

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

IN THE MATTER OF DETERMINING ) Order No.: S-14-1479-18-CO02  
Whether there has been a violation of the )  
Securities Act of Washington and the Busi- ) CONSENT ORDER AS TO ROBERT THOMAS  
ness Opportunity Fraud Act of Washington ) KELLY AND BETTER FUEL GROUP NW, INC.  
by: )  
)  
TIMOTHY DION WETZEL; ROBERT )  
THOMAS KELLY; WETZEL OIL INC.; )  
WETZEL ENERGY TECHNOLOGY COM- )  
PANY INC.; BETTER FUEL NORTH )  
WEST, A WETCO COMPANY, INC.; and )  
BETTER FUEL GROUP NW, INC. )  
)  
Respondents. )  
)

**INTRODUCTION**

On June 1, 2017, the Securities Administrator of the state of Washington issued Statement of Charges and Notice of Intent To Enter Order To Cease and Desist, To Impose Civil Penalties, and To Charge Costs, Order No. S-14-1479-17-SC01 (“Statement of Charges”), against Respondents Timothy Dion Wetzel; Robert Thomas Kelly; Wetzel Oil Inc.; Wetzel Energy Technology Company Inc.; Better Fuel North West, a WETCO Company, Inc.; and Better Fuel Group NW, Inc. The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing (“Notice of Opportunity for Hearing”), were served on Robert Thomas Kelly and Better Fuel Group NW, Inc. on June 21, 2017. The Securities Division and Respondents Robert Thomas Kelly and Better Fuel Group NW, Inc. do hereby agree to the Consent Order in settlement of the above-captioned matter. The Securities Division has, in the Statement of Charges, made certain allegations and conclusions, set forth under the headings “Tentative Findings of Fact” and “Conclusions of Law.” Respondents Robert Thomas Kelly and Better Fuel Group NW, Inc. neither admit nor deny the Findings of Fact or Conclusions of Law as stated below:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## FINDINGS OF FACT

### Respondents

1. Wetzel Oil Inc. (“WOI”) was a Nevada corporation formed on June 14, 2011 and dissolved on March 21, 2013. During the period relevant to this Statement of Charges, WOI’s principal place of business was in Kent, Washington. WOI claimed to be in the business of developing, producing and selling proprietary renewable diesel fuel, and selling licenses to allow others to produce the fuel.

2. Wetzel Energy Technology Company Inc. (“WETCO”) is a Washington corporation formed on March 27, 2013. During the period relevant to this Statement of Charges, WETCO’s principal place of business was in Tacoma, Washington. WETCO sells licenses and fuelmaking equipment to investors that purportedly allowed the investors to produce, market and sell its proprietary renewable fuel. WETCO maintains a website at [www.wetzelenergy.com](http://www.wetzelenergy.com).

3. Better Fuel North West, a WETCO Company, Inc. (“BFNW”) is a Nevada corporation formed on October 2, 2014. Its Nevada business license expired in October 2016. During the period relevant to this Statement of Charges, its principal place of business was in Tacoma, Washington. BFNW purchased a WETCO license to produce, market and sell WETCO’s renewable fuel.

4. Better Fuel Group NW, Inc. (“Better Fuel Group”) is a Nevada corporation formed on October 28, 2014. Its Nevada business license expired in October 2016. Its principal place of business is in Bellevue, Washington. Better Fuel Group is in the business of finding and selling WETCO business opportunities to investors.

5. Timothy Dion Wetzel (“Wetzel”) resided in Renton, Washington during the period relevant to this Statement of Charges. Wetzel was, at various times, the President and Director of WOI; the President, Treasurer and Chairman of WETCO; and the President, CEO, Treasurer and Director of BFNW. Wetzel claims to have invented the renewable fuel(s) used in the WOI and WETCO businesses.



1 money. Wetzel and Kelly offered and sold business opportunities through WETCO that consisted of a license  
2 to produce his renewable fuel and a fuelmaking machine.

3 11. Together, Wetzel and Kelly sold these investments to at least 26 distinct investors, at least 19  
4 of whom were Washington residents. Many of the WETCO and BFNW investors were friends and family of  
5 Kelly and his wife, and many invested in multiple investments. Kelly purchased a business opportunity him-  
6 self and formed BFNW with Wetzel to produce and sell the fuel. He also purchased a WETCO “distributor-  
7 ship” that gave him the exclusive right to find business opportunity investors in the Pacific Northwest. Kelly  
8 formed Better Fuel Group to carry out this function. The following table summarizes the investments that  
9 Wetzel and Kelly sold:

