

NO. 69716-1-1

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

REC'D
NOV 13 2013
King County Prosecutor
Appellate Unit

STATE OF WASHINGTON,

Respondent,

v.

LAURANCE ANTHONNE,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

The Honorable Mary Yu, Canova, Judge

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The evidence was insufficient to convict Appellant of securities fraud under counts 2 through 6, 11 and 15.

2. The trial court erred in ordering restitution for those counts for which there was insufficient evidence to convict.

Issues Pertaining to Assignments of Error

1. Was the evidence insufficient to convict Appellant of securities fraud as charged and tried in counts 2 through 6, 11 and 15, when there was no evidence that Appellant willfully made any untrue statement of a material fact, or omitted a material fact necessary to make statements that were made not misleading, in the course of selling the security associated with each of those count?

2. Should restitution only be imposed for charges for which there is sufficient evidence to convict?

B. STATEMENT OF THE CASE

1. Procedural History

Between August 4, 2008 and October 11, 2012, the State filed five informations charging appellant Laurance Anthone with varying numbers of counts of securities fraud and first degree theft. CP 1-74, 189-252. The chart below summarizes this process;

<u>Date Filed</u>	<u>Counts of Securities Fraud</u>	<u>Counts of First Degree Theft</u>
August 4, 2008	10	10
October 15, 2008	25	10
January 7, 2009	29	10
September 9, 2012	15	0
October 11, 2012	13 ¹	0

Of the 13 charges remaining as of October 11, 2012, three (Counts 7, 9 & 10) were dismissed at the close of trial due to lack of supporting evidence, and the jury was unable to reach a verdict on two (Counts 13 & 14), and they were eventually dismissed with prejudice. CP 285-90, 406-08; 8RP² 79. Of the eight counts for which Anthonie was convicted, the trial court found three of them (Counts 4, 5 & 6), were multiplicitous of Count 3, and dismissed them before sentencing. CP 409-10. Anthonie was sentenced December 7, 2012, on the remaining five counts (Counts 2, 3, 8, 11 & 15) to concurrent 16-month sentences. CP 396-405; 13RP. On February 13, 2013, the court imposed of \$208,000. Anthonie appeals. CP 412-23.

¹ The information filed October 11, 2012 lists 15 counts, but notes two of them (Counts 1 & 12) were previously dismissed, but are listed to preserve the identity of the other counts, e.g., "Count 2" remains "Count 2" instead of becoming "Count 1". CP 245-52.

² There are 14 volumes of verbatim report of proceedings referenced as follows: **1RP** - 9/21/13; **2RP** - 10/3/12; **3RP** - 10/4/12; **4RP** - 10/5/12; **5RP** 10/8/12; **6RP** - 10/9/12; **7RP** - 10/10/12; **8RP** - 10/11/12; **9RP** - 10/15/12; **10RP** - 10/16/12; **11RP** - 10/17/12; **12RP** - 11/29/12; **13RP** - 12/7/12; and **14RP** 2/13/13.

2. Substantive Facts

Introduction

The charges against Anthone arose out of real estate development plans he pursued in which he would obtain the developments rights to a piece of property and enter into agreements with others willing to put up money to pay the cost of permitting and development. Unfortunately, Anthone failed to ever secure the necessary permits for any of the projects before running out of money, and before any substantial development had occurred. The details of each count of conviction (Counts 2-6, 8, 11 & 15) are set forth below.

a. Count 2

In Count 2 the State charged Anthone with committing security fraud against Phillip Ross.³ CP 246, 312. By the time of trial Ross had been a loan officer for 19 years, taught classes on home buying, and was on the board of nonprofit organizations involved in helping establish affordable housing. 3RP 141; 5RP 26-27. Ross considered himself "experienced with dealing with real estate loans." 5RP 27.

³ In charging this count, the State identified both Phillip Ross and his wife Shawna as the alleged victims. CP 246. At trial, however, the State elected to proceed with just Phillip Ross as the named victim. CP 312 (Instruction 8 - 'to-convict' instruction for Count 2).

Ross recalled his neighbor, Robert Britten, who worked for Anthone, was who first introduced him to Anthone's development plan. 3RP 142; 5RP 29; 7RP 20. Ross recalled attending one or two presentations by Anthone before deciding to invest \$20,000. 3RP 142. He could not recall the details of Anthone presentations, just that they occurred. 5RP 27-29.

Anthone and Ross entered into an "Investment/Profit Shareing [sic] Agreement" on July 11, 2003. Ex. 11.⁴ Under the terms of the agreement, Ross's \$20,000 contribution was non-refundable, but was expected to provide a return of \$60,000 by October 17, 2003, just over three months after he invested. Id.; 3RP 148. The agreement provided that Ross was investing in the development on an unspecified lot on 132nd St. in Seattle, with the understanding that his \$60,000 return would be generated by the sale of the lot to an "End Use Buyer." Ex. 11.

Ross claimed he never got any of his money back. 3RP 154. Ross recalled having difficulty contacting Anthone after the October 17th due date passed without receiving any payment. 3RP 148, 153. Ross could not recall at trial if Anthone ever gave him an explanation for why he

⁴ A copy of Ex. 11 is attached as Appendix A.

failed to make the payment anticipated under the agreement, but said he may have. 3RP 154.

b. Count 3

In Count 3 the State charged Anthone with committing securities fraud against Dalbir Bhuller. CP 246. Bhuller is a self-employed taxi driver. 6RP 60. Bhuller recalled seeing land near the temple he attends posted with the name and phone number for Anthone's company, "MAQuik Framing Inc". 6RP 63. Bhuller was interested in building a house near the temple, so he contacted Anthone about the property, which was called "Eden Estates." 6RP 63, 66.

When Bhuller stated he only wanted a single lot, Anthone told him he would need to sell more than one lot at a time in order to raise the money necessary to prepare the lots for building, and encouraged Bhuller to find five or six others to invest in the project. 6RP 64. According to Bhuller, Anthone explained that each person would end up with a buildable lot for \$60,000, with an initial payment of \$5,000 upon signing the agreement, an additional \$5,000 two months later, \$20,000 more "after the ground breaking" and the final \$30,000 once the project was completed. 6RP 66-69.

Thereafter, Bhuller convinced four people to join him in a meeting to learn about the lot purchase plan offered by Anthone; Balwant Singh, Daljit Singh, Harvinder Mangat and Sarbit Singh. 6RP 73-75. According to Bhuller, at the meeting that followed Anthone explained it would take six to nine months to complete the process of turning the property into several lots ready to build on, and that he had completed much of the process already but needed funds to pay for permitting, excavation and pay for installation of the roads and sewer system. 6RP 76, 88.

