



State of Washington
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:

ROANAN CORPORATION, WALTER A.
MOA, JR., and JAMES E. FRITZ,

Respondents.

NO. S-15-1783-18-FOI

OAH No. 06-2016-DFI-00010

FINAL DECISION & ORDER

THIS MATTER comes before GLORIA PAPIEZ (“Director”) of the WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS (“Department”), upon the Petition for Review by the Respondents, ROANAN CORPORATION, WALTER A. MOA, JR., and JAMES E. FRITZ (collectively, “Respondents”), in relation to the Initial Order, dated October 10, 2017 (“Initial Order”),¹ by Administrative Law Judge Lisa N.W. Dublin (“ALJ Dublin”) of the Office of Administrative Hearings (“OAH”).

1.0 Record on Review

The record on review (“Record on Review”) before the Director includes, without limitation, the entire OAH Record in the above-enumerated matter consisting, without limitation, of the Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, to Impose

¹ The Initial Order, as required by the Washington Administrative Procedures Act, at RCW 34.05.34.05.461(3), requires findings of fact and conclusions of law. The Initial Order’s Findings of Fact (FOF 4.1 through FOF 4.22, inclusive) and Conclusions of Law (COL 5.1 through COL 5.20, inclusive) are referred to in this Final Decision & Order as “FOF” and “COL,” respectively.

Fines, and to Charge Costs, dated April 4, 2016, (“Statement of Charges”), issued by the Department’s Division of Securities (“Division”), the respective Applications for Adjudicative Hearing of the Respondents (“Requests for Hearing”), the Initial Order, the Petition for Review, the Division’s Reply to Respondent’s Petition for Review (“Division’s Reply”), and the Division’s Strict Reply in Compliance with Procedural Order (“Division’s Additional Reply”), the latter of which was in strict reply to the Office of the Director’s Procedural Order Pending Final Decision & Order, dated February 28, 2018 (“Director’s Request for Additional Reply”).

2.0 Background & History of the Case²

This case concerns Respondent, Roanan Corporation (“Roanan”), which was originally incorporated in 1956 and whose principal asset is approximately ten square miles of mining property near Hyder, Alaska, containing precious and semi-precious metals.³

Beginning in approximately 2004, when commodity prices rose, Roanan explored the possibility of building (1) a railway line to transport mined metals from its mine down to Hyder and (2) a deep-water port in Hyder to ship metals to market. This would ultimately have required massive amounts of capital, which Roanan lacked. In fact, Roanan had little or no capital at the time. So, Roanan began substantial fundraising efforts.

From about January 2006 through February 2008, Respondents Walter A. Moa, Jr. (“Moa”) and Roanan offered and sold *unregistered* promissory notes (with Roanan as payor) to investors. Learning of this sale of unregistered securities, the Division issued a Statement of Charges against

² *Section 2.0* is not a substitution for or a supplement to the Findings of Fact set forth in *Section 4.0* of this Final Decision & Order. Rather, it is an orientation for the reader of the background and history of this case, so that the reader may more easily understand the Director’s Considerations set forth in *Section 3.0*.

³ Hyder, Alaska, is located at the head of the Portland Canal, a 130-mile fjord that forms a portion of the border between the United States and Canada at the southeastern edge of the Alaska Panhandle, about two miles from Stewart, British Columbia.

Respondents Moa and Roanan, alleging that Moa and Roanan had violated the anti-fraud provisions of the Securities Act of Washington (“Securities Act”),⁴ by failing to disclose material facts to investors, including the specific use of proceeds, the minimum amount of proceeds required to achieve the company’s objectives, Roanan’s operating history, and the risk of the investments. Without admitting or denying the Division’s allegations, Respondents Moa and Roanan signed a Consent Order with the Division on July 1, 2008, agreeing to cease and desist from any further violations of the anti-fraud provisions of the Securities Act.

Then, after the Consent Order and while it remained in effect, the Division was informed that Respondents continued to offer for sale and sell unregistered securities in Washington State in what the Division believed were continued violations of the Securities Act. These new alleged violations became the basis for the present Statement of Charges.

In answer to the present Statement of Charges, the Respondents made Requests for Hearing. Protracted pre-hearing motions and discovery followed, including a Motion for Partial Summary Judgment by the Division, which was denied by ALJ Dublin. Finally, a four-day hearing took place before ALJ Dublin on August 7-10, 2017, which included substantial testimony and the presentation and introduction of exhibits. At the end of the hearing, ALJ Dublin took the matter under advisement and then issued her Initial Order on October 10, 2017, after deliberating sixty (60) days.

Subsequently, on October 30, 2017, the Respondents filed a timely Petition for Review. The Division’s Reply was filed November 17, 2017. On February 28, 2018, the Division was issued the Director’s Request for Additional Reply related to seeking additional briefing on the

⁴ Chapter 21.20 RCW.

subject of the “accredited” investor exemption. Subsequently, the Director timely received the Division’s Additional Reply on or about February 9, 2018. At this point, the Petition for Review became fully lodged for deliberation.