10 <b>Issuer &amp; Investment Type</b>	11 <b>Approximate Date of Sale</b>	12 <b>Number of Investors</b>	13 <b>Minimum Amount Raised</b>	14 <b>Salespeople</b>
15 WOI – Stock	2011 to 2012	7	\$177,775	Wetzel
16 WETCO – Stock	2013 to 2015	9	\$66,750	Wetzel and Kelly
17 WETCO - Business Opportunities	2013 to 2015	9	\$422,064	Wetzel, Kelly, Better Fuel Group, and Garibello
18 WETCO - Promissory Notes	No later than July 2015 to 2016	5	\$58,000 - \$109,000	Wetzel and Kelly
19 BFNW - Stock	2014 to 2015	8	\$105,000	Wetzel and Kelly

20 12. To sell these investments, Wetzel and Kelly generally told investors that Wetzel had invented  
21 the SnxF line of fuel (including a purported improvement called SnxF2) that could make millions in annual  
22 profit for the producer. They also told investors that Wetzel owned patents or pending patents that protected  
23 the SnxF fuel and related technology, when in fact he did not. Wetzel and Kelly told WOI, WETCO, and  
24 BFNW securities investors that they could profit from those companies’ fuel sales. Those who purchased  
25

1 WETCO business opportunities could profit by producing and selling the renewable fuel themselves.

2 13. Wetzel and Kelly made many material misrepresentations and omissions to their investors  
3 when they sold the investments. Most notably, they misrepresented information about Wetzel's ownership  
4 of patents or pending patents, use of investor funds, and profit potentials. They also failed to disclose risks  
5 of the investment and information about Wetzel's criminal and financial history.

6 14. To date, the business opportunities and securities investors have lost much, if not all, of their  
7 investments. No business opportunity investor has been able to start their fuelmaking business. Wetzel and  
8 Kelly never made enough renewable fuel through WOI, WETCO, or BFNW to provide any return to share-  
9 holders or noteholders, to the Division's knowledge. Instead, Wetzel used a significant portion of investor  
10 funds for what appear to be personal expenses. In 2016, Wetzel and Kelly abandoned the business plan that  
11 they sold to investors, and have since moved on to a new renewable fuel project overseas. They offered their  
12 investors the opportunity to invest in this new project.

### 13 **Timothy Wetzel's Criminal and Financial History**

14 15. Timothy Wetzel has been convicted of several crimes that all of the Respondents failed to  
15 disclose to many, if not all, of the investors. In 1997, Wetzel was convicted in Oregon of one felony count  
16 of racketeering, two felony counts of aggravated theft in the first degree, and nine felony counts of theft in  
17 the first degree. Wetzel, a licensed contractor at the time, and his co-conspirators were accused of stealing  
18 over \$212,000 from nearly 30 victims, many of whom were elderly. Wetzel was sentenced to multiple con-  
19 current sentences that resulted in a 36 month prison term. In 2002, Wetzel was convicted in Oregon of one  
20 count of Attempt to Commit a Class C Felony and one count of Contracting Without Registration, both  
21 misdemeanors. He was sentenced to 36 months of probation. Wetzel's 1997 and 2002 convictions will col-  
22 lectively be referred to as "Criminal Convictions" in this Statement of Charges.

23 16. Kelly, through Better Fuel Group, sold WETCO business opportunities and securities even  
24  
25

1 after he was told of some of Wetzel's Criminal Convictions. In April 2015, Kelly was informed by a WOI  
2 investor that Wetzel had been convicted of theft and racketeering. After being told this information, Kelly  
3 and Better Fuel Group sold one WETCO license and a \$10,000 WETCO promissory note to one investor,  
4 and a WETCO license to at least one other investor. Kelly and Better Fuel Group never disclosed Wetzel's  
5 Criminal Convictions to at least one of these investors, if not both.

6 17. Wetzel also has a lengthy history of judgments and liens that all of the Respondents failed to  
7 disclose to many, if not all, of the investors. In 2001, the state of California filed a tax lien against Wetzel  
8 for \$80,648 due to unpaid state taxes. From 2009 to 2011, at least four judgments were entered against Wetzel  
9 totaling at least \$179,764 plus interest for unpaid loans. In 2007, Wetzel filed for Chapter 7 bankruptcy in  
10 Oregon. In that proceeding, over \$2 million in creditor claims were filed against him. The creditor claims  
11 included an IRS claim for \$1,565,394.06 for unpaid federal income taxes, penalties and interest arising out  
12 of Wetzel's failure to file income tax returns and/or to pay federal income tax for 12 of the 16 years between  
13 1991 and 2007. When the bankruptcy case was dismissed in 2007, Wetzel was prohibited from discharging  
14 any of the debts that were, or could have been, included in the bankruptcy case. Wetzel's liens, judgments  
15 and bankruptcy will collectively be referred to as "Financial Delinquencies" in this Statement of Charges.