At a subsequent meeting on June 1, 2004, Bhuller and his four companions entered into a "Joint Venture Agreement" with Anthone, and provided him with a payment of \$25,000. 6RP 78-79, 116; Ex. 16.⁵ Bhuller admitted he never read the agreement in its entirety, nor did he ever take it to an attorney to review. 6RP 87.

Bhuller recalled a second payment of \$125,000 (\$25,000 each) was made to Anthone by his group earlier than provide for in the agreement because Anthone claimed he needed the money to pay the excavator who had removed the old house that had been on the property. 6RP 89-90. Bhuller also recalled Anthone always having some excuse for why progress was not being made on the project, but claimed everything was

⁵ A copy of Ex. 16 is attached as Appendix B.

moving ahead, it was just taking longer than originally expected. 6RP 100, 104. Bhuller passed on these assurances to the others. 6RP 103.

Bhuller also recalled that about nine to ten months after he and the others entered into the joint venture, Anthone disconnected all of his phones and locked up his office in Tukwila without first informing Bhuller. 6RP 103-04. When Bhuller and his group met with Anthone thereafter and asked for their money back, Anthone told them he could not refund their money, but assured them the project would go through, but that it would just take longer than expected. 6RP 104-05.

According to former King County Department of Development and Environmental Services Planner Trisha Bull, she worked with Anthone during the summer of 2004 as he attempted to obtain the necessary permits for the Eden Estates project. 5RP 117-45, 151-57, 159-62. Bull recalled Anthone submitted a building permit application for the Eden Estates project on September 4, 2004, and paid \$12,000 towards the cost of permitting. 5RP 157. Also admitted at trial were several documents pertaining to the permit application process. Exs. 53-60A.

c. Count 4

In Count 4 the State charged Anthone with committing securities fraud against Balwant Singh (B. Singh), one of the people Bhuller

recruited for the Eden Estates project. CP 247; 6RP 150. Like Bhuller, B. Singh is a taxi driver. 6RP 149.

B. Singh recalled meeting with Anthone, who explained he had the Eden Estate property, but needed investors to provide the money so he could move ahead with developing it into eight or nine buildable lots, and that if B. Singh and others bought five of them, he would sell the others for his profit once they were ready for building. 6RP 153. B. Singh specifically recalled Anthone explaining that no permits had yet been obtained, and that they would need to fill out and submit applications, and then complete installation of the utilities and road. 6RP 155. According to B. Singh, Anthone said the permitting process should only take about six months. 6RP 169.

B. Singh acknowledge signing the joint venture agreement (Ex. 16, Appendix B), but admitted he did not really understand the details, or care about them much. 6RP 154. B. Singh also testified Anthone never told them about any potential risks involved with the project, never discussed his past development experience, and never mentioned any previous projects he had completed. 6RP 154, 162.

B. Singh did recall Anthone notifying them four to five months into the joint venture agreement that there may be an issue regarding

drainage from the project and its potential impact on a nearby fish farm.
6RP 163.

Like Bhuller, B.Singh never got any of the money back he provided for the Eden Estates joint venture. 6RP 164.

d. Count 5

In Count 5 the State charged Anthone with committing securities fraud against Harvinder Mangat, another from the group of investors recruited by Bhuller. CP 24. Mangat did not testify at trial. As such, other than the fact that he signed the joint venture agreement for Eden Estates (Ex. 16), little is known about him or what he recalls about any discussions he may have had with Anthone, other than what others claim Anthone said at meetings Mangat attended.

e. Count 6

In Count 6 the State charged Anthone for committing securities fraud against Sarbjit Singh (S. Singh), who learned of the investment from Bhuller. CP 247-48. Like Mangat, S. Singh did not testify, but did sign the Eden Estates joint venture agreement. Ex. 16. According to B. Singh, S. Singh is also a taxi driver. 6RP 167.

f. Count 8

In Count 8 the State charge Anthonne with committing securities fraud against Kanwaljit Dulai.⁶ CP 248-49. Dulai works for Safeway and also drives a taxi and does lawn care part time. 5RP 58. He met Anthonne through Bhuller. 5RP 60, 93.

According to Dulai, Anthonne asked him to enter into a joint venture involving building and selling six townhomes on a piece of property in the Renton Highlands. 5RP 62-63, 76. Dulai claimed Anthonne told him "everything's ready to build" and all he needed was \$50,000 to get started. 5RP 63, 65. Dulai said Anthonne told him it would take only three months to complete the project, and Dulai would be entitled to half the profits in return for his \$50,000 investment. 5RP 64-65.

Although initially skeptical, on November 8, 2004, Dulai and his wife entered into a joint venture agreement with Anthonne and gave him \$50,000 in cashier's checks. 5RP 61, 74-77: Ex. 26.⁷ Under the terms of the agreement, Anthonne's "capital contribution [sic]" to the venture was "Laurance Anthonne' Property Owner of 972 Edmonds NE. Property. Tax

⁶ Similar to Count 2, the State named two people in the charging document as the alleged victims of Count 8, Kanwaljit Dulai and Manjit Dulai. CP 248-49. At trial, however, the State elected to proceed with just Kanwaljit Dulai as the named victim. CP 317 (Instruction 13 - 'to-convict' instruction for Count 8).

Identification [sic] # 0923059131 (to be changed according to short plat in 3 days)[.]" Appendix C at 1. The Dulais' were to contribute "\$50,000 Fifty Thousand Dollars to Laurance Anthone" on the date the agreement was signed. Id. at 1, 5. And although not entirely clear from the wording of the agreement, it appears the Dulais were to make an additional contribution of "\$450,000.00 due when Closing Or Sale." Id. When questioned about this provision at trial, Dulai claimed he was unaware of it, and understood that \$50,000 was all he had to contribute. 5RP 80.

Dulai admitted that he did not go over the agreement with Anthone and never consulted an attorney about it, and instead just signed it when it presented to him by Anthone. 5RP 74, 97.

Approximately six months after entering into the agreement, Dulai noticed no progress was being made on the project, and so he started demanding that Anthone give him his money back or move forward with the development. 5RP 81-82. At about this time Dulai met Surbjit Singh⁸, and learned he had also invested \$50,000 in the same project. 5RP 83-84. Dulai and Surbjit approached Anthone with an offer to buy the

⁷ A copy of Exhibit 26, the joint venture agreement between Anthone and the Dulais, is attached as Appendix C.

⁸ This person is apparently different than the complaining witness in Count 6, Sarbjit Singh, as their first names have a slightly different spelling. Compare CP 247-48 with

property from him and take over the project, but Anthonne refused and instead asked for more time and money to complete it. 5RP 85. According to Dulai, he relented and gave Anthonne both more time and an additional \$10,000. Id.

