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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING )  
whether there has been a violation of the )  
Securities Act of Washington by: )

Order No. S-14-1417-14-CO01

Couch Oil & Gas, Inc., )  
Charles O. Couch, )  
Robin Charlet, )  
Kirk Porter, )

CONSENT ORDER AS TO KIRK PORTER

Respondents. )

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**INTRODUCTION**

11 On May 23, 2014, the Securities Administrator of the Securities Division of the Department of  
12 Financial Institutions (“Securities Division”) issued a Statement of Charges and Notice of Intent to Enter  
13 Order to Cease and Desist, to Impose Fines, and to Charges Costs, Order Number S-14-1417-14-SC01,  
14 against Respondents Couch Oil & Gas, Inc.; Charles O. Couch; Robin Charlet; and Kirk Porter. Pursuant to  
15 the Securities Act of Washington, RCW 21.20, the Securities Division and Respondent Kirk Porter do  
16 hereby enter into this CONSENT ORDER in settlement of the matters alleged herein. Respondent Kirk  
Porter neither admits nor denies the Findings of Fact and Conclusions of Law as stated below.

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**FINDINGS OF FACT**

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Respondents

20 1. Couch Oil & Gas, Inc. (“Couch Oil”) is a Texas company that was incorporated in 2004 and has a  
21 principal place of business in Irving, Texas. Couch Oil is in the business of oil and gas exploration and  
development.

22 2. Charles O. Couch (“Couch”) is a resident of Texas and the President and owner of Couch Oil.

23 3. Robin Charlet (“Charlet”) is a resident of California and was, at all times relevant to this matter, a  
24 representative of Couch Oil.

1 Kirk Porter (“Porter”) is a resident of California and was, at all times relevant to this matter, a  
2 representative of Couch Oil.

3 Other Enforcement and Civil Actions

4 5. On February 2, 1999, the Pennsylvania Securities Commission issued a Summary Order to Cease  
5 and Desist against Couch and a related entity. The Commission alleged that Couch had violated the  
6 securities registration section of the Securities Act of Pennsylvania. Couch was ordered to cease and desist  
7 from offering and selling securities in violation of the Securities Act of Pennsylvania.

8 6. On March 18, 2005, the Wisconsin Division of Securities issued an Order of Prohibition and  
9 Revocation against Couch and Couch Oil. The Division alleged that Couch and Couch Oil violated the  
10 securities registration and securities salesperson registration sections of the Securities Act of Wisconsin.  
11 Couch and Couch Oil consented to the entry of the order without admitting or denying the Division’s factual  
12 findings.

13 7. On August 14, 2008, Couch and Couch Oil were named as defendants in a lawsuit filed by two oil  
14 and gas investors. The investors alleged, among other things, that Couch and Couch Oil violated the Texas  
15 Securities Act when they offered and sold oil and gas investments to the investors. On October 5, 2011, a  
16 jury found that Couch Oil committed a securities act violation when it offered or sold a security to the  
17 investors by means of an untrue statement or omission of a material fact. The jury did not award damages to  
18 the investors and found that the investors should have discovered Couch Oil’s misrepresentations and  
19 omissions by December 2004. On November 1, 2011, based on the jury’s findings, the court entered  
20 judgment in favor of Couch and Couch Oil.

21 8. On July 14, 2009, the Pennsylvania Securities Commission issued a Summary Order to Cease and  
22 Desist against Couch and Couch Oil. The Commission alleged that Couch and Couch Oil had violated the  
23 securities registration section of the Securities Act of Pennsylvania. Couch and Couch Oil were ordered to  
24 cease and desist from offering and selling securities in violation of the Securities Act of Pennsylvania.

25 9. On May 12, 2014, the United States Securities and Exchange Commission (“SEC”) filed a civil  
enforcement action against Couch and Couch Oil in the U.S. District Court in Dallas, Texas. The SEC  
alleged that Couch and Couch Oil violated federal securities laws when they offered and sold unregistered  
securities in two oil and gas programs, including the Eastern Permian Basin 59 Oil Wells prospect. The SEC  
alleged that Couch and Couch Oil fraudulently raised approximately \$9.8 million from more than 200  
investors in at least 21 states through the offer and sale of these unregistered oil and gas securities. The SEC  
did not name Porter as a defendant in this action.