### 17 **Wetzel's Renewable Diesel Technology and Patent Applications**

18 18. Respondents told investors that the SnxF line of fuel that Wetzel purportedly invented could  
19 be made by mixing diesel, a chemical stabilizer, and feedstock such as waste vegetable oil or industrial waste.  
20 They claimed to have free or cheap sources of feedstock lined up. They represented to investors that the fuel  
21 could be made using a filtering process called EXIMO with a machine of the same name, both of which  
22 Wetzel also purportedly invented. The Securities Division could not confirm the viability of the SnxF and  
23 EXIMO technologies from any source other than Wetzel or Kelly.

24 19. Respondents told investors that Wetzel, WOI, or WETCO owned patents or pending patents  
25

1 that protected the SnxF and EXIMO inventions. With the possible exception of statements made to one in-  
2 vestor, these statements were false when made. At no time did any of the Respondents ever own any patents,  
3 to the Division's knowledge. Wetzel is the only Respondent to have filed any patent application, but neither  
4 of the two patent applications that he filed led to him owning full patents.

5 20. Wetzel filed the first patent application, Provisional Patent Application No. 60739673, in No-  
6 vember 2005 to patent a renewable fuel similar to SnxF.<sup>1</sup> However, around 2009, he sold the underlying  
7 invention and assigned the patent application to a Washington company while the application was still pend-  
8 ing. In January 2010, the U.S. Patent and Trademark Office (the "USPTO") granted a full patent for the  
9 invention, Patent No. 7648539 ("Patent"), to the purchaser. Wetzel himself never owned the patent.

10 21. Wetzel filed his second patent application in May 2013 when he filed Provisional Patent Ap-  
11 plication No. 61825950. Wetzel claimed to the Securities Division that this provisional patent application  
12 covered the SnxF and EXIMO technologies, but the Division cannot confirm this because Wetzel has refused  
13 to disclose the application. Wetzel abandoned this application when he failed to file a nonprovisional patent  
14 application within one year, as required by federal patent law.<sup>2</sup> Wetzel and WETCO sold one investment, a  
15 WETCO business opportunity, during the one-year period that the second patent application was pending.  
16 To the Division's knowledge, Respondents did not own any pending patents when they sold investments to  
17 any other investor.  
18

### 19 2010 Injunction

20 22. Wetzel and WOI failed to disclose to at least one, if not all, WOI investors that Wetzel was  
21 subject to an injunction that implicated his WOI activities and put him and WOI at risk of litigation. In  
22 February 2010, a Washington court enjoined Wetzel, any company he owned, or any person he worked with  
23

---

24 <sup>1</sup> In November 2006, Wetzel continued the patent process by filing Nonprovisional Patent Application No. 11602621.

25 <sup>2</sup> The USPTO does not disclose provisional patent applications that do not later become nonprovisional patent applications.

1 from developing, producing, or selling any fuel similar to the fuel that was covered by the Patent (“2010  
2 Injunction”). The 2010 Injunction arose from a lawsuit brought against Wetzel by his former business part-  
3 ners alleging that he committed securities fraud, among other things, when he sold stock to them. Wetzel and  
4 WOI were likely prohibited by the 2010 Injunction from producing and selling the SnxF renewable fuel  
5 because it appears to be similar to the renewable fuel that is protected by the Patent. The 2010 Injunction  
6 was in effect during the entire time Wetzel sold WOI investments. It expired in February 2013.

### 7 **WOI Stock Investments**

8 <b>Issuer &amp; Investment Type</b>	9 <b>Approximate Date of Sale</b>	10 <b>Number of Investors</b>	11 <b>Minimum Amount Raised</b>	12 <b>Salespeople</b>
13 WOI – Stock	14 2011 to 2012	15 7	16 \$177,775	17 Wetzel

18 23. In June 2011, Wetzel incorporated WOI in Nevada and began selling WOI stock to investors  
19 within months. Wetzel told investors that WOI was in the business of producing and selling SnxF renewable  
20 fuel. Wetzel also told investors that he had another invention that could make SnxF fuel using treated sewage  
21 as a feedstock. He called this invention Sewage to Fuel, or “STF,” and falsely claimed that he had a patent  
22 or pending patent for the STF technology. Wetzel represented to WOI investors that they would get a return  
23 for their investment in an exit event such as an IPO or merger. He also represented that they could get a return  
24 from royalties paid by licensees who had purchased the right to make the SnxF fuel.

25 24. From about July 2011 to about November 2012, Wetzel sold at least at least \$177,775 in

//

//

//



1 WOI stock to at least seven investors.<sup>3</sup> All of the known investors were Washington residents at the time.  
2 Many of the investors did not have any experience with the renewable fuel industry when they invested.

3 25. Wetzel gave several investors positions as WOI directors or officers at, or shortly after, the  
4 time that they invested, but these investors were dependent on Wetzel's supposed fuelmaking expertise to  
5 keep WOI operational. None of these investors had the experience or expertise necessary to participate mean-  
6 ingfully in managing WOI or to make the renewable fuel themselves, and none appeared to have been in-  
7 volved in the day-to-day management of WOI. Wetzel prevented one investor, who received a seat on the  
8 board of directors with his investment, from exercising his duties as a director.