It has taken considerable time to deliberate upon the extensive Record on Review in relation to the Initial Order and the issues presented. Having made her deliberation, the Director now sets forth her considerations, findings of fact, conclusion of law, decision and order in this case.

3.0 Director’s Considerations

3.1 The Issues. The issues in this case are five-fold:

- 3.1.1 Did Respondents have a reasonable basis to believe that the persons it solicited or sold investments to in Roanan were “accredited”⁵ for purpose of Rule 506⁶ of Regulation D⁷ (“Rule 506” and “Regulation D”)?
- 3.1.2 Did Respondents violate the Securities Act⁸ by offering to sell or selling unregistered securities?
- 3.1.3 Did Respondents Moa and Fritz violate the Securities Act⁹ by offering to sell or selling securities while not being registered in Washington as securities salespersons or broker-dealers?

⁵ 17 C.F.R. §230.501(a).

⁶ 17 C.F.R. §230.506.

⁷ 17 C.F.R. §§230.500 et seq.

⁸ Specifically, RCW 21.20.140.

⁹ Specifically, RCW 21.20.040.

3.1.4 Did Respondents violate the Securities Act¹⁰ by making untrue statements of material fact, or failing to state material facts necessary to make their statements not misleading?

3.1.5 If the answers to Questions 2, 3 and 4 are “yes,” what should be the appropriate penalty?

3.2 Failure to Assign Specific Error to Any Part of the Initial Order. The Respondents’ Petition for Review is a two-page letter that does not assign error to any specific language of the Findings of Fact or Conclusions of Law set forth in the Initial Order. However, the Washington Model Rules of Procedure,¹¹ which are authorized by the Washington Administrative Procedures Act,¹² clearly require that a “petition for review shall specify the portions of the initial order to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition.”¹³ There is nothing in the language of Respondents’ Petition for Review that points with any specificity to portions of the Initial Order to which exception is taken. Moreover, Respondents’ Petition for Review cites no evidence of record to support its contentions. Accordingly, Respondents’ Petition for Review is fatally defective on this account alone.

3.3 Failure to Raise Any Facial Issue Except One of “Accreditation” of Investors. Even assuming, for the sake of argument, that Respondents’ Petition for Review was not fatally defective for the reasons set forth above in *Subsection 3.2*, the Petition for Review does not address any of the issues set forth in Questions 2, 3, and 4, which are enumerated in *Subsection 3.1* above. Rather, the Petition for Review contends erroneously that *mere belief* that all of the investors in

¹⁰ Specifically, RCW 21.20.010.

¹¹ Chapter 10-08 WAC.

¹² RCW 34.05.250.

¹³ WAC 10-08-211(3).

Roanan were “accredited,” coupled with simple boilerplate *acknowledgement* by the investors when signing the bridge loan, is sufficient to meet Respondents’ burden of proving that it had *reason* to believe that the investors were in fact “accredited.” While this is a deficient argument, as discussed below in *Subsection 3.4*, it is the only argument that, if there were a reasonable basis in the record to support it, might be grounds for the Director to seriously consider reversal of the Initial Order. Instead, there is nothing in the Petition for Review or the Director’s consideration of the Record on Review that would challenge the conclusion that Respondents: (a) offered to sell or sold unregistered securities; (b) offered to sell or sold securities while not being registered in Washington as securities salespersons or broker-dealers; and (c) made untrue statements of material fact to investors, or failed to state material facts necessary to make their statements not misleading.

3.4 Respondents Had No Reasonable Basis to Believe Investors Were “Accredited”.

During the relevant time period, an individual with a net worth of one million dollars (\$1,000,000) or more, or an annual income of two hundred thousand dollars (\$200,000) or more, during the past two years would qualify as an “accredited” investor. The burden of proving an exemption, an exception from a definition, or a preemption from a provision of the Securities Act, is upon the person claiming it.¹⁴ Respondents cannot claim an exemption from registration of the securities it offered to sell or sold because they failed to follow the requirements of Regulation D, Rule 506.

When offering and selling the Roanan promissory note investments, Respondents Moa and Fritz gave the investors a twelve-page preprinted standard form Bridge Loan Agreement

¹⁴ RCW 21.20.540.

("Agreement") that investors would sign and date when each made their investment.¹⁵ *Section 2.01* of the Agreement included some investor representations and warranties.¹⁶ *Subsection 2.01(c)* stated that the "[i]nvestor is an 'accredited investor' as defined in Regulation D of the Securities Act of 1933." However, the Agreement did not explain what conditions had to be met in order for the investor to qualify as an "accredited investor." Consequently, unless an investor had their own independent knowledge about the meaning of Regulation D, such investor would have signed the boilerplate Agreement without knowing whether or not they were an "accredited investor."