Despite the additional time and money, Anthonne failed to make any progress on the project, so Dulai and Surbjit approached him with an offer to right off their \$110,000 loss to him if he would give them the property so they could move ahead with the project, to which Anthonne agreed. 5RP 87. They learned, however, that Anthonne did not actually own the property, and instead had also enlisted the true property owners as additional joint venturers. 5RP 87-88; but see Ex. 104.⁹ Dulai testified that he eventually negotiated to buy the property from the owners for \$340,000, after which he learned there were no permits in place yet to build the proposed townhomes. 5RP 88-90.

Dulai claimed Anthonne promised to repay the \$60,000 he had invested, but never did. 5RP 92.

5RP 83. To avoid confusion, the Mr. Singh who invested in the same project as Dulai will be referred to as "Surbjit." No disrespect is intended.

⁹ Ex. 104 is a "Statutory Warranty Deed" that purports to convey tax parcel No. 092305-9131-02 to "Anthonne Properties, L.L.C.". A copy of Ex. 104 is attached as Appendix D.

g. Count 11

In Count 11 the State charged Anthonie with committing securities fraud against Paulina Chhour. CP 250. Chhour is an assistant underwriter for Contractor Bonding and Insurance Company. 5RP 32. Chhour met Anthonie through Robert Britten, who was her sister-in-law's boyfriend and who encouraged her to look into the investment opportunity Anthonie was offering. 5RP 33-34.

After meeting with Anthonie and Britten on July 22, 2003, Chhour entered into an "Investment/Profit Shareing [sic] Agreement" the same day. Ex. 30.¹⁰ Under the terms of the agreement, Chhour's \$13,500 contribution was non-refundable, but was anticipated to provide a return of \$73,500 three months later, on October 22, 2003. Ex. 30; 5RP 38-39. The agreement provided that Chhour was investing in the development of an unspecified lot on 132nd St. in Seattle, with the understanding that her \$73,500 return would be generated by the sale of the lot to an "End Use Buyer." Ex. 30.

To make the \$13,500 investment under the agreement, Chhour put up \$5,000 of her own money, Britten provided \$3,500, and Chhour's sister-in-law, Tevy Lor, put up \$5,000, although Chhour was the only one

¹⁰ A copy of Ex. 30, the agreement between Anthonie and Chhour, is attached as Appendix E.

named in the agreement besides Anthone. Ex. 30; 5RP 41, 48. Chhour admitted she made the decision to invest based on Britten's advice, and before she ever met Anthone. 5RP 45-46, 51.

When October 22, 2003 passed without receipt of the payment contemplated under the agreement, Chhour made repeated unsuccessful attempts to meet with Anthone. 5RP 41-43. According to Chhour, Anthone eventually repaid her \$2,000. 5RP 43.

h. Count 15

In Count 15 the State charged Anthone with committing securities fraud against Fredrick Wilson. CP 251-52. Wilson was introduced to Anthone through Dennis Rossignol, a man he knew through his window tinting business, and who Wilson considered experienced in the area of real estate investing. 7RP 113, 115, 161. After meeting with Anthone on August 1, 2003, during which Anthone answered all of Wilson's questions about the project, Wilson and Rossignol entered into an "Investment/Profit Shareing [sic] Agreement" with Anthone the same day. Ex. 46¹¹; 7RP 162. Under the terms of the agreement, Wilson and Rossignol's \$20,000

¹¹ A copy of Ex. 46, the agreement entered into between Anthone and Wilson and Rossignol is attached as Appendix F.

contribution¹² was non-refundable, but was anticipated to provide a return of \$65,000 four months later, on December 1, 2003. Ex. 46; 7RP 148. The agreement provides that Wilson and Rossignol were investing in the development on an unspecified lot at 12707 68th Ave. S., in Seattle, with the understanding that their \$65,000 return would be generated by the sale of the lot to an "End Use Buyer." Ex. 46. Anthone executed a promissory note for \$65,000 to Wilson and Rossignol to secure their investment. 7RP 149; Ex. 47.

According to Wilson, when he met with Anthone shortly after signing the agreement, he assured Wilson the project was underway. 7RP 152. As the December 1st deadline approached, however, Anthone informed Wilson it was going to take longer to complete than initially anticipated. 7RP 153. Rossignol recalled Anthone telling him it was permitting delays that were causing the problem. 7RP 187. Wilson claimed Anthone extended the expected completion date for the project numerous times thereafter. 7RP 156.

Wilson could not recall at trial the last time he communicated with Anthone, but stated he "gave up" on the investment in 2008. 7RP 156. Rossignol claimed that by December 1, 2003, it was apparent to him

¹² Wilson paid the entire \$20,000 to Anthone, and was reimbursed \$10,000 of that later by Rossignol. 7RP 151, 179.

Anthone would not be able to complete the project, and by June 2004 he was convinced that he and Wilson had lost their entire investment. 7RP 187-88.

i. Anthone's Depositions

As part of the evidence against Anthone, the State introduced portions of depositions he gave in April 2004 and May 2005 in conjunction with civil litigation associated with his land development projects. 7RP 206, 210-18; 8RP 37-61. At the April 2004 deposition, Anthone described his development plan as an "equity in partnership" in which he gives those who contribute financially to the project a deed of trust for security, and then pays them a percentage of the profit upon completion. 8RP 44-45. He offered as an example of this program his agreement with Phillip Ross, the complaining witness in Count 2. 8RP 48, 50-61.

In his May 2005 deposition, Anthone explained the nature of his business was "[p]roject management" and that he had six active projects at the time, including the Eden Estates project. 7RP 212. Anthone acknowledged he had received to date approximately \$30,000 from each of five investors in the Eden Estates project, for which he provided his project management skills in return. 7RP 215.

C. ARGUMENTS

1. THE EVIDENCE WAS INSUFFICIENT TO CONVICT ANTHONNE OF ANY COUNT OF SECURITIES FRAUD EXCEPT COUNT 8.

Due process requires the State to prove all necessary facts of the crime beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970); State v. Hundley, 126 Wn.2d 418, 421, 895 P.2d 403 (1995); U.S. Const. amend. XIV; Wash. Const. art. I, § 3. Convictions must be reversed for insufficient evidence where, viewing the evidence in a light most favorable to the State, no rational trier of fact could have found the elements of the crime established beyond a reasonable doubt. Hundley, 126 Wn.2d at 421-22. The evidence is insufficient to convict Anthonne of any count of securities fraud except Count 8. His conviction for Counts 2-6, 11 and 15 must therefore be vacated. Winship, 397 U.S. at 364; U.S. Const. amend. XIV; Wash. Const. art. I, § 3.

The State charged Anthonne with securities fraud under RCW 21.20.010 and RCW 21.20.400. Those statutes provide:

It is unlawful for any person, in connection with the offer, sale or purchase of any security,^[13] directly or indirectly:

¹³ The jury was instructed:

“Security” means, among other things, participation in any profit-sharing agreement, an investment contract, or an investment of money

- (1) To employ any device, scheme, or artifice to defraud;
- (2) To make any untrue statement of a material fact¹⁴ or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
- (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

RCW 21.20.010.

