Similar promissory notes and convertible bridge loans were executed in August 2006 between Respondent Keller and Theodore A. Spalding and Joanna C. Spalding.
  24. In February 2007, Antonia Spalding, Theodore Spalding and Joanna Spalding executed additional promissory notes with NCL who promised to pay them a sum certain with an annual interest rate of 12%. The promissory notes were accepted by NewCenturyLiving and signed by Respondent Keller, Manager, NCL Development, LLC.
  25. The Spaldings executed "Convertible Bridge Loan Notes" similar to those referenced in Finding of Fact No. 22, except that NCL granted the creditors a two month option (from June 15, 2007, to August 15, 2007) to convert the note and any interest earned to a "\$10,720 or \$21,440 unit in NewCenturyAssociates, LLC, a cumulative 10% Member of NewCenturyHighrise, LLC." The convertible bridge loan notes were acknowledged and agreed to by Respondent Keller, Manager, NCL Development, LLC, on February 15, 2007.

26. Respondent West issued the Spalding creditors a written personal guaranty, dated February 15, 2007, as a condition related to the promissory notes made by NCL in which he signed as guarantor.
27. The personal guaranty of Respondent West contained the provision that “as a condition precedent to the making of the PROMISSORY NOTE, the Guarantor is required to execute and deliver this guaranty. Said guarantees made by Respondent West further state that Respondent West “owns a substantial equity interest in [NCL Development, LLC] and it is in the best interest of [Respondent West] to execute this guaranty, inasmuch as [Respondent West] will derive substantial direct and indirect benefits from loans made to” NCL.
28. Respondents Keller and West participated in the preparation of a “Draft Private Placement Memorandum” (Memorandum) for NewCenturyLiving on Behalf of NCL. The Memorandum identifies Respondents Keller and West as individuals, among others, comprising NCL.
29. The Spalding creditors received a copy of the Memorandum as acknowledged in the convertible bridge loan notes referenced above.
30. Additionally, Respondents West and Keller provided the Memorandum to Roy Mullin, Allen Sanders, and Stan Marlow d/b/a New Century Associates and to New Century Associates’ clients.
31. The Memorandum was received by creditors prior to their placement of funds with NCL.
32. According to the Memorandum, NCL formed a new entity called New Century Associates, LLC (NCA), “to accomplish” pre-launch funding. NCA owns a 5% membership interest in NCL that was to be divided into a total of 100 membership units, each representing 1% of NCA.
33. Respondent West served as a manager of NCL. In January 2007, he issued a memorandum to investment participants indicating that NCL had “received more than \$290,000 in bridge loan financing via NewCenturyAssociates” and requesting current participants to extend the terms of their investment for an amount up to \$500,000. The memorandum referred to incentives for bridge loan participants, including the personal guaranty of Respondent West to “repay all bridge loans” in the event of a default by NCL.
34. Antonia Spalding understood NCL, NewCenturyLiving, NCA, and NewCenturyHighrise, LLC, to essentially be the same entity.
35. Antonia Spalding attended a NewCenturyLiving meeting in July of 2006 in Austin, Texas. At that meeting, Respondent West identified himself as the CEO of NCL and discussed the ideas NCL was working on, including the bridge loan investments.