Approximately forty (40) investors purchased Roanan promissory note investments. There is no evidence of record that Respondents Moa and Fritz gathered written financial information (e.g., evidence of net worth and annual income) from each investor to determine whether they were in fact an "accredited investor." There must be some reasonable basis to believe the individual is an "accredited investor."¹⁷

In this case, Respondents Moa and Fritz failed to gather information to establish a reasonable belief that each investor was accredited within the meaning of Regulation D. Several of the investors testified at the hearing before ALJ Dublin that they did not have a net worth of more than one million dollars (\$1,000,000) *and* that they did not have an annual income of two hundred thousand dollars (\$200,000) or more during the past two years.¹⁸

3.5 Reliance on One's Attorney Does Not Furnish Respondents with Justification or Excuse. Respondents have made a further attempt to justify or excuse their violations by claiming

¹⁵ Hearing Exhibit 2 DFI-6215; Respondents' Exhibit A-I.

¹⁶ *Id.*

¹⁷ See *Mark v. FSC Securities Corp.*, 870 F.2d 331, 337 (6th Cir. 1989) (Information received from purchasers, not the information provided by the seller of an investment, determines whether it is reasonable for a seller to believe that an investor qualifies as an "accredited investor"); see also, *Securities and Exchange Commission v. Loomis*, 969 F.Supp.2d 1226, 1240 (E.D. Cal. – 2013)(a seller of securities was required to provide evidence to prove that he reasonably believed that each investor qualified as an "accredited investor" under Regulation D).

¹⁸ See Initial Order, *FOF 4.10; COL 5.18.*

that they relied upon the advice of their attorney.¹⁹ While it is conceivable that Respondents may have believed that in 2008, reliance on legal counsel is not a proper defense under the Securities Act.²⁰

3.6 There Is Substantial Evidence Respondents Made Material Misrepresentations of Fact and Omissions of Material Fact in Offering to Sell or Selling Securities. There is substantial evidence that Moa and Fritz, in connection with their offer or sale of Roanan securities and in violation of the Securities Act, made untrue statements of a material fact or omitted to state material facts which were not misleading.²¹ The test of whether a misrepresentation or an omitted fact is “material” within the meaning of the Securities Act is whether it is “a fact to which a reasonable person would attach importance in determining his choice of action in the transaction in question.”²² The Securities Act requires only proof of the seller’s material misrepresentation or omission. It does not require proof of the seller’s intent to defraud.²³

Specifically, ALJ Dublin was presented with substantial evidence to find that—

“Respondents did not disclose the highly speculative nature of the investment, given the tribal, federal, Canadian, and Alaskan governments’ approvals necessary to complete the project, as well as Roanan’s continued renewal of its leaseholds. Nor did Mr. Moa or Mr. Fritz disclose to investors that (a) the company was broke and

¹⁹ Petition for Review, p. 2.

²⁰ Initial Order, *COL 5.19*.

²¹ See RCW 21.20.010.

²² *Clausing v. DeHart*, 83 Wash.2d 70, 73, 515 P.2d 982 (*En Banc* - 1973), citing *Shermer v. Baker*, 2 Wash.App. 845, 855, 472 P.2d 589 (1970); see also, *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449, 96 S.Ct. 2126 (1976).

²³ *Go2Net, Inc. v. FreeYellow.com, Inc.*, 158 Wash.2d 247, 253, 143 P.2d 590 (*En Banc* - 2006), citing *Kittilson v. Ford*, 93 Wash.2d 223, 225, 608 P.2d 264 (1980); see also, *State v. Cox*, 17 Wash.App. 896, 902, 566 P.2d 935 (1977).

its bank account overdrawn, (b) the company was housed in office space owned by Moa International, another business operated by Mr. Moa, and (c) Roanan was responsible for paying Mr. Moa up to \$10,000.00 per month to manage the company.”²⁴

Based on the substantial evidence presented at the hearing, ALJ Dublin concluded correctly that—

“Respondents made material misrepresentations of fact, and omissions of material fact, in selling the [Roanan] securities. Respondents admittedly represented in error that (a) Mr. Moa was a civil engineer, and (b) Roanan had completed all necessary filings to go public. In addition, Respondents failed to tell investors about (a) the 2008 consent decree [with the Division of Securities], (b) the projected costs from Stantec,²⁵ and (c) the actual risks of investing in the project.”²⁶

3.7 Director’s Conclusions. There is no dispute that Respondents offered and sold securities as defined in the Securities Act.²⁷ Respondents Moa and Fritz offered and sold unregistered securities in Washington State. Respondents violated the antifraud provisions of the Securities Act by making numerous misstatements of material fact and/or omitting to state material

²⁴ Initial Order, *FOF 4.18*.

²⁵ “Stantec” refers to a study conducted by Stantec Engineering issued in January 2013, which estimated that the cost of building the railway from the mines to the Hyder port at over three billion dollars (\$3,000,000,000), plus or minus fifty percent (50%). ALJ Dublin listened to Respondent Moa testify that the Stantec estimates were erroneously high. However, ALJ Dublin determined that Respondent Moa’s testimony was not credible, given that ALJ Dublin found that Respondents did not produce credible evidence of what those errors were, simply based upon “research” they conducted on their own by speaking with various engineering and construction companies. See Initial Order, *FOF 4.17*. In reviewing this case on Petition for Review, the Director must give due regard to ALJ Dublin’s opportunity to observe witnesses. RCW 34.05.464(4). Even if Stantec’s estimates were high, Respondent Moa’s undocumented estimate of cost (at least one billion dollars) is a huge amount of money to raise.