9 26. In addition to his false statements regarding the patents and pending patents, Wetzel made  
10 several other material misrepresentations to WOI investors when he sold them stock. Wetzel made financial  
11 projections to several investors without providing the basis and assumptions underlying the projections. For  
12 example, Wetzel told one investor to expect a return on investment of 20% to 30% per year but failed to  
13 detail how he arrived at this projection.  
14

15 27. Wetzel also misrepresented how he would use investor funds to several investors. He told  
16 those investors that he would use their funds for business-related purposes such as purchasing equipment or  
17 shooting a video demonstration. Instead, he used much of their investment funds for other purposes. For  
18 example, of the \$29,525 that Wetzel raised from two investors, he spent at least \$17,175 (about 58%), of  
19 their investments funds at the casino, to pay for retail purchases and dining expenses, and on transfers to  
20 other unknown accounts and ATM withdrawals. Wetzel spent many of the other WOI investors' funds in a  
21 similar manner.  
22

23 \_\_\_\_\_  
24 <sup>3</sup> Not included in this total is an unknown amount of WOI stock that Wetzel sold to a Washington LLC. According to Wetzel,  
25 the LLC received 4% of outstanding preferred stock with their purchase of the rights to market and sell his renewable fuel in  
China for \$100,000. It is unknown how much of the \$100,000 that the LLC paid can be apportioned to the stock purchase as  
opposed to the China rights. Wetzel has never provided a true and complete accounting of WOI stock sales to the Division.



1 and into part of 2014. Wetzel was in China during much of this time attempting, but failing, to set up a  
2 fuelmaking plant for the investors discussed earlier in Footnote 3.

3 32. Around September 2014, Wetzel met Respondent Robert Kelly, who was Wetzel's real estate  
4 agent. Kelly decided to join Wetzel and the WETCO business about a month later. He purchased a business  
5 opportunity from WETCO and formed BFNW to carry out the fuelmaking business. Kelly also began assist-  
6 ing Wetzel in selling investments in WETCO and BFNW.

7 33. In November 2014, WETCO leased a warehouse space in Tacoma, Washington, and located  
8 its fuelmaking plant and office there. BFNW's office was also located at the Tacoma plant.

9 34. From August 2013 to approximately January 2016, Wetzel, WETCO, and later Kelly, BFNW,  
10 and Better Fuel Group, a company that Kelly formed to find business opportunity investors, raised at least  
11 \$651,814 by selling BFNW stock, as well as WETCO business opportunities, stock, and promissory notes.  
12 They sold these investments to at least 19 different investors, many of whom had no experience with the  
13 renewable fuel industry. In selling these investments, Wetzel, Kelly, WETCO, BFNW, and Better Fuel Group  
14 made several misrepresentations and omissions to investors.  
15

16 35. Most, if not all, of the WETCO and BFNW investors have lost their entire investments or  
17 have not received any return on their investments. WETCO, and by extension its business opportunity inves-  
18 tors, experienced permitting issues that prohibited them from producing the renewable fuel. Other than  
19 BFNW, no WETCO business opportunity investor was ever able to start fuel production, and those who paid  
20 for a fuelmaking machine never actually received one. Instead, WETCO used much of its investor funds to  
21 pay for what appear to be non-business-related expenses or to pay for expenses that differed from what was  
22 disclosed to investors.

23 //

24 //

//

WETCO Business Opportunity Investments

<b>Issuer &amp; Investment Type</b>	<b>Approximate Date of Sale</b>	<b>Number of Investors</b>	<b>Minimum Amount Raised</b>	<b>Salespeople</b>
WETCO - Business Opportunities	2013 to 2015	9	\$422,064	Wetzel, Kelly, Better Fuel Group, and Garibello

*The WETCO Business Opportunity*

36. Within months of forming WETCO in March 2013, Wetzel began looking for investors to purchase WETCO business opportunities. A business opportunity, according to the Business Opportunity Fraud Act, Ch. 19.110 RCW (the “Act”), is a type of investment that involves “the sale or lease of any product, equipment, supply, or service which is sold or leased to enable the purchaser to start a business.” The investment must also contain at least one other characteristic listed in the statute to be a business opportunity. One of these characteristics requires that the business opportunity costs at least \$300 to purchase, and that the seller promises to provide the purchaser with a sales or marketing program that will enable the purchaser to make more than what they paid for the business opportunity.