(1) Any person who willfully violates any provision of this chapter except RCW 21.20.350, or who willfully violates any rule or order under this chapter, or who willfully violates RCW 21.20.350 knowing the statement made to be false or misleading in any material respect, is guilty of a class B felony punishable under RCW 9A.20.021(1)(b). However, a person may not be imprisoned for the violation of any rule or order if that person proves that he or she had no knowledge of the rule or order.

...

(3) No indictment or information may be returned under this chapter more than (a) five years after the violation, or (b) three years after the actual discovery of the violation, whichever date of limitation is later.

RCW 21.20.400.

in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture.

CP 323 (Instruction 19); see also RCW 21.20.050(17)(a)(full statutory definition).

¹⁴ The jury was instructed; "A 'material fact' is one which a reasonable person would consider important in determining his or her choice of action in the transaction in questions." CP 329 (Instruction 25).

The State charged all of the alternatives listed under RCW 21.20.010. CP 245-52. At trial, however, the jury was only instructed on the second alternative, i.e., that Anthonne "willfully made an untrue statement of material fact to [complaining witness], or omitted to state a material fact to [complaining witness] that was necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; . . ." CP 312-21 (Instruction 8-17, the to-convict instructions for each count).

Thus, in order to convict Anthonne of any particular count of securities fraud the State had to prove that in connection with the sale of a security, he willfully misstated or omitted a materials fact. In addition, for counts 2, 11, 13 and 15, the State had to prove that at least one act of making an untrue statement of material fact or omitting a material fact occurred after a particular date in order to show the offenses occurred within time limits set forth in RCW 21.20.400(3), supra. CP 312, 318, 319, 321, 322 (Instructions 8, 14, 15, 17 & 18, respectively). As discussed below, the State failed to meet its burden for every count of conviction except Count 8.

a. The Evidence was Sufficient to Convict on Count 8.

Unlike every other count of conviction, the State did presented sufficient evidence to prove every element of the crime of securities fraud in Count 8, as set forth in the to-convict instruction for that count. CP 317 (Instruction 13). For example, the "Joint Venture Agreement" the Dulais entered into with Anthone on November 8, 2004, arguably constitutes a "security" because it involves a profit sharing agreement, an investment contract, and/or an "investment of money . . . in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture an investment." RCW 21.20.050(17)(a) (see note 12, supra); Ex. 26 (Appendix C).

Likewise, the agreement and Dulai's trial testimony provide a basis to conclude Anthone willfully made untrue statements of material facts to Dulais. For example, the agreement indicates Anthone owns the property upon which the townhomes were to be built, and that the only people with a financial stake in the project were Anthone and the Dalia's. Ex. 26 (Appendix C). According to Dulai, however, both these assertions were untrue because Anthone did not own the property and there were others

with a financial stake in the project, i.e., the true property owners and Surbjit Singh. 5RP 83-84, 87-88.

There is also a basis to conclude these constitute misstatements of "material facts" because whether Anthone owned the property and whether there were others with a financial stake in the project are facts that may have affected the Dulai's decision of whether to enter into the agreement with Anthone. CP 329 (Instruction 25).

The State met its burden as to Count 8, but not on any other.

b. The Evidence is Insufficient to Convict on Count 2

Count 2 involved Phillip Ross, who had some experience in the area of real estate investments. CP 246, 312; 5RP 27. Ross entered into an "Investment/Profit Shareing [sic] Agreement" with Anthone on July 11, 2003. Ex. 11 (Appendix A). Anthone does not dispute that this agreement constitutes a "security."

Although the agreement constitutes a security, the State failed to present any evidence that Anthone, in the course of selling that security, ever "made an untrue statement of material fact to Phillip Ross, or omitted to state a materials fact to Phillip Ross that was necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading[.]" CP 312 (Instruction 8).

At trial Ross said he attended one, two or three presentations by Anthone before entering into the agreement, but he could not recall anything Anthone said or did not say at those presentations or otherwise that turned out to be false or misleading. 3RP 143; 5RP 26-29. Without evidence Anthone made an untrue statement of material fact to Ross, or that he withheld a material fact from Ross that would have made statements he did make not misleading, the State failed to meet its burden to prove all the element of Count 2 beyond a reasonable doubt.

Moreover, even if there is evidence to support a find that Anthone misled Ross in order to get him to enter into the "Investment/Profit Sharing [sic] Agreement", the State failed to present any evidence that such an act occurred after August 4, 2003, as required under the to-convict instruction for Count 2. CP 312 (Instruction 8). Although there was evidence Ross tried to contact Anthone unsuccessfully after that date, there is no basis to find Anthone was willfully withholding materials facts from Ross at that time that would have impact Ross's decision-making regarding whether to enter into the investment. 3RP 148, 153.

Count 2 should be reversed and dismissed with prejudice. State v. DeVries, 149 Wn.2d 842, 853, 72 P.3d 748 (2003).

c. The Evidence is Insufficient to Convict on Counts 3, 4, 5 and 6

Counts 3 through 6 involved the "Eden Estates" project, and complaining witnesses Dalbir Bhuller, Balwant Singh, Harvinder Mangat and Sarbjit Singh. CP 246-48; 6RP 63, 73-75. Anthonne does not dispute that the "Joint Venture Agreement" he entered into the Bhuller and the others in June 2004 constitutes a "security." Ex. 16 (Appendix B). Much like Count 2, however, the State failed to present any evidence that Anthonne willfully misled Bhuller or the others about the nature of the agreement, either by providing false information or withholding relevant information.

Bhuller claimed Anthonne told him and the others that he thought it would take six to nine months to turn the property known as "Eden Estates" into eight or nine buildable lots. 6RP 76, 88. But there is no evidence that Anthonne did not own Eden Estates in June 2004, nor any evidence he claimed to already have the necessary permits, or that he never applied for them. To the contrary, according to Balwant Singh, Anthonne specifically told them no permits had been applied for, and that the reason he needed investors was so he could raised the money to complete the project. 6RP 155. And it is the undisputed that Anthonne submitted permit applications for the project and \$12,000 to the King County Department of

Development and Environmental Services in September 2004, as contemplated under the agreement. 5RP 157; Exs. 16, 53-60A. Balwant Singh recalled Anthone explaining to them at one point that there were potential permit problems stemming from issues with run-off and a nearby trout farm. 6RP 163.

Although the permits were never issued and the project never completed, that does not mean Anthone willfully deceived Bhuller and the others. It means only that Anthone was unsuccessful in achieving the goal of the joint venture.