²⁶ Initial Order, *COL 5.20*.

²⁷ Specifically, RCW 21.20.005(10) and (12).

facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading to investors. Respondents Moa and Roanan are already in violation of the July 2008 consent order.²⁸ That is, they were on actual notice of what was required of them, and they failed to heed it. Respondents also have a substantial history of non-compliance with securities regulations,²⁹ including the afore-mentioned exemption requirements. Accordingly, confirmation of the Initial Order is appropriate under the circumstances. Given the evidence in this case, the Director is of the view that the fines and costs imposed in the Initial Order, coupled with a cease and desist order merely requiring that the Respondents refrain from further violating the Securities Act, are remedies which are fair and in the public interest, proportional and not onerous.

NOW, THEREFORE, by way of Final Decision and Order, the Director makes the following Findings of Fact and Conclusions of Law:

4.0 Findings of Fact

The Director hereby affirms and incorporates in this Final Decision and Order the Initial Order's FOF 4.1 through FOF 4.22, inclusive, of the Initial Order. In addition, the Director hereby affirms and incorporates here the findings of fact set forth in *Subsection 3.2* above.

5.0 Conclusions of Law

The Director hereby affirms and incorporates in this Final Decision and Order the Initial COL 5.1 through COL 5.20, inclusive, of the Initial Order. In addition, the Director hereby affirms and incorporates here the conclusion of law set forth in *Subsection 3.2* above.

²⁸ Initial Order, *FOF 4.10*.

²⁹ See, for example, Initial Order, *COL 5.19*.

6.0 Final Decision and Order

Therefore, based upon the Findings of Fact and Conclusions of Law set forth in *Sections 4.0 and 5.0*, respectively, the Initial Order is hereby confirmed in its entirety as if fully set forth herein. By way of the Director's Final Decision and Order, NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

6.1 Respondents, ROANAN CORPORATION, WALTER A. MOA, JR., and JAMES E. FRITZ, are adjudicated to be in violation of the Securities Act of Washington, at RCW 21.20.140, by offering to sell or selling unregistered, non-exempt securities;

6.2 Respondents, WALTER A. MOA, JR. and JAMES E. FRITZ are adjudicated to be in violation of the Securities Act of Washington, at RCW 21.20.040, by offering to sell or selling securities while not being registered in Washington State as securities broker-dealers or salespersons;

6.3 Respondents, ROANAN CORPORATION, WALTER A. MOA, JR., and JAMES E. FRITZ, are adjudicated to be in violation of the Securities Act of Washington, at RCW 21.20010, by making untrue statements of material fact, or failing to state material facts necessary to make statements not misleading;

6.4 Respondents, ROANAN CORPORATION, WALTER A. MOA, JR., and JAMES E. FRITZ must cease and desist from further violations of the Securities Act of Washington, chapter 21.20 RCW;

6.5 Respondent WALTER A. MOA, JR. shall pay to the order of WASHINGTON DEPARTMENT OF FINANCIAL INSTITUTIONS, a fine in the amount of TWENTY-FIVE

THOUSAND U.S. DOLLARS (\$25,000.00), and costs in the amount of FIVE THOUSAND U.S. DOLLARS (\$5,000.00); and

6.6 Respondent JAMES E. FRITZ shall pay to the order of WASHINGTON DEPARTMENT OF FINANCIAL INSTITUTIONS, a fine in the amount of FIVE THOUSAND U.S. DOLLARS (\$5,000.00), and costs in the amount of TWO THOUSAND FIVE HUNDRED U.S. DOLLARS (\$2,500.00).

IT IS FURTHER ORDERED AND THE DIRECTOR HEREBY GIVES NOTICE AS FOLLOWS:

6.7 Effectiveness and Enforcement of Final Order. Pursuant to the Washington Administrative Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective immediately upon deposit in the United States Mail; *provided, however*, that all fines, costs, fees and expenses imposed herein shall be fully paid not more than thirty (30) days from the date of this Final Decision and Order, and, to the extent left unpaid, shall be thereafter subject to immediate execution as provided below.

6.8 Reconsideration. Petitions for reconsideration, addressed to the Director, shall not stay the effectiveness of this Final Determination and Order nor are petitions for reconsideration a prerequisite for seeking judicial review in this matter.

6.9 Stay of Order. The Director has determined not to consider a petition to stay the effectiveness of this Final Decision and Order. Any such requests should be made in connection with a petition for judicial review made under the Washington Administrative Procedures Act, Chapter 34.05 RCW, including RCW 34.05.550.

6.10 Judicial Review. Each of the Respondents has the right to petition the superior court for judicial review of the Department's action under the provisions of the Washington Administrative Procedures Act, Chapter 34.05 RCW.