37. Wetzel, Kelly, WETCO, and Better Fuel Group (collectively, the “WETCO Business Opportunity Sellers”) sold WETCO licenses, fuelmaking equipment, and supplies to investors, or licensees, that constituted business opportunities. The licenses, equipment and supplies were supposed to enable the licensees to start their own fuelmaking businesses producing and selling WETCO renewable fuel. They promised that WETCO would provide licensees with full training and support in running their fuelmaking business, and would give licensees access to their purported “established customer base.” Licensees could locate their fuelmaking business at their own plant, or, for an additional monthly fee, at the WETCO plant in Tacoma

for WETCO to operate on the licensees' behalf under its "business incubator" program.

38. WETCO charged licensees \$125,000 for the license fee and \$125,000 for the fuelmaking equipment. WETCO was then supposed to purchase fuelmaking machines for the licensees so that they could begin generating revenue within a couple months. Though the WETCO Business Opportunity Sellers tried to charge \$250,000 for the business opportunities, they at times sold the business opportunities for much less. They also allowed licensees to pay a deposit and finance the remainder of their business opportunity cost from the licensees' monthly fuel revenue.

*The Sale of WETCO Business Opportunities*

39. From August 2013 to October 2015, the WETCO Business Opportunity Sellers sold business opportunities to at least nine investors, seven of whom were Washington residents. Many of the investors were Kelly's friends, family, or business acquaintances. WETCO received at least \$422,064 in license fees and equipment payments from these investors. Only one investor may have paid the full \$250,000 price for the business opportunity.

40. Kelly, through Better Fuel Group, found at least three of the nine known investors. The investors that Kelly brought in paid at least \$218,000 of the \$422,064 in cash that WETCO actually received from investors. WETCO promised to pay Better Fuel Group a commission for each business opportunity investor it found, but never did so. Wetzel also recruited an individual named Maurice Garibello to find investors in the Los Angeles area. Garibello found at least one investor near Los Angeles.

WETCO Stock and Promissory Note Investments

<b>Issuer &amp; Investment Type</b>	<b>Approximate Date of Sale</b>	<b>Number of Investors</b>	<b>Minimum Amount Raised</b>	<b>Salespeople</b>
WETCO – Stock	2013 to 2015	9	\$66,750	Wetzel and Kelly

WETCO - Promissory Notes	No later than July 2015 to 2016	5	\$58,000 to \$109,000	Wetzel and Kelly
--------------------------	---------------------------------	---	-----------------------	------------------

41. In addition to selling business opportunities, Wetzel also sold WETCO stock very soon after incorporating WETCO. Together, Wetzel, Kelly, and WETCO (collectively, the “WETCO Securities Sellers”) sold WETCO stock, and later promissory notes, to many of the same investors who invested in business opportunities. They told several WETCO securities investors that WETCO would use Wetzel’s renewable fuel technology to make money and that investors would get a return from the profits. However, the WETCO Securities Sellers did not detail to investors how exactly they would get a return.

42. From April 2013 to at least October 2015, the WETCO Securities Sellers raised at least \$66,750 in cash by selling WETCO stock to at least eight investors.<sup>4</sup> From no later than July 2015 to approximately January 2016, the WETCO Securities Sellers sold between \$58,000 to \$109,000 in promissory notes to at least five investors.<sup>5</sup> In one note, WETCO agreed to pay the investor 7 cents per gallon in lieu of interest. The note matured in six months. Because Wetzel and Kelly did not provide the Division with much information regarding the terms of the WETCO notes, it is unknown if the other notes had similar terms.

BFNW Stock Investments

Issuer & Investment Type	Approximate Date of Sale	Number of Investors	Minimum Amount Raised	Salespeople
BFNW - Stock	2014 to 2015	8	\$105,000	Wetzel and Kelly

43. In addition to selling the above WETCO investments, Wetzel and Kelly also sold stock in BFNW, the company that they formed to produce the renewable fuel under the WETCO business opportunity

<sup>4</sup> They also sold stock to additional investors for “services rendered,” but did not specify the value of those services. Two additional investors received a small amount of WETCO stock with their BFNW stock investments.

<sup>5</sup> Kelly, in sworn testimony, indicated WETCO may have sold \$109,000 in promissory notes, but declined to provide the Division with complete records. Only \$58,000 of actual or likely promissory note funds can be identified in the bank records, though the bank records show a number of deposits that may also have been funds from the sale of promissory notes.

1 that Kelly purchased. Wetzel, Kelly, and BFNW (collectively, the “BFNW Securities Sellers”) told potential  
2 investors about WETCO’s fuelmaking business and represented that BFNW would make fuel using  
3 WETCO’s renewable fuel technology. The BFNW Securities Sellers told several BFNW investors that they  
4 would receive a return on their stock investment from the fuel that BFNW produced and sold, but did not  
5 provide further details about how that would occur.

6 44. From October 2014 to March 2015, the BFNW Securities Sellers sold at least \$105,000 in  
7 stock to at least seven investors, five of whom were Washington residents.<sup>6</sup> At least three of these investors  
8 purchased, or would later purchase, WETCO business opportunities. The BFNW stock sales included Wetzel  
9 selling 65,000 of his founder’s shares for \$35,000 to three investors, one of whom resided in Washington.

