

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order Number S-10-077-10-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES AND
S & B Energy, LLC and Robert J. Braun,) NOTICE OF INTENT TO ENTER AN
) ORDER TO CEASE AND DESIST AND
) TO CHARGE COSTS
Respondents)

THE STATE OF WASHINGTON TO: S & B Energy, LLC
Robert James Braun

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, S & B Energy, LLC and Robert J. Braun, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each to cease and desist from such violations and to charge investigative costs. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondents

1. S & B Energy, LLC (“S & B Energy”) is a Washington limited liability company that was formed on March 9, 2007. S & B Energy had its principal place of business in Spokane, Washington. S & B Energy’s stated business purpose was to build and to operate ethanol plants, starting with a plant in Spokane County, Washington. However, no ethanol plants were ever built. S & B Energy was administratively dissolved on July 1, 2009.

1 9. When offering and selling investments in S & B Energy's share of ownership in an
2 ethanol plant to be owned by Novahol Medical Lake, LLC, Respondents each represented to
3 investors that a \$25,000 investment would yield an estimated \$200,000 per year in dividend
4 income. Respondents each failed to disclose any reasonable basis for this estimate.
5

6 10. When offering and selling S & B Energy investments, Respondents each failed to
7 disclose significant risks of the investments. Respondents each failed to give the investors
8 financial information, including financial statements for S & B Energy and financial statements
9 for Novahol Medical Lake, LLC. Respondents each failed to disclose that the operation of an
10 ethanol plant might be unprofitable. Respondents each failed to disclose that the investments
11 had an arbitrary offering price that had no relationship to the net worth of S & B Energy.
12 Respondents each failed to disclose the business operating history of Nova Fuels, the joint
13 venture partner with S & B Energy. Respondents each failed to disclose that investors could
14 lose their entire investment because S & B Energy did not have a specified minimum amount
15 of required capital and because S & B Energy did not have sufficient funds to build and to
16 operate an ethanol plant. Respondents each failed to disclose the specific intended use of the
17 investors' funds. Respondents each failed to disclose that the technology for the proposed
18 ethanol plant was still experimental. Respondents each failed to disclose that the plant would
19 have operational risks. Respondents each represented to investors that the proposed ethanol
20 plant would sell its fuel through a customary fuel brokerage agreement, but Respondents each
21 failed to disclose that no fuel sales agreements had ever been negotiated and that the market for
22 the fuel was still unproven. Respondents each failed to disclose the types of permits that would
23
24
25

1 be required to build an ethanol plant. Respondents each failed to disclose regulatory risks
2 associated with getting the approval to build an ethanol plant.

3 Failure to Produce Documents and to Appear and Testify

4
5 11. On April 16, 2010, the Securities Division issued subpoena number S-10-077-10-
6 DI01, a Subpoena Duces Tecum and to Testify, to Braun. The subpoena called for the
7 production of documents by May 14, 2010 and for on May 24, 2010. The subpoena was
8 personally served on Braun. Braun sent a reply letter dated May 12, 2010. Braun stated that
9 he was unable to comply with the “request” for documents and testimony. The letter stated
10 that he did not have an attorney and could not afford to retain an attorney. Therefore, Braun
11 refused to produce documents or to give testimony until an attorney could represent Braun.
12

13 Registration Status

14 12. S & B Energy is not currently registered to sell its securities in the state of
15 Washington and has not previously been so registered.

16
17 13. Robert J. Braun is not currently registered as a securities salesperson or securities
18 broker-dealer in the state of Washington and has not previously been so registered.

19 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:

20 **CONCLUSIONS OF LAW**

21 **I.**

22
23 The offer or sale of the investments described in the Tentative Findings of Fact
24 constitutes the offer or sale of a security, as defined in RCW 21.20.005(10) and (12), in the
25 form of an investment contract.

1 II.

2 As described in the Tentative Findings of Fact, S & B Energy and Braun have each
3 violated RCW 21.20.140, the securities registration provision of the Securities Act of
4 Washington, when offering and selling said securities because no registration for such offer or
5 sale is on file with the Securities Administrator.
6

7 III.

8 As described in the Tentative Findings of Fact, Braun violated RCW 21.20.040, the
9 securities salesperson and securities broker-dealer registration provision of the Securities Act
10 of Washington, by offering or selling said securities while not registered as a securities
11 salesperson or securities broker-dealer in the state of Washington.
12

13 IV.

14 As described in the Tentative Findings of Fact, S & B Energy and Braun have each
15 violated RCW 21.20.010, the anti-fraud provision of the Securities Act of Washington, because
16 in connection with the offer or sale of said securities, they each made an untrue statement of a
17 material fact or omitted to state a material fact necessary in order to make the statements made,
18 in the light of the circumstances under which they were made, not misleading.
19

20 **NOTICE OF INTENT TO ORDER THE RESPONDENTS TO CEASE AND DESIST**

21 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities
22 Administrator intends to order, pursuant to RCW 21.20.390, that Respondents, S & B Energy,
23 LLC and Robert J. Braun, and their agents and employees each shall cease and desist from any
24 violation of RCW 21.20.010, RCW 21.20.040, and RCW 21.20.140.
25

1 **NOTICE OF INTENT TO CHARGE COSTS**

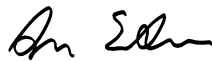
2 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities
3 Administrator intends to charge, pursuant to RCW 21.20.390, investigative costs of \$5,000
4 against Robert J. Braun.
5

6 **AUTHORITY AND PROCEDURE**

7 This Statement of Charges is entered pursuant to the provisions of chapter 21.20 RCW
8 and is subject to the provisions of chapter 34.05 RCW. The respondents, S & B Energy, LLC
9 and Robert J. Braun, may each make a written request for a hearing as set forth in the NOTICE
10 OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying
11 this order.
12

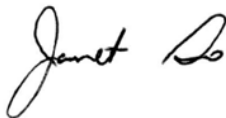
13 If a respondent fails to make a timely hearing request, the Securities Administrator
14 intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and to
15 enter a permanent order to cease and desist as to that respondent and to charge any costs sought
16 against that respondent.
17

18 Dated and Entered this 18th day of June, 2010

19
20 

21
22 SUZANNE E. SARASON
23 Chief of Enforcement

24 Presented by:

25 

Janet So
Enforcement Attorney