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Nature of the Offering

10. Between June 2010 and January 2011, Couch Oil, Couch, Charlet, and Porter offered and sold units of fractional undivided working interests in Couch Oil's Eastern Permian Basin 59 Oil Wells prospect ("59 Wells") to Washington residents. The units were offered through a public website, and at least three Washington residents responded to the offer and invested a total of \$629,375. At the time of the offer, two of the Washington investors were retired and one of the investors was non-accredited. None of the Washington investors had a pre-existing relationship with any of the respondents when the investment was offered.

11. After each of the Washington investors responded to the 59 Wells offer, Charlet or Porter contacted the investor by phone and email. Couch also spoke with at least one of the Washington investors. Couch Oil, Couch, Charlet, and Porter represented to offerees that Couch Oil would test, drill, operate, and manage the 59 oil and gas wells associated with the program, and that investors would hold a percentage working interest in all of the wells associated with the program. Couch Oil would distribute monthly revenue checks to investors when it sold the oil or gas produced by the wells.

12. Charlet and Porter provided each Washington investor with a Couch Oil Participation and Subscription Agreement ("Subscription Agreement"). While Couch Oil stated in the Subscription Agreement that investors would be treated as limited liability partners, investors had no expectation of control over the administration or management of the 59 Wells program. In addition, when investors signed the Subscription Agreement, they signed a Power of Attorney appointing Couch Oil as their attorney-in-fact in matters related to the 59 Wells program.

13. Couch, Charlet, and Porter provided each Washington investor with various documents regarding the 59 Wells program. Porter forwarded email updates from Couch and Couch Oil to at least one Washington investor. In the email updates, Couch and Couch Oil outlined their successes in testing and drilling wells, including wells that would be part of the 59 Wells program. In one update, Couch represented that Couch Oil had a "verified list of good oil producers." In another, Couch stated that "one well bore should earn us our initial investment back."

14. Charlet provided an Estimated Projected Cash Flow Pro-forma ("Pro-forma") to at least one Washington investor. In the Pro-forma, Couch Oil represented that all 59 wells would be producing oil or gas within twelve months. Couch Oil also represented that investors could receive \$81,533 in revenue per 1% working interest in the first fourteen months of the investment.

15. Couch and Porter provided a Couch Oil Executive Summary to at least two Washington investors. In the Executive Summary, Couch Oil represented that the 59 Wells program had an estimated “30% APR payback if all wells obtain estimated **minimum** daily production” (emphasis in the original). Couch Oil stated that the productive life of each well would likely vary from 10 to 50 years. Couch Oil also represented that it would be drilling wells with proven past production, which was “comparable to buying existing production.”

16. Couch Oil, Couch, Charlet, and Porter failed to provide investors with a basis for the projections and assertions made in the email updates, Pro-forma, and Executive Summary, and they failed to disclose the assumptions upon which the claims were made. Couch Oil, Couch, Charlet, and Porter also failed to provide investors with material information regarding Couch Oil, including its financial condition, its operating history, and the performance of other oil and gas investments offered, managed, or operated by Couch Oil or its affiliates.

17. Couch Oil, Couch, Charlet, and Porter failed to disclose to investors that Couch had filed for bankruptcy in 1999, and that Couch and/or Couch Oil had been the subject of administrative orders issued by the Wisconsin Division of Securities in 2005 and the Pennsylvania Securities Commission in 1999 and 2009 for the offer or sale of unregistered securities. Couch Oil, Couch, Charlet, and Porter also failed to disclose to investors that, at the time of the 59 Wells offer, Couch and Couch Oil were defendants in a civil lawsuit filed by oil and gas investors that alleged securities act violations in the offer and sale of securities.

18. Couch and Charlet represented to at least two Washington investors that the risk of investing in the 59 Wells program was lower than investing in a single well because the risk of a dry hole was spread over 59 wells and a non-producing well could be replaced with a new well. Couch Oil, Couch, Charlet, and Porter failed to disclose to investors that a large number of oil and gas wells are dry holes or commercially non-productive wells, and that replacing a dry or under-producing well would likely require raising additional funds.