10 Misrepresentations and Omissions

11 45. In selling the above WETCO and BFNW investments, Wetzel, Kelly, WETCO, BFNW, and  
12 Better Fuel Group made several misrepresentations and omissions, including, but not limited to, the follow-  
13 ing:

14 a. They falsely told several investors that WETCO or Wetzel owned patents or pending  
15 patents that protected the technology that WETCO, BFNW, and the WETCO licensees would use.  
16 With the possible exception of the first business opportunity investor who invested in August 2013,  
17 WETCO and Wetzel never had any patents or pending patents at the time that Wetzel and Kelly made  
18 these representations. With regard to the first investor, Wetzel did have a pending patent application  
19 at the time of that investment, but the Securities Division cannot confirm what invention Wetzel  
20 sought to patent with that application (see Paragraphs 19 to 21).

21 b. They told several investors that their investments would provide six and seven-figure  
22  
23

24 \_\_\_\_\_  
25 <sup>6</sup> In addition, they issued 300,000 shares to another investor for “services rendered” but did not specify the value of those ser-  
vices.

1 returns within the first year, but failed to disclose the basis or assumptions underlying their profit  
2 projections.

3 c. They misrepresented the commercial viability and potential profitability of Wetzel's  
4 purported renewable fuel. To the Division's knowledge, the fuel had never been proven to be com-  
5 mercially viable or profitable, especially at the level that they were representing to investors.

6 d. They represented to investors that WETCO, BFNW and the WETCO business oppor-  
7 tunity investors would use industrial waste materials as the feedstock to create the renewable fuel,  
8 but failed to disclose that the use of the materials did not comply with regulatory requirements. After  
9 selling the investments, Wetzel and Kelly discovered that WETCO would not be able to obtain the  
10 necessary permits to enable licensees to use this feedstock at the Tacoma plant or anywhere else.  
11 Wetzel and Kelly, along with their feedstock supplier, tried to work with the Washington Department  
12 of Ecology ("Ecology") to modify the supplier's permit to allow the feedstock to be used or processed  
13 at the supplier's facilities, but abandoned these efforts after one meeting with Ecology.

14 e. They failed to disclose to investors Wetzel's Criminal Convictions and Financial De-  
15 linquencies.

16  
17 46. In addition, Wetzel, Kelly, WETCO, and Better Fuel Group misrepresented to several inves-  
18 tors how they would use the investors' funds. The WETCO Securities Sellers represented to several of their  
19 respective investors that the investors' funds would be used to pay for business-related expenses. The  
20 WETCO Business Opportunity Sellers told licensees who paid for fuelmaking machines that their funds  
21 would be used to purchase the machines. However, Wetzel, Kelly, and WETCO used investor funds to pay  
22 for expenses that differed from what they disclosed to investors. For example:

23 a. WETCO used much of the funds that it raised from selling WETCO stock investments  
24 to pay for dining, casino, and retail expenses; payments to Wetzel and his girlfriend, rent for Wetzel's  
25



1 condo; and in ATM withdrawals. For example, they spent at least \$19,110 of the \$26,250 that they  
2 raised from two stock investors in this way.

3 b. Kelly told one WETCO promissory note investor that his \$10,000 investment would  
4 be used to purchase waste vegetable oil that WETCO would use to make fuel. However, WETCO  
5 used the funds to pay for other business expenses. Of the remaining funds that can be identified as  
6 promissory note investments, WETCO spent much of those funds in a similar manner.

7 c. Of the \$179,612, at minimum, that WETCO collected from licensees specifically to  
8 purchase fuelmaking machines and other supplies for those licensees, WETCO spent much of those  
9 funds on other expenses. For example, one licensee paid about \$35,600 for fuelmaking equipment  
10 and feedstock. WETCO spent at least \$14,380 on commission payments to Garibello, who found this  
11 investor; payments to Wetzel; ATM withdrawals; rent for Wetzel's condo; utilities; and dining, res-  
12 taurant, retail, and travel expenses. WETCO spent at least \$66,450 of \$115,000 it collected from two  
13 other licensees in a similar manner. None of these licensees ever received the equipment or supplies  
14 that they paid for.  
15

16 47. The WETCO Business Opportunity Sellers made additional misrepresentations and omis-  
17 sions specific to WETCO licensees, including, but not limited, to the following:

18 a. They did not provide licensees with the business opportunity disclosure document that  
19 is required by the Act. The disclosure document is intended to protect investors by providing them  
20 with certain material information about the business opportunity, including the total number of  
21 business opportunities sold or leased, the number of failed business opportunities, the seller's  
22 financial condition, and certain background information about the seller's principals. If they had pro-  
23 vided a disclosure document to their investors, the Business Opportunity Sellers would have been  
24 required to disclose most of Wetzel's Financial Delinquencies, the lawsuit in which Wetzel was sued  
25

1 for securities fraud and resulted in the 2010 Injunction, details of Wetzel's past fuelmaking busi-  
2 nesses, and WETCO's financial condition, among other information.