6.11 Non-Compliance with Final Decision and Order. If one or both of the Respondents do not comply with the terms of this order, the Department may seek enforcement by the Office of the Attorney General against the non-complying Respondent(s) to include the collection of the fines, fees, costs and expenses imposed herein. Failure to comply with this Final Decision and Order may also prompt additional action against the Respondents by the Department, as permitted by the Securities Act of Washington, Chapter 21.20 RCW, for failure to comply with a lawful order of the Department.

6.12 Service. For purposes of filing a petition for reconsideration or a petition for judicial review, service of this Final Decision and Order is effective upon its having been deposited in the United States Mail with a declaration of service attached hereto.

Dated at Tumwater, Washington, on this 17th day of May, 2018.

WASHINGTON STATE DEPARTMENT
OF FINANCIAL INSTITUTIONS

By:


Gloria Papiez
Director



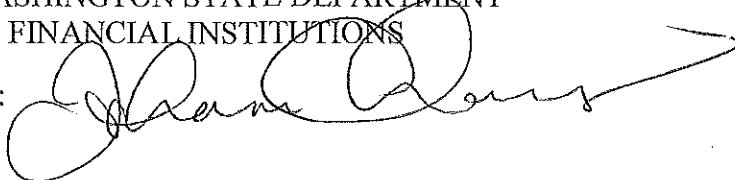
NOTICE TO THE PARTIES

In accordance with RCW 34.05.470 and WAC 10-08-215, any Petition for Reconsideration of the FINAL DECISION & ORDER must be filed with the Director within ten (10) days of service of the FINAL DECISION & ORDER. It should be noted that Petitions for Reconsideration do not stay the effectiveness of the FINAL DECISION & ORDER. Judicial Review of the FINAL DECISION & ORDER is available to a party according to provisions set out in the Washington Administrative Procedure Act, RCW 34.05.570.

This is to certify that the FINAL DECISION & ORDER has been served upon the following parties on May 17, 2018, by depositing a copy of same in the United States mail, postage prepaid.

WASHINGTON STATE DEPARTMENT
OF FINANCIAL INSTITUTIONS

By:



Mailed to the following:

Respondents:

ROANAN CORPORATION
P.O. Box 241
Port Townsend, WA 98368

WALTER ALEXANDER MOA, JR.
204-1425 Esquimalt Avenue
West Vancouver, B.C. V7T 1L1

JAMES EDWARD FRITZ
271 Crutcher Road
Port Townsend, WA 98368

Attorney for the Division:

JONG M. LEE, Esq.
Assistant Attorney General
OFFICE OF ATTORNEY GENERAL
P.O. Box 40100
Olympia, WA 98504-0100

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

IN THE MATTER OF DETERMINING) Order No.: S-15-1783-16-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES AND
) NOTICE OF INTENT TO ENTER ORDER
Walter A. Moa Jr.;) TO CEASE AND DESIST, TO IMPOSE
James E. Fritz;) FINES, AND TO CHARGE COSTS
Roanan Corporation;)
)
)
Respondents)

THE STATE OF WASHINGTON TO: Walter Alexander Moa Jr.
James Edward Fritz
Roanan Corporation

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondents, Walter A. Moa Jr., James E. Fritz, and Roanan Corporation, have each violated the Securities Act of Washington. The Securities Administrator believes those violations justify the entry of an order against the Respondents to cease and desist from such violations and to charge costs pursuant to RCW 21.20.390, and under RCW 21.20.395 to impose fines. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

Respondents

1. Roanan Corporation (“Roanan”) is a Washington corporation incorporated in 1956 as Mineral Basin Corporation. In 1988, the corporation’s name was changed to Roanan Corporation. Roanan uses an office in Vancouver, British Columbia. Roanan’s primary asset is approximately ten square miles of real property near Hyder, Alaska. Hyder is located at the head of the Portland Canal, a 130-mile fjord that forms a portion of the border between the U.S. and Canada at the southeastern edge of the Alaska

1 Panhandle, approximately two miles from Stewart, British Columbia. Roanan is in the business of trying to
2 develop commercial projects in Alaska and British Columbia. Roanan currently has more than 400
3 shareholders, many of whom reside in Washington.

4 2. Walter A. Moa Jr. (“Moa”) is a U.S. citizen who has a primary residence in Vancouver,
5 British Columbia, and a second residence in Port Townsend, Washington. Moa has been the President of
6 Roanan since 1988 and the Chief Executive Officer (“CEO”) since approximately 2006.

7 3. James E. Fritz (“Fritz”) resides in Port Townsend, Washington. Fritz has been the Secretary
8 and Treasurer of Roanan since approximately 2006.