19. Couch Oil, Couch, Charlet, and Porter failed to provide the Washington investors with a private placement memorandum or other document containing the general or specific risks of investing in an oil and gas prospect. Investors were only told broadly that oil and gas investments were risky and investors could lose their entire investment. The risks that Couch Oil, Couch, Charlet, and Porter failed to disclose include, but are not limited to, delays in the distribution of income, equipment shortages, changes in the marketability of the product, commercially non-productive wells, and liability for costs beyond the initial investment.

1 20. In April 2011, Couch Oil issued the first revenue checks for the 59 Wells program. All three  
2 Washington investors received a revenue check from Couch Oil that was substantially less than what each  
3 had expected, and the revenue checks became smaller in the subsequent months. By the end of 2013, Couch  
4 Oil had notified investors that it was pursuing a buyout and termination of the 59 Wells program.

#### 5 Registration Status

6 21. Respondent Couch Oil & Gas, Inc. is not currently registered to offer or sell its securities in the state  
7 of Washington, and it has not previously been so registered. There is no notification of exemption on file  
8 with the state of Washington.

9 22. Respondent Charles O. Couch is not currently registered as a securities salesperson or broker-dealer  
10 in the state of Washington, and he has not previously been so registered.

11 23. Respondent Robin Charlet is not currently registered as a securities salesperson or broker-dealer in  
12 the state of Washington, and he has not previously been so registered.

13 24. Respondent Kirk Porter is not currently registered as a securities salesperson or broker-dealer in the  
14 state of Washington, and he has not previously been so registered.

### 15 **CONCLUSIONS OF LAW**

16 1. The offer or sale of units of fractional undivided working interests in an oil and gas prospect as  
17 described above constitutes the offer or sale of a security as defined in RCW 21.20.005(14) and RCW  
18 21.20.005(17).

19 2. The offer or sale of said securities is in violation of RCW 21.20.140 because no registration for such  
20 an offer or sale is on file with the Securities Administrator, state of Washington.

21 3. Kirk Porter violated RCW 21.20.040 by offering or selling said securities while not registered as a  
22 securities salesperson or broker-dealer in the state of Washington.

23 4. The offer or sale of said securities was in violation of RCW 21.20.010 because Respondent Kirk  
24 Porter made untrue statements of material fact or omitted to state material facts necessary to make the  
25 statements made, in light of the circumstances under which they were made, not misleading.

**CONSENT ORDER**

Based upon the foregoing and finding it in the public interest:

IT IS AGREED AND ORDERED that Respondent Kirk Porter shall cease and desist from violating RCW 21.20.140, the securities registration section of the Securities Act of Washington.

IT IS FURTHER AGREED AND ORDERED that Respondent Kirk Porter shall cease and desist from violating RCW 21.20.040, the securities salesperson and broker-dealer registration section of the Securities Act of Washington.

IT IS FURTHER AGREED AND ORDERED that Respondent Kirk Porter shall cease and desist from violating RCW 21.20.010, the anti-fraud section of the Securities Act of Washington.

IT IS FURTHER AGREED AND ORDERED that Respondent Kirk Porter shall be liable for and shall pay a fine of \$1,500 on or before the entry of this Consent Order.

IT IS FURTHER AGREED AND ORDERED that Respondent Kirk Porter shall be liable for and shall pay investigative costs of \$500 on or before the entry of this Consent Order.

IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent Order.

IT IS FURTHER AGREED that Respondent Kirk Porter entered into this Consent Order freely and voluntarily and with a full understanding of its terms and significance.

IT IS FURTHER AGREED that, except in any action by the Securities Division of the Washington State Department of Financial Institutions, this Consent Order may neither be deemed nor used as an admission of or evidence of any fault, omission, or liability of Respondent Kirk Porter in any civil, criminal, arbitration, or administrative proceeding.

IT IS FURTHER AGREED that in consideration of the foregoing, Respondent Kirk Porter waives his right to a hearing and to judicial review of this matter pursuant to RCW 21.20.440 and Chapter 34.05 RCW.

**WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

Signed this 25th day of September 2014.

Signed by:

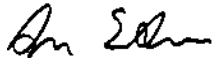
/s/  
Kirk Porter, Individually

SIGNED and ENTERED this 8th day of October 2014.



William M. Beatty  
Securities Administrator

Approved by:



Suzanne Sarason  
Chief of Enforcement

Presented by:



Holly Mack-Kretzler  
Financial Legal Examiner

Reviewed by:



Robert Kondrat  
Financial Legal Examiner Supervisor