3 b. They misrepresented to several licensees that they would begin generating revenue  
4 within months of investing but failed to disclose that prior licensees had experienced delays in re-  
5 ceiving their machines.

6 WETCO and BFNW Investors Lose Their Investments

7 48. To the Division's knowledge, most, if not all, of the WETCO and BFNW investors have lost  
8 their entire investments. WETCO did not appear to make any fuel and derived virtually all of its income from  
9 the sale of WETCO business opportunity and securities investments. BFNW purportedly produced and sold  
10 only about 10,000 to 20,000 gallons of fuel to various customers. It is not known how much BFNW made  
11 from these sales.

12 49. WETCO never provided any of the licensees who paid for fuelmaking machines with any  
13 machine. As the months, and even years, passed by and no machines arrived for these licensees, the Business  
14 Opportunity Sellers began to provide licensees with various shipping-related excuses. For example, at one  
15 point they claimed that the licensees' machines, which were purportedly being shipped from China, were  
16 held up by "customs." Around late 2015, they began telling licensees that the delay was due to the unexpected  
17 permitting issues with Ecology surrounding the use of the industrial waste materials.

18 50. At about the same time that Wetzel and Kelly met with Ecology and told licensees about the  
19 permitting issues, WETCO faced eviction from its Tacoma plant for failure to pay rent. Kelly told licensees  
20 and shareholders that WETCO was moving out of their Tacoma plant because they no longer needed it due  
21 to their new focus on selling a new fuelmaking machine that Wetzel purportedly invented. Wetzel and Kelly  
22 moved out of the Tacoma plant around May 2016.  
23  
24  
25

2016 New Investment Offering

1  
2 51. Around August 2016, Kelly began emailing existing WETCO licensees information about  
3 WETCO's new venture in China. He told licensees that WETCO had found a partner in China who agreed to  
4 enter into a joint venture with WETCO. The joint venture would produce and sell WETCO's purported new  
5 fuelmaking machine at a plant in China that would be funded by the Chinese partner. Kelly further told  
6 licensees that WETCO intended to open a demonstration facility in Nevada as a showroom for the machine.  
7 Kelly told licensees that WETCO had signed the joint venture deal with their Chinese partner and that "[t]he  
8 deal has been funded. The deal is well underway."

9 52. In October 2016, Wetzel, Kelly, and WETCO offered the licensees a new investment oppor-  
10 tunity in this new joint venture. They offered licensees three new investment options: 1) be returned twice  
11 the amount "the licensee expended for their [WETCO business opportunity] purchase" plus 7% interest as  
12 WETCO received funds, likely in early 2017, from the Chinese venture; 2) convert twice the purchase price  
13 plus 7% interest into shares of a new entity they intended to form, Wetzel Fuel Las Vegas, that would operate  
14 the demonstration facility in Nevada; or 3) pay \$15,000 to reserve one of five available opportunities to  
15 purchase 7,500 shares in the WETCO joint venture with the partners in China, with the option of applying  
16 the license fee that they paid to WETCO (or any loan balances that they owed to WETCO to purchase their  
17 business opportunity) to buy additional shares. Kelly told the licensees that the last option expired in six  
18 days.  
19

20 53. Wetzel, Kelly, and WETCO made several misrepresentations and omissions in offering this  
21 latest investment to licensees. In an email that Wetzel was copied on, Kelly told licensees that the "deal is  
22 estimated to be worth about \$300,000,000 over 3 years in machine, chemical, and filter sales worldwide."  
23 Kelly did not provide the basis for this projection other than "a Tim Wetzel prediction" that crude oil would  
24 remain at \$45-55 per barrel in 2017. They also failed to disclose any risks of the investment or provide much  
25

1 information about any of the entities involved, including the purported Chinese partner.

2 54. To the Division's knowledge, no licensee has accepted any of the three investment options.

3 **Registration Status**

4 55. WOI is not currently registered to sell its securities in the state of Washington and has not  
5 previously been so registered, nor has it filed a claim of exemption from registration.

6 56. WETCO is not currently registered to sell its securities in the state of Washington and has not  
7 previously been so registered, nor has it filed a claim of exemption from registration.

8 57. BFNW is not currently registered to sell its securities in the state of Washington and has not  
9 previously been so registered, nor has it filed a claim of exemption from registration.

10 58. Timothy Dion Wetzel is not currently registered as a securities salesperson or broker-dealer  
11 in the state of Washington and has not previously been so registered.

12 59. Robert Thomas Kelly is not currently registered as a securities salesperson or broker-dealer  
13 in the state of Washington and has not previously been so registered.