Similarly, the fact that Anthone shut down and vacated his Tukwila offices at one point does not constitute evidence that Anthone was trying to deceive the investors in the Eden Estates project. 6RP 103-04. As Bhuller admitted, Anthone met with him and others afterwards to explain that although he could not refund their money, and that the process was taking longer than expected, he had every intention of finishing the project. 6RP 104-05.

It is worth noting that the complaining witnesses to counts 5 and 6, Mangat and S. Singh, did not testify at trial. As such, there is no evidence about what Anthone may have said to them, or that they believed Anthone ever committed a fraud against them.

Like Count 2, this Court should reverse and dismiss with prejudice Anthone's convictions for Counts 3-6. DeVries, 149 Wn.2d at 853.

d. The Evidence is Insufficient to Convict on Count 11

Count 11 involved Paulina Chhour. CP 250. Anthone does not dispute that the agreement he entered into with Chhour on July 22, 2003 constitutes a "security." Ex. 30 (Appendix E). But the State failed to present any evidence to support finding Anthone willfully misled Chhour about the nature of the agreement, either by providing false information or withholding relevant information.

Although Chhour testified at trial that she met with Anthone and he told her about his business and how he planned to provide her a return of \$73,500 on her \$13,500 investment in just three months, she never gave any specifics about what Anthone actually said to her. SRP 34-37, 50. As such, there is no basis to infer Anthone provided Chhour with false or misleading information about the project. Without such evidence there is no basis to conclude Anthone "willfully made an untrue statement of material fact to Paulina Chhour, or omitted to state a material fact Paulina Chhour that was necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading[.]" CP 318 (Instruction 14).

Likewise, the State failed to present any evidence that Anthone committed an act of deception towards Chhour "after October 15, 2003" as required for Count 11. CP 318. To the contrary, Chhour testified she had not direct contact with Anthone after signing the agreement on July 22, 2003. 5RP 43.

Anthone's conviction for Count 11 should be reversed and dismissed with prejudice. DeVries, 149 Wn.2d at 853.

e. The Evidence is Insufficient to Convict on Count 15

Count 15 involved Fredrick Wilson. CP 251-52. Anthone does not dispute that the agreement he entered into with Wilson on August 1, 2003 constitutes a "security." Ex. 46 (Appendix F). As with the other counts of conviction, however, the State failed to prove Anthone misled Wilson as to a material fact involving the security, and therefore reversal is warranted.

According to Wilson, Anthone answered all his questions about the proposed project before he signed the agreement. 7RP 162. Wilson never provided any specifics about what was said by Anthone at the time, and although he recalled taking notes at the meeting, he assumed they had been thrown out by the time of trial. 7RP 157. Wilson did recall that as the December 1st pay-off deadline approached, Anthone informed him it was

going to take longer to complete than initially anticipated. 7RP 153. Wilson's friend Rossignol recalled Anthonie saying it was permitting delays that were causing the problem. 7RP 187. Wilson claimed Anthonie extended the expected completion date for the project numerous times thereafter. 7RP 156.

There is no evidence, however, from which to conclude Anthonie willfully engaged in deceiving Wilson about a material fact concerning the security, whether before or after it was entered into. And although there is evidence Wilson had contact with Anthonie as late as 2008, there is no evidence to support a finding that Anthonie committed an act of deception towards Wilson after January 7, 2004, as required for a conviction. CP 321 (Instruction 17); see 7RP 156 (Wilson states he cannot recall when he last spoke with Anthonie, but notes he gave up on the investment in 2008).

Anthonie's conviction for Count 15 should be reversed and dismissed with prejudice. DeVries, 149 Wn.2d at 853.

2. RESTITUTION ORDERED FOR THOSE COUNTS FOR WHICH THERE WAS INSUFFICIENT EVIDENCE TO CONVICT SHOULD BE STRUCK.

A trial court's authority to impose restitution is controlled by statute. State v. Hiatt, 154 Wn.2d 560, 563, 115 P.3d 274 (2005). Restitution is authorized "whenever the offender is convicted of an offense

which results in injury to any person or damage to or loss of property" RCW 9.94A.753(5). Restitution orders are reviewed for an abuse of discretion. State v. Dauenhauer, 103 Wn. App. 373, 377, 12 P. 3d 661 (2000), review denied, 143 Wn.2d 1011, 21 P.3d 291 (2001).

The injuries for which restitution is ordered must be causally related to the defendant's crime. State v. Enstone, 137 Wn.2d 675, 682, 974 P.2d 828 (1999). And, specifically, the court may not order restitution based on the defendant's general scheme or acts that are only connected with the charged crime "when those acts are not part of the charge." Dauenhauer, 103 Wn. App. at 378. The court must vacate the restitution order if the State failed to establish a causal connection between the crime and the damages for which restitution was ordered. State v. Dennis, 101 Wn. App. 223, 229, 6 P.3d 1173 (2000).

Here, the court ordered Anthone to pay restitution for all counts of conviction. CP 32-33. The amounts ordered for those counts for which there is insufficient evidence to convict must be stricken, however, because there is no causal connection between those losses and a valid conviction. Dauenhauer, 103 Wn. App. at 378; Dennis, 101 Wn. App. at 229.

D. CONCLUSION

The State met its burden proof only as to Count 8 because that is the only count for which there is evidence Anthone acted willfully to deceive the investor; he claimed to own property he did not own and failed to reveal the other investors who expected to share in the profits. No such evidence exists for any other count of conviction. For those counts, the State proved at most that Anthone is a poor judge of how long it takes to get development permits in King County. There was no evidence presented for any of those counts to support a finding that Anthone was willfully deceptive towards anyone about the nature of the security associated with each count. Therefore, this Court should reverse all of Anthone's convictions except for Count 8, strike the restitution ordered for all counts except Count 8, and remand for resentencing.

DATED this 17th day of November 2013

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC



CHRISTOPHER H. GIBSON
WSBA No. 25097
Office ID No. 91051

Attorneys for Appellant

Appendix A

MA QUIK FRAMING, INC.
INVESTMENT/PROFIT SHARING AGREEMENT

PREMISES: Lot "TBD" at 73XX 132nd St. Seattle, WA, Washington 98178.

WHEREAS, Phillip W. Ross, (hereinafter "Investor") with a home address of 22712 96th Pl. S. Kent, WA 98031, is desirous in investing in real estate construction/development projects to share profits from sales to "End Use Buyers" on real property located at Lot "TBD" at 73XX 132nd St. Seattle, WA 98178 (hereinafter the "Premises");

Legal Description: To be inserted by Developer

and

WHEREAS, Laurance Anthone' and/or Assigns, (hereinafter "Developer") with a business address of 6000 Southcenter Blvd. Suite 20, Tukwila, WA 98188, is desirous in entering into an investment Agreement to share profits with the Investor on the property described above;

It is mutually agreed that:

Investor agrees to deliver the Non-Refundable Deposit in the amount of \$ 20,000.00 (Twenty Thousand Dollars), in certified funds, to the Developer, due upon mutual acceptance of this agreement. Funds are to be used by Developer in the course of day-to-day operations and applied towards the Premises development. This Non-Refundable Deposit will be secured by a Deed of Trust and Promissory Note to include profit.