9 **Overview**

10 4. Within weeks after entering into a Consent Order with the Securities Division in 2008,
11 Roanan and Moa resumed sales of unregistered promissory note investments to residents of Washington and
12 other states. Between July 2008 and October 2015, the Respondents offered and sold approximately
13 \$775,000 worth of Roanan promissory notes to approximately 40 investors, including at least 20
14 Washington investors. Many of the Washington investors are senior citizens who live in the Port Townsend
15 area. Moa and Fritz met with prospective investors to solicit the investments.
16

17 5. Over the years, the Respondents have described various development projects that were
18 being pursued by Roanan, including building a deep water port in Hyder, Alaska; purchasing an industrial
19 terminal shipping facility in nearby Stewart, British Columbia; and building a short-line railway between
20 Hyder, Alaska and Chipmunk, British Columbia. Roanan has made three offerings of securities to raise
21 funds and/or facilitate the proposed projects.

22 **2008 Enforcement Action and Consent Order**

1 6. From January 2006 through February 2008, Moa and Roanan offered and sold approximately
2 \$600,000 worth of unregistered Roanan promissory notes to approximately 28 investors. The notes had a
3 one-year term with 12% annual interest.

4 7. On May 7, 2008, the Securities Division entered a Statement of Charges and Notice of Intent
5 to Enter Order to Cease and Desist and to Charge Costs ("Statement of Charges") against Roanan and Moa.
6 The Statement of Charges alleged that Moa and Roanan had violated the registration provisions of the
7 Securities Act of Washington ("Securities Act"). The Statement of Charges also alleged that Moa and
8 Roanan had violated the anti-fraud provisions of the Securities Act by failing to disclose material facts to
9 investors, including the specific use of proceeds, the minimum amount of proceeds required to achieve the
10 company's objectives, the company's operating history, and the risks of the investments. On July 1, 2008,
11 without admitting or denying the Securities Division's allegations, Moa and Roanan entered into a Consent
12 Order with the Securities Division and agreed to cease and desist from any further violations of the anti-
13 fraud and registration provisions of the Securities Act.

14 **Post-Order Offering of Promissory Note Investments**

15
16 8. Within weeks of entering into the July 2008 Consent Order, Moa and Roanan resumed
17 unregistered sales of promissory notes with the same terms as the prior unregistered offering (a one-year
18 term and a 12% annual interest rate). The Respondents orally represented to investors that the promissory
19 notes would be convertible into Roanan stock.

20 9. Between at least 2008 and 2012, the Respondents failed to disclose to investors that Moa and
21 Roanan had been subject to the May 2008 Statement of Charges and had entered into the July 2008 Consent
22 Order for alleged securities violations.

23 10. The Respondents orally represented to some investors that they would double, triple, or
24 quadruple their investments within five years. Fritz represented to at least two investors that they would
25

1 earn more than a 1,000% return on their investment. The Respondents each failed to disclose any
2 reasonable basis for these projected returns, or the assumptions upon which they were based.

3 11. When offering and selling the notes, the Respondents gave investors an offering brochure
4 that described Roanan and its future development plans. The brochure was similar to the offering brochure
5 used in the prior unregistered offering, but the projected costs increased over time. The brochure omitted
6 material information about the individual projects and the risks of the promissory note investments.

7 *Deep Water Port Project*

8 12. The Respondents provided investors with an offering brochure that included misleading cost
9 estimates for a proposed deep water port project in Hyder, Alaska. Between approximately 2008 and 2012,
10 the Respondents misleadingly represented to investors that the estimated cost of the project was \$60 million.
11 The Respondents failed to disclose to investors that because there were no completed engineering studies,
12 the estimated costs might be considerably higher. In 2013, after the initial engineering study was
13 completed, the estimated cost of the project increased from \$60 million to \$75.9 million (an increase of
14 approximately 25%). The Respondents also failed to disclose the potential risk of cost overruns due to
15 project delays, price increases, changes in the project, and other factors.
16

17 13. During at least 2012, the Respondents failed to disclose the risks of competition from other
18 sources, including another proposed port (the Stewart World Port) that would be located on the same
19 waterway (the Portland Canal) where Roanan was planning to build its port. The Stewart World Port was in
20 the planning and development stage at the time, and it later opened in September 2015. According to Moa,
21 as of February 2016, the Stewart World Port had received only one shipment of cargo since it opened in
22 September 2015.

23 14. When offering and selling promissory note investments, the Respondents each failed to
24 disclose to investors the risk that Roanan's port would be a new venture, with no established track record or
25

1 operating history. The Respondents failed to disclose that there might be little or no demand for Roanan's
2 planned port facility. The Respondents failed to disclose that the demand might fluctuate significantly,
3 depending upon the price of the raw materials that were being shipped, the demand for those materials, and
4 other factors.

5 15. The Respondents also failed to disclose to investors what revenues, if any, would be
6 generated from the port. The Respondents failed to disclose how Roanan would benefit from the port
7 construction.