14 60. WETCO is not currently registered to sell its business opportunities in the state of Washington  
15 and has not previously been registered.

16 61. Better Fuel Group is not currently registered to sell WETCO's business opportunities in the  
17 state of Washington and has not previously been registered.

18 62. Timothy Dion Wetzel is not currently registered to sell WETCO's business opportunities in  
19 the state of Washington and has not previously been registered.

20 63. Robert Thomas Kelly is not currently registered to sell WETCO's business opportunities in  
21 the state of Washington and has not previously been registered.

22 //

23 //

1 Based upon the above Findings of Fact, the following Conclusions of Law are made:

2 **CONCLUSIONS OF LAW**

3 1. The offer and/or sale of WETCO stock, promissory notes and other evidence of indebtedness  
4 described above constitute the offer and/or sale of a security as defined in RCW 21.20.005(14) and (17).

5 2. The offer and/or sale of BFNW stock described above constitute the offer and/or sale of a  
6 security as defined in RCW 21.20.005(14) and (17).

7 3. The offer of stock in the WETCO/China joint venture described above constitutes the offer of  
8 a security as defined in RCW 21.20.005(14) and (17).

9 4. The offer of Wetzel Fuel Las Vegas stock described above constitutes the offer of a security  
10 as defined in RCW 21.20.005(14) and (17).

11 5. Robert Thomas Kelly has violated RCW 21.20.040 by offering and/or selling said securities  
12 while not being registered as a securities salesperson or broker-dealer in the state of Washington.

13 6. Robert Thomas Kelly has violated RCW 21.20.010, because, as set forth in the Findings of  
14 Fact, he (1) employed a device, scheme, or artifice to defraud; (2) made untrue statements of material fact or  
15 omitted to state material facts necessary to make the statements made, in light of the circumstances in which  
16 they were made, not misleading; and (3) engaged in an act, practice, or course of business which operated or  
17 would operate as a fraud or deceit upon any person, in connection with the offer and/or sale of securities.

18 7. The offers and/or sale of the WETCO fuelmaking license and equipment described above  
19 constitute the offer and/or sale of a business opportunity as defined in RCW 19.110.020(1) and RCW  
20 19.110.030(1).

21 8. Robert Thomas Kelly and Better Fuel Group NW, Inc. have each violated RCW 19.110.050  
22 because, as set forth in the Findings of Fact, they have offered and/or sold business opportunities for which  
23

no registration is on file with the Securities Administrator.

9. Robert Thomas Kelly and Better Fuel Group NW, Inc. have each violated RCW 19.110.070 because they failed to provide purchasers with a business opportunity disclosure document.

10. Robert Thomas Kelly and Better Fuel Group NW, Inc. have each violated RCW 19.110.120 because, in connection with the offer and/or sale of the business opportunities, they made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances in which they were made; employed a device, scheme or artifice to defraud; and engaged in an act, practice or course of business which operated or would operate as a fraud or deceit upon any person.

### CONSENT ORDER

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

IT IS AGREED AND ORDERED that Robert Thomas Kelly shall cease and desist from violations of RCW 21.20.040 and RCW 21.20.010.

IT IS FURTHER AGREED AND ORDERED that Robert Thomas Kelly; Better Fuel Group NW, Inc.; and their agents and employees shall each cease and desist from violations of RCW 19.110.050, RCW 19.110.070, and RCW 19.110.120.

IT IS FURTHER AGREED AND ORDERED that Robert Thomas Kelly shall be liable for and shall pay a fine of \$3,500 and investigative costs of \$1,500 prior to 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 Robert Thomas Kelly and Better Fuel Group NW, Inc. enter into this Consent Order freely and voluntarily and with full understanding of its terms and significance.

IT IS FURTHER AGREED that, in consideration of the foregoing, that Robert Thomas Kelly and Better Fuel Group NW, Inc. waive their right to a hearing and to judicial review of this matter.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Signed this 2nd day of May, 2018.

Signed by:  
ROBERT THOMAS KELLY

/s/  
ROBERT THOMAS KELLY, Individually

Signed by:  
BETTER FUEL GROUP NW, INC.

/s/  
ROBERT THOMAS KELLY, President

Approved as to form by:  
/s/  
J.J. SANDLIN, WSBA No. 7392  
Attorney for Respondents Robert Thomas Kelly  
and Better Fuel Group NW, Inc.

Signed and Entered this 9th day of May, 2018.

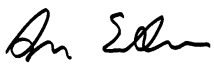


WILLIAM M. BEATTY  
Securities Administrator

Approved by:

Presented by:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



---

SUZANNE SARASON  
Chief of Enforcement



---

HUONG LAM  
Financial Legal Examiner

Reviewed by:



---

JACK MCCLELLAN  
Financial Legal Examiner Supervisor