Developer will grant Investor a Deed of Trust in the amount of \$60,000.00 (Sixty Thousand Dollars) secured by the above Premises to protect their initial \$20,000.00 as well as profit interest in the Premises and execute such documents to subordinate Investor's interest to the construction development loan funding taken out personally by Laurance Anthone' and/or Assigns.

Upon mutual acceptance of this Agreement, Developer shall have all rights of negotiations, access, ownership, and entry to the Premises for the purpose of encumbering, building, constructing, re-modeling, marketing and pre-sale of the Premises, including the right to place a for sale sign on the Premises.

Investor's rights are limited to right to share profit from the sale to "End Use Buyer" as outlined above in this agreement.

Investor or Investor's agents are not required to sign on any documentation for development loans other than the Deed of Trust and Subordination Agreement to development lender.

Investor understands that Premises may have a "proposed" Legal Description from survey map or Legal Description of entire property prior to short plat and shall authorize Developer, Developer's Attorney or Closing Agent to insert, attach or correct the Legal Description of the Premises and or issue corrected Deed of Trust.

Closing Date: The consummation of the transaction contemplated by this Agreement ("Closing") shall take place at Newcastle Escrow, 515 - 116th Ave. NE, #130, Bellevue, Washington 98004, on or before October 17, 2003, or at such earlier date as agreed mutually, unless extended by other provisions hereof.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations or changes) must be in writing.

This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Developer and Investor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Developer:

James Arthur CEO
Developer

7/11/03
Date

James Arthur CEO
Print Name and Title

Investor:

Phillip W. Ross
Phillip W. Ross

7-11-03
Date

22712 96TH PL. S.
Address

KENT, WA 98031
City, State Zip

206-~~253~~ 617-0553
Phone Number

Appendix B

Part 1 JOINT VENTURE AGREEMENT

THIS VENTURE AGREEMENT ("Agreement") made and effective this June 1, 2004, by and between the following individuals, referred to in this Agreement as the "Venturers": Laurance Anthoné Property Owner of 9651 192 nd Ave so..From here out (Venturer) and Dalbir Bhuller,Balwant Singh,and Daljit Singh and Harvindar Singh Mangat and Sarbjit Singh here After (Joint Venturer's)

The Venturers wish to set forth, in a written agreement, the terms and conditions by which they will associate themselves in the Ventures.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the Veaffirm in writing their association as (**Eden Etsates Joint Venture Parntnership**) in accordance with the following provisions:

1.EEJVP

The name of the Venture shall be called Eden Estate Joint Partnership Agreement (the "Venture"). Its principal place of business shall be 6000 Southcenter Blvd. Suite 20,45, and 50 Tukwila ,Washington 98188, until changed by agreement of the Partners, but the Partnership may own property and transact business in any and all other places as may from time to time be agreed upon by the Partners.

2. Purpose.

The purpose of the Venture shall be to Development of Eden Estate. The Ventures may also engage in any and every other kind or type of business, whether or not pertaining to the foregoing, upon which the Venture may at any time or from time to time unanimously agree.

3. Term.

The Venture shall commence work after the date of this Agreement and shall continue until terminated as provided herein.

4. Capital Contrabutions.

A. The Partners shall make an initial of capital contrabution, contemporaneously with the execution of this Agreement, as follows:

Partners and Capital (1)

Laurance Anthoné Property Owner of 9651 192 nd Ave so.. (Venturer) Of 9651 So.192nd. Property. Tax Identifacation # is 793100-0153

Joint Venturer's Dalbir Bhuller,Balwant Singh,and Daljit Singh, Harvindar Singh Mangat adn Sarbjit Singh here After (Joint Venturer) Contrabution will be as
\$25,000.00 Twenty Thousand Dollar to Laurance Anthoné'
To DDES For Subdivision Intake
To Mortgage Bank Seattle Funding Group

Joint Venturer's Capital Payment (2)

Dalbir Bhuller,Balwant Singh,and Daljit Singh, Harvindar Singh Mangat, Sarbhjit Singh here After (Joint Venturer)
\$125,000.00 To Be divided as listed
\$62,000.00 To Mortgage Seattle Funding Group
\$63,000.00 To Laurance Anthoné'

Joint Venturer's Capital Payment (3)

Dalbir Bhuller,Balwant Singh,and Daljit Singh, Harvindar Singh Mangat and Sarbjit Singh here After (Joint Venturer)
\$150,000.00 One Hundred And Fourty Thousand Dollars To Be divided As Listed
\$80,000.00 To Mortgage Seattle Funding Group
\$70,000.00 To Laurance Anthoné

In addition to each Venture share of the percentage of the Project (EEJVP) and upon dissolution of the Venture, as set forth in Section 5, each Venturer is entitled to an interest in the assets of the (EEJVP).

B. The amount credited to the capital account of the (EEJVP) at any time shall be such amount as set forth in this Section 4 above, plus the Venturers share of the assets of the (EEJVP).

5. Division Of Eden Estates.

Until modified by mutual consent of all the Ventures, the Assets of (EEJVP) shall be shared by the Partners in the following proportions:

(Joint Ventures)= 5/9 Percent

(Venturer)= 4/9 Percent

6. Books and Records of Account.

The Partnership books and records shall be maintained at the principal office of the Venture and each Venturer shall have access to the books and records at all reasonable times.

7. Future Projects.

The (EEJVPP) recognize that future projects for the Venture depend upon many factors beyond present control, but the Venturers wish to set forth in writing and to mutually acknowledge their joint understanding, intentions, and expectations that the relationship among the Venturer's will continue to flourish in future projects on similar terms and conditions as set forth in this Agreement, but there shall be no legal obligations among the Venturersto so continue such relationship in connection with future projects.

8. Time and Salary shall not be applicable to (EEJVP).

~~Until and unless otherwise decided by unanimous agreement of the Partners,~~

~~Each Venture shall nonetheless be expected to devote such time and attention to (EEJVP) affairs as shall from time to time be determined by agreement of the Venturer's. No Venture shall be entitled to any salary.~~

Handwritten initials and notes: "SS. Top Line EXIST" with a line through "EXIST".