36. Other participants were present at the July 2006 meeting. Antonia Spalding believed that they were also potential investors.
37. After Respondent West's presentation at the July 2006 meeting, Antonia Spalding requested additional written materials.
38. At the conclusion of the July 2006 meeting, Antonia Spalding considered making an investment with NCL based upon the information discussed by Respondent West during the presentation.
39. Respondent Keller was identified in the Draft Private Placement Memorandum as the individual responsible for forming NewCenturyLiving.
40. The Memorandum identified Respondent West as the individual responsible for "enrolling participants." Antonia Spalding understood this to mean that he was to bring in investors.
41. Theodore Spalding, Antonia Spalding's husband, attended a presentation made by Respondent West in August 2006. Afterward, the Spalding family invested with NCL. Antonia Spalding invested \$10,000; Theodore Spalding invested \$10,000; and Joanna Spalding invested \$5,000, for a total investment of \$25,000.
42. The Spalding family based its investment decision on the Draft Private Placement Memorandum and the presentations made by Respondent West.
43. The Spalding family wrote checks in the amount of \$15,000 to secure their investments with NCL. The checks were made payable to New Century Living Bridge.
44. Each of the investments made by the Spalding family were made with NCL.
45. Respondent Keller accepted the Spalding investment funds on behalf of NCL in his capacity as a manager.
46. The Spalding family expected a 12% return on their investment as promised by Respondents.
47. Mr. and Mrs. Spalding attended a NCL presentation made by Respondent West in October 2006 in which he requested that investors extend their notes for six months.
48. During the October 2006 meeting, Respondent West said that he gave his personal guaranty to the investors that the investments would be paid when due.
49. Mrs. Spalding received a printed investment update during January 2007, identifying Respondent West as manager of NCL and stating that "Bridge loans will now have that personal guaranty of Andrew West. In the event of any default by NCL, West shall repay all Bridge Loans."

50. Mr. and Mrs. Spalding attended another meeting in February 2007 in which Respondent West discussed bridge loan extensions.
51. The Spalding family renewed and extended their promissory notes and bridge loan notes after Respondent West's February 2007 presentation.
52. Respondent West's personal guaranty was based on the fact that he derived substantial direct and indirect benefits from loans made to NCL.
53. Respondent Keller accepted the Spalding bridge loan extensions on behalf of NCL in his capacity as a manager.
54. The Spalding family promissory notes and bridge loan notes became due, and the Spalding family requested payment from NCL and Respondents West and Keller. However, no payments or return of investment funds have been made to the Spalding family.
55. The Spalding family has not received any payment from Respondent West, despite his personal guarantees.
56. Joanna Spalding's investment funds placed with NCL constituted 100% of her retirement funds.
57. Respondent West provided information impacting the Spalding family's investment decisions through presentations and meetings with the Spaldings.
58. Respondent West participated in the sale of NCL bridge loans and promissory notes to the Spaldings.
59. Respondent Keller participated in the sale of the NCL bridge loans and promissory notes to the Spaldings and accepted their investment funds in his capacity as manager.
60. Respondents West and Keller are, in part, responsible for the loss of the Spalding investment monies.
61. On or about May 8, 2007, NCL filed a voluntary petition in bankruptcy, in the U.S. Bankruptcy Court, Northern District of Texas, Dallas Division. Respondent West is listed as the NCL bankruptcy manager, and he signed the petition as the authorized individual for purposes of executing the filing.
62. As part of the bankruptcy filing, Respondents Keller and West identified themselves as managers of NCL and represented that they are responsible for the management of NCL.

63. On or about April 18, 2006, Respondent Keller executed a Non-Personal Deposit Account Signature Card with Compass Bank for an account entitled NewCenturyLiving Bridge.
64. On or about July 18, 2006, Respondent Keller submitted a Compass Visa Business Check Card Application for the account entitled NewCenturyLiving Bridge, where he is identified as the Owner/Principal/Executive Officer on that account.
65. The Spalding family made their investment checks payable to NewCenturyLiving Bridge to secure their investments in NCL, and Respondent Keller was the sole signatory on the account in which the Spalding funds were deposited.
66. Respondents West and Keller were managers of NCL, and that company received bridge loan financing from creditors, including the Spalding family, in the amount of approximately \$290,000.
67. Respondents Keller and West offered for sale and sold bridge loans and promissory notes with an annual interest rate of 12%, secured by membership interests in NCL, with an option to convert said note and any interest to LLC units in NewCenturyAssociates, LLC, and a cumulative percentage membership in NewCenturyHighrise, LLC, in certain instances containing the personal guaranty of Respondent West. The offers for sale and sales occurred before the issuance of the Emergency Order.
68. The acts performed by Respondents Keller and West were significant acts in the offer and sale of the promissory notes and bridge loan notes, including preparing offering materials, forming NewCenturyAssociates, LLC, as a means for accomplishing the funding of the investments, providing investor updates, accepting, acknowledging and issuing bridge loans, promissory notes and personal guarantees.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction over the Respondents and the subject matter of this disciplinary action pursuant to the provisions of the Texas Securities Act (Act). TEX. REV. CIV. STAT. ANN. art. 581-1 *et seq.*
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this disciplinary proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law pursuant to the provisions of the Texas Government Code. TEX. GOV'T CODE ch. 2003.
3. On receiving a request for a hearing from a person who is the subject of an Emergency Cease and Desist Order, the Commissioner of the Board must serve notice of the time and place of the hearing. The hearing must be held not later than