8 *Purchase of the Stewart Bulk Terminals Facility*

9 16. Between approximately 2008 and 2012, Roanan represented in its offering brochure that the
10 company was planning to purchase an industrial terminal shipping facility in Stewart, British Columbia.
11 The Respondents each failed to disclose to investors that Roanan did not have a firm purchase agreement.
12 The Respondents failed to disclose to later investors that the estimated cost of the purchase had increased
13 from \$CA8 million to \$CA15 million. The Respondents also failed to disclose to investors that there were
14 potential environmental risks that might require costly remediation and that no environmental studies had
15 been completed to assess those risks. The Respondents later discovered that siltation from the Bear River
16 made it likely that the facility would have to cease its operations sometime within the next ten years. Later
17 environmental studies also showed that copper sulfides and arsenic were present in the water and in soil
18 dredged from the facility. Because of the siltation and the environmental contamination, by at least 2015,
19 Roanan abandoned its plans to purchase the facility.
20

21 *Railway Construction Project*

22 17. The Respondents also provided investors with misleading cost estimates for a proposed
23 railway construction project. Between 2008 and 2012, Roanan represented in its offering brochure that the
24 company was planning to spend \$200 million to build a short-line railway to link Roanan's proposed marine
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1 terminal in Hyder, Alaska to a rail line at Chipmunk, B.C. The Respondents failed to disclose to investors
2 that because Roanan did not have completed engineering studies for estimating the railway construction
3 costs, the estimated costs could be considerably higher. In January 2013, an engineering cost study was
4 completed and the cost for building the railway was estimated at \$3,760,858,511, plus or minus 50%. The
5 minimum estimated cost was approximately \$1.9 billion and the maximum estimated cost was
6 approximately \$7.5 billion, which far exceeded Roanan's original cost estimates.

7 18. When offering or selling the promissory note investments during at least 2015, Roanan
8 represented in its offering brochure that the cost of constructing the railway would be \$1.1 billion. The
9 Respondents each failed to disclose to investors that Roanan had received an engineering study in 2013
10 showing that the cost of the railway construction could range from \$1.85 billion to \$7.4 billion, and was
11 estimated to cost approximately \$3.7 billion.

12 19. The Respondents also failed to disclose to investors what revenues, if any, would be
13 generated from the railway. The Respondents failed to disclose how Roanan would benefit from the railway
14 construction.
15

16 *Other Misleading Statements and Omissions*

17 20. The Roanan offering brochure included a false and misleading representation concerning
18 Moa's (Roanan's CEO) professional qualifications. The brochure falsely stated that Moa is a civil engineer.
19 In fact, while Moa took engineering classes in college, he never finished his college degree and he has never
20 never been licensed as a civil engineer.

21 21. The Respondents also failed to disclose material facts relating to Moa's compensation and
22 potential conflicts of interest. The Respondents each failed to disclose to investors that between 2006 and
23 2014, Roanan paid more than \$1 million to Moa International Management, a company that is wholly
24 owned by Moa. The Respondents failed to disclose that Moa International Management was to receive
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1 payments of \$10,000 per month from Roanan, provided sufficient funds were available. The Respondents
2 failed to disclose that the Vancouver, British Columbia office that is used and paid for by Roanan was
3 leased to another business, My Vancouver Office, that is wholly owned by Moa. The Respondents failed to
4 disclose that My Vancouver Office rents the office to third parties and provides other administrative support
5 services, but does not share its revenues with Roanan.

6 22. Between at least 2008 through 2012, when offering and selling the promissory note
7 investments, the Respondents each failed to disclose the operating and financial history of Roanan. The
8 Respondents each failed to disclose the material risk of inadequate capitalization: having insufficient funds
9 to finance the company's business operations and its proposed projects. The Respondents failed to disclose
10 to some investors that Roanan had been attempting to fund large development projects for many years, but
11 was never successful in completing any projects. The Respondents failed to provide financial statements or
12 failed to provide current financial statements to investors. The Respondents failed to disclose that Roanan
13 was never profitable. The Respondents failed to establish a minimum capitalization or escrow of funds,
14 which meant that investor funds could be quickly exhausted without developing any revenue sources for
15 Roanan. The Respondents failed to disclose the specific intended use of investor funds.

16 23. When offering and selling the promissory note investments, the Respondents each failed to
17 disclose other material risks. The Respondents failed to disclose the risks of being unable to obtain the
18 necessary permits or approvals for building a port or a railway, which could prevent those projects from
19 being started or completed. The Respondents failed to disclose that permits for the railway, Roanan's
20 primary project, would have to be issued from multiple sources, including the U.S. federal government, the
21 Alaska state government, the Canadian government, the British Columbia provincial government, and
22 would require approvals from three different First Nations governments in Canada. The Respondents each
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1 failed to disclose other risks of the investment, including environmental risks, geological risks, regulatory
2 risks, market risks, and operations risks associated with each of the proposed projects.

3 24. When offering or selling the promissory note investments during at least 2015, Fritz and Moa
4 each provided prospective investors with an offering brochure that misleadingly stated that Roanan had
5 “completed all the filings required to trade publicly, including completion of SEC approved documents and
6 meeting SEC qualifications, including asset base, shareholder count and audits.” In fact, Roanan’s last
7 completed audit was done in 1989, and Roanan has never filed a registration statement with the Securities
8 and Exchange Commission as part of a public offering.