9. Transfer of Ventures Interests.

A. Restrictions on Transfer. None of the Venturers shall sell, assign, transfer, mortgage, encumber, or otherwise dispose of the whole or part of that Venturer's interest in the Venture (EEJVP), and no purchaser or other transferee shall have any rights in the Venture as an assignee or otherwise with respect to all or any part of that (EEJVP) interest attempted to be sold, assigned, transferred, mortgaged, encumbered, or otherwise disposed of, unless and to the extent that the remaining Venture(s) have given consent to such sale, assignment, transfer, mortgage, or encumbrance, but only if the transferee forthwith assumes and agrees to be bound by the provisions of this Agreement and to become a Venturer for all purposes hereof, in which event, such transferee shall become a substituted Venture under this Agreement. All Distrabution upon Dissolution are to be at the completion of Filing Of Final Plat development Of (EEJVP) Assets.

B. Transfer Does Not Dissolve(EEJVP).. No transfer of any interest in the Partnership, whether or not permitted under this Agreement, shall dissolve the (EEJVP) . No transfer, except as permitted under Subsection 9.A. above, shall entitle the transferee, during the continuance of the Partnership, to participate in the management of the business or affairs of the Partnership, to require any information or account of Partnership transactions, or to inspect the books of account of the Partnership; but it shall merely entitle the transferee to receive the assets to which the assigning Venturer would otherwise be entitled and, in case of dissolution of the Partnership, to receive the interest of the assigning Venturer and to require an account from the date only of the last account agreed to by the Venturer.

10. Death, Incompetency, Withdrawal, or Bankruptcy.

Neither death, incompetency, withdrawal, nor bankruptcy of any of the Venturers or of any successor in interest to any (EEJVP). shall operate to dissolve this (EEJVP) , but this (EEJVP). shall continue as set forth in Section 3, subject, however, to the following terms and conditions:

A. Death or Incompetency.

In the event any Venturer dies or is declared incompetent by a court of competent jurisdiction, the successors in interest of that Partner shall succeed to the partnership interest of that (EEJVP). and shall have the rights, duties, privileges, disabilities, and obligations with respect to this Venture, the same as if the successors in interest were parties to this Agreement, including, but not limited to, the right of the successors to (EEJVP) ., in the same manner and to the same extent as the deceased or incompetent Venturer; the right of the successors in interest to continue in this (EEJVP) . and all such further rights and duties as are set forth in this Agreement with respect to the Venturer, the same as if the words "or his or her successors in interest" followed each reference to a Venturer; provided, however, that no successor in interest shall be obligated to devote any service to this Venture and, provided further, that such successors in interest shall be treated as holding a passive, rather than active, ownership of assets.

B. Payments Upon Retirement or Withdrawal of Venturer.

- (1) **Amount of Payments.** Upon the retirement or withdrawal of a Venturer , that Venturer or, in the case of death or incompetency, that Venturer's legal representative shall be entitled to receive the amount of the (EEJVP) Assets
- (2) **Time of Payments.** Subject to a different agreement among the Ventures or successors thereto, the amount specified above shall be paid in cash, in full, but without interest, no later than twelve (3) months following the date of the retirement or withdrawal.

11. Procedure on Dissolution of Venture(EEJVP).

Except as provided in Section 10.B.(3) above, this Venture may be dissolved only by a unanimous agreement of the Venturers. Upon dissolution, the Partners shall proceed with reasonable promptness to Assignment Of % percentages state in this agreement. the bas determined under Section 5.

12. Title to Venturers Property.

If for purposes of confidentiality, title to (EEJVP) property is taken in the name of a nominee or of any individual Venturer, the assets shall be considered to be owned by the Partnership and all beneficial interests shall accrue to the Partners in the percentages set forth in this Agreement.

13. Controlling Law.

This Agreement and the rights of the (EEJVP) under this Agreement shall be governed by the laws of the State of Washington .

14. Notices.

Any written notice required by this Agreement shall be sufficient if sent to the Venturers of (EEJVP) or other party to be served by registered or certified mail, return receipt requested, addressed to the Partner or other party at the last known home or office address, in which event the date of the notice shall be the date of deposit in the United States mails, postage prepaid.

16. General.

This Agreement contains the entire agreement of the Venturers with respect to the (EEJVP) and may be amended only by the written agreement executed and delivered by all of the Partners.

17. Binding Upon Heirs.

This Agreement shall bind each of the venturers and shall inure to the benefit of (subject to the Sections 9 and 10) and be binding upon their respective heirs, executors, administrators, devisees, legatees, successors and assigns.

IN WITNESS WHEREOF, the Partners have executed this Agreement the date first above written.

VENTURER *Laurance D. Anthone* / DATE 6/01/04
 JOINT VENTURER *H* / DATE 6-1-04
 JOINT VENTURER *Dalbir Singh Bhuller* / DATE 6-1-04
 JOINT VENTURER *Balwant Singh* / DATE 6-1-04
 JOINT VENTURER *Sarbjit Singh* / DATE 6-1-04
 JOINT VENTURER *Harvinder Singh Mangat* / DATE 6-1-04

Part 1 Joint Venture Agreement

State of Washington
County of King

I certify that I know or have satisfactory evidence that Laurance D. Anthone, Dalbir Singh Bhuller, Daljit Singh, Sarbjit Singh, Balwant Singh, and Harvinder Singh Mangat are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 6-1-04

Barbara J. Saxton
(Signature)

Notary Public
(Title)

Name as Commissioned: Barbara J. Saxton

My Appointment Expires: 3-29-06



PART 2 OF JOINT VENTURE AGREEMENT
Pre-Plat Approval Distribution Agreement upon Dissolution of (Eden Estates Joint Partnership)

1. Date: 6-1-04
2. Joint Venturer: 1. DALJIT SIKH 12. BALWANT SINGH
Joint Venturer: 3. MANVINDER SINGH MANSUR 14. SARJIT SINGH
Joint Venturer: 5. DALBIR S. BHULLER

3. Venturer: Laurance Anthony

4. Property: Tax Parcel Nos.: 7931000153

Street Address: 9651 S. 192nd St. (Eden Estates Association), Renton Washington 98055

Legal Description: Legal description of real estate ("Property") located in King County, Block: _____ Lot: _____
See Attachment "A" (5/9th of Eden Estates Association)

5. Total Adjoining cost for 5/9th of (EEJVP) shall not exceed 300,000 / (Three Hundred Thousand Dollars)

6. Non-Refundable Payment: (Released To Venture as per Joint Venture Contract)

Cashier Check: _____
Other (_____) _____

Non-Payment of Joint Venture Capital payments - Non-Refundable

Division of (EEJVP) Assets shall be determined at the Dissolution of (EEJVP) and selection of Assets by (EEJVP) Joint Venturers shall be at Joint Venturers discretion. The unselected Assets shall be Awarded to (Venturer).

7. Pre Plat Approval Venturers (Adjoining Costs). Joint Venturer agrees to pay to Venturer the Balance of Capital Contribution, including the Non-Refundable Deposit, in cash as per agreement. (Part I), unless otherwise specified in this Agreement.