the 10th day after the date the Commissioner receives the request for a hearing unless the parties agree to a later hearing date. Act § 23-2.D.

4. Based on the above Findings of Fact, the Respondents were given the required notice of a hearing.
5. At the hearing, the Commissioner has the burden of proof and must present evidence in support of the order. Act § 23-2.D.
6. After the hearing, the Commissioner must affirm, modify, or set aside in whole or part the emergency order. Act § 23-2.E.
7. The convertible notes described in the above Findings of Fact that were offered for sale and sold by Respondents are “securities” as that term is defined by Section 4.A of the Act. Act § 4.A.
8. A seller of a security “may be any link in the chain of the selling process or in the words of the Act he is one who performs ‘any act by which a sale is made.’” *Brown v. Cole*, 155 Tex. 624, 291 S.W.2d 704.
9. Respondents violated Section 7 of the Act by offering and selling securities in Texas at a time when the securities were not registered with the Securities Commissioner.
10. Respondents violated Section 12 of the Act by offering and selling securities in Texas without being registered.<sup>5</sup>
11. Respondents are engaged in fraud in connection with the offer for sale and sale of securities.
12. Respondents made an offer containing statements that were materially misleading or otherwise likely to deceive the public.
13. Respondents’ conduct, acts, and practices threatened immediate and irreparable public harm.
14. The foregoing violations constitute a sufficient basis for issuing an Emergency Cease and Desist Order pursuant to Section 23-2 of the Act.

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<sup>5</sup> Conclusion of Law No. 10 has been changed to delete the phrase “sellers of securities” because the Act uses the terms “dealer” and “agent” to define a person or company who offers for sale or sells securities and Section 12 requires a dealer or agent to be registered. Section 2001.058(e)(1) of the Administrative Procedure Act, TEX. GOV’T CODE authorizes a change when the agency determines that the administrative law judge did not properly apply or interpret applicable law. The ALJ did not properly apply Section 12 to the terms used therein and as defined in Section 4 of the Act.

15. Based on the above Findings of Fact and Conclusions of Law, the Emergency Cease and Desist Order should be upheld pursuant to Section 23-2 of the Act.

ORDER

IT IS THEREFORE ORDERED that the Emergency Cease and Desist Order No. ENF-07-CDO-1628 issued against ANDREW W. WEST aka ANDY WEST and ERIC WILLIAM KELLER aka ERIC KELLER on May 2, 2007, is AFFIRMED and SHALL REMAIN IN FULL FORCE AND EFFECT.

IT IS FURTHER ORDERED that the Emergency Cease and Desist Order No. ENF-07-CDO-1628 issued against NCL DEVELOPMENT LLC on May 2, 2007, SHALL REMAIN IN FULL FORCE AND EFFECT, because the appeal by NCL DEVELOPMENT LLC was dismissed on July 10, 2007.

SIGNED AND ENTERED by the Securities Commissioner this 9<sup>th</sup> day of September, 2009.

  
DENISE VOIGT CRAWFORD  
Securities Commissioner

## CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been sent to the Respondents by certified mail, return receipt requested, at their last known addresses on Page 1 of this Order, and to their representatives named below in this matter by certified mail, return receipt requested, and to the State Office of Administrative Hearings, on this the 9<sup>th</sup> day of September, 2009.

Andrew W. West a/k/a Andy West  
2602 Kings Road  
Dallas, Texas 75214

Eric William Keller a/k/a Eric Keller  
510A Vincent  
Houston, Texas 77009

Susan Formby Marshall  
Administrative Law Judge  
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State Securities Board