9 **Debt Conversion Offering**

10 25. In December 2012, Respondents offered noteholders the opportunity to convert the principal
11 and accrued interest amount of their notes at 12% annual interest into Roanan stock at a rate of \$0.20 per
12 share. Most of the noteholders accepted the offer and later received shares of Roanan stock.

14 **Securities Registration Status**

15 26. Roanan is not currently registered to sell its securities in the State of Washington. On
16 December 12, 2012, Roanan filed a claim of exemption from registration with the Securities Division for its
17 debt conversion offering, pursuant to Regulation D, Rule 506(b) and WAC 460-44A-506. The filing
18 indicated that \$1,505,145 worth of securities had been sold to 30 investors. Roanan failed to comply with
19 all of the requirements of WAC 460-44A-506, including the requirement that the Form D be filed within 15
20 days of the first sale. The Form D filed indicated that the first sale took place months earlier, on July 2,
21 2012. Roanan made no subsequent registration or exemption filings with the Securities Division. Roanan
22 never made any registration or exemption filings with the Securities Division for its post-order offering of
23 promissory note investments.

1 26. Moa is not currently registered as a securities salesperson or broker-dealer in the state of
2 Washington and has not previously been so registered.

3 27. Fritz is not registered as a securities salesperson or broker-dealer in the state of Washington
4 and has not previously been so registered.

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

6 **CONCLUSIONS OF LAW**

7 1. The offer and/or sale of the promissory note investments described above constitute the offer
8 and/or sale of a security as defined in RCW 21.20.005(14) and (17).

9 2. Respondents Walter A. Moa Jr., James E. Fritz, and Roanan Corporation have each violated
10 RCW 21.20.140, because, as set forth in the Tentative Findings of Fact, Respondents offered and/or sold
11 securities for which no registration is on file with the Securities Administrator.

12 3. Respondents Walter A. Moa Jr. and James E. Fritz have each violated RCW 21.20.040 by
13 offering and/or selling said securities while not being registered as a securities salesperson or broker-dealer
14 in the state of Washington.

15 4. Respondents Walter A. Moa Jr., James E. Fritz, and Roanan Corporation have each violated
16 RCW 21.20.010, because, as set forth in the Tentative Findings of Fact, they each made untrue statements of
17 material fact or omitted to state material facts necessary to make the statements made, in light of the
18 circumstances in which they were made, not misleading.

19 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

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21 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities
22 Administrator intends to order, pursuant to RCW 21.20.390(1), that Respondents Walter A. Moa Jr., James
23 E. Fritz, and Roanan Corporation, and their agents and employees each shall cease and desist from any
24

1 violation of RCW 21.20.010 and RCW 21.20.140, and that Respondents Walter A. Moa Jr. and James E.
2 Fritz, and their agents and employees each shall cease and desist from violations of RCW 21.20.040.

3 **NOTICE OF INTENT TO IMPOSE FINES**

4 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and Conclusions of
5 Law, the Securities Administrator intends to order that:

- 6 a. Respondent Walter A. Moa Jr. shall be liable for and shall pay a fine of \$25,000, and
- 7 b. Respondent James E. Fritz shall be liable for and shall pay a fine of \$5,000.

8 **NOTICE OF INTENT TO CHARGE COSTS**

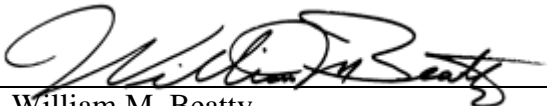
9 Pursuant to 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law, the
10 Securities Administrator intends to order that Respondent Walter A. Moa Jr. shall be liable for and shall pay
11 the costs, fees, and other expenses incurred in the administrative investigation and hearing of this matter, in
12 an amount not less than \$5,000, and that Respondent James E. Fritz shall be liable for and shall pay the
13 costs, fees, and other expenses incurred in the administrative investigation and hearing of this matter, in an
14 amount not less than \$2,500.

15 **AUTHORITY AND PROCEDURE**

16 This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is
17 subject to the provisions of Chapter 34.05 RCW. The Respondents, Roanan Corporation; Walter A. Moa
18 Jr.; and James E. Fritz, may each make a written request for a hearing as set forth in the NOTICE OF
19 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If a
20 Respondent does not make a hearing request in the time allowed, the Securities Administrator intends to
21 adopt the above Tentative Findings of Fact and Conclusions of Law as final and to enter a permanent order
22 to cease and desist as to that Respondent, to impose any fines sought against that respondent, and to charge
23 any costs sought against that Respondent.
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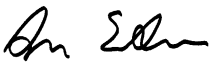
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Signed and Entered this 4th day of April, 2016



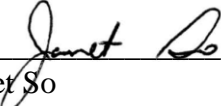
William M. Beatty
Securities Administrator

Approved by:



Suzanne Sarason
Chief of Enforcement

Presented by:



Janet So
Financial Legal Examiner

Reviewed by:



Robert Kondrat
Financial Legal Examiner Supervisor