8. Non-Refundable Payment for Joint Venture Agreement-Joint Venturer agrees to deliver the Non-Refundable Payment for Joint Venture Agreement as indicated on the first page of this Agreement upon mutual acceptance of this Agreement to Venture. This Non-Refundable Payment for Joint Venture Agreement will be credited toward the Joint Venturers transfer of 5/9th of Ventures's Assets.

This distribution agreement shall be no less than 5/9th of (EEJVP) Assets.

\$25,000 due upon signing agreement

\$125,000 due one week after Engineering Approval which comes before permitting on or before 7/15/2004

\$150,000 due at full plan approval.

Initials JOINT VENTURER SS DATE: 6-1-04 VENTURER: LA DATE: 6/01
JOINT VENTURER HM DATE: 6-1-04
JOINT VENTURER JM DATE: 6-1-04
JOINT VENTURER CS DATE: 6-1-04
JOINT VENTURER DB DATE: 6-1-04

9. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either Venturer, the parties will confirm facsimile transmitted signatures by signing an original document.

10. Integration. This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Joint Venturer and Venturer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement

[Signature] 6-1-04 [Signature] 6/01/04
Joint Venturer's Signature Date Venturer's Signature Date

Joint Venturer's Address
9411 CHERRYVIEW AVE S.W. LAKEWAUWATUA WA 98428
City, State, Zip

253-512-2227
Phone [Signature] Fax 6-01-04
Date

Joint Venturer's Signature Date

Joint Venturer's Address
135 Uptown Ln
AUBURN WA 98001
City, State, Zip

253 946 9072
Phone Fax

[Signature] 6-1-04
Joint Venturer's Signature Date

Joint Venturer's Address
24909 109th Ave SE
City, State, Zip Rent WA 98030

Phone 253-854-2098 Fax -

[Signature] 6-1-04
Joint Venturer's Signature Date

Joint Venturer's Address
10314 SE 186th St

Renton WA 98055
City, State, Zip

425-204-5183
Phone Fax

[Signature] 6-1-04
Joint Venturer's Signature Date

Joint Venturer's Address
1616 INDEX CT SE
Renton WA 98058
City, State, Zip

6-387-9266
Phone Fax

[Signature]
Venturer's Address
1124 5th St SE Federal Way, WA 98003
City, State, Zip
(206) 748-2700 (206) 248-2702
Phone Fax

Initials JOINT VENTURER [Signature] DATE: 6-1-04 VENTURER: [Signature] DATE: 6/1/04
JOINT VENTURER [Signature] DATE: 6-1-04
JOINT VENTURER [Signature] DATE: 6-1-04
JOINT VENTURER [Signature] DATE: 6-1-04
JOINT VENTURER [Signature] DATE: 6-1-04

Part 3 Eden Estates JOINT VENTURE AGREEMENT
Penalties

For any Reason the plat stops for technical reasons and cannot run on schedule the money shall accrue interest at maximum return of 30% Gross with 10% interest and legal fees ; against Laurance Anthoné' (EEJVP) Venturer, and shall be awarded to (EEJVP) Joint Venturers based On the value of capital contribution to the (EEJVP). *And Attorney FEES ~~on permitting~~ (1/1) 7/15/04*

Partners Capital Contribution Disbursement Schedule

1. Partners Capital Contribution # \$25,000.00 due upon signing and submittal of application 06/01/2004.
2. Partners Capital Contribution #2 \$125,000.00 due one week after Engineering Approval which comes before permitting on or before 07/15/2004
3. Partners Capital Contribution #3 \$150,000.00 due when temporary road and all utilities (sewer, water, gas, electric, drainage) are in 12/15/2004

After final road is in, it will be the responsibility of each individual owner to repair any damage to County standards.

For each week late on payment schedule 10% of gross due will be add to the Balance. And attorneys fees. Base On the value of capital contribution to the (EEJVP)

IN WITNESS WHEREOF, the Partners have executed this Agreement the date first above written.

VENTURER *Laurance Anthoné* / DATE 6/01/04
JOINT VENTURER *H* / DATE 6-1-04
JOINT VENTURER *Danwar* / DATE 6-1-04
JOINT VENTURER *Balwcent Singh* / DATE 6-1-04
JOINT VENTURER *Sarbjit Singh* / DATE 6-1-04
JOINT VENTURER *@Bhuller* / DATE 6-1-04

Appendix C

Part 1 JOINT VENTURE AGREEMENT

THIS VENTURE AGREEMENT ("Agreement") made and effective this November 8, 2004, by and between the following individuals, referred to in this Agreement as the "Venturers": Laurance Anthoné Property Owner of 972 Edmonds Ave. NE. From here out (Venturer) and Manjit Kaur Dulai and Kanwaljit Singh Dulai here After (Joint Venturer's)

The Venturers wish to set forth, in a written agreement, the terms and conditions by which they will associate themselves in the Ventures.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the Veaffirm in writing their association as (**Highlands Town Homes Joint Venture Partnership**) in accordance with the following provisions:

1. HTHJVP

The name of the Venture shall be called Highlands Town Homes Joint Partnership Agreement (the "Venture"). Its principal place of business shall be 6000 Southcenter Blvd. Suite 20,45, and 50 Tukwila, Washington 98188, until changed by agreement of the Partners, but the Partnership may own property and transact business in any and all other places as may from time to time be agreed upon by the Partners.

2. Purpose.

The purpose of the Venture shall be to Development of Highlands Town Homes. The Ventures may also engage in any and every other kind or type of business, whether or not pertaining to the foregoing, upon which the Venture may at any time or from time to time unanimously agree.

3. Term.

The Venture shall commence work after the date of this Agreement and shall continue until terminated as provided herein.

4. Capital Contrabutions.

A. The Partners shall make an initial of capital contrabution, contemporaneously with the execution of this Agreement, as follows:

Partners and Capital (1)

Laurance Anthoné Property Owner of 972 Edmonds Ave. NE. (Venturer) Of 972 Edmonds Ave. NE. Property. Tax Identifacation # is 0923059131 (to be changed according to short plat in 3 days)

Joint Venturer's Manjit Kaur Dulai and Kanwaljit Singh Dulai here After (Joint Venturer) Contribution will be as \$50,000.00 Fifty Thousand Dollar to Laurance Anthoné'

Joint Venturer's Capital Payment (2)

Manjit Kaur Dulai and Kanwaljit Singh Dulai here After (Joint Venturer) \$450,000.00 Four Hundred And Fifty Thousand Dollars To Be divided As Listed as Per Closing (maximum time is 6 months)

In addition to each Venture share of the percentage of the Project (HTHJVP) and upon dissolution of the Venture, as set forth in Section 5, each Venturer is entitled to an interest in the assets of the (HTHJVP).

B. The amount credited to the capital account of the (HTHJVP) at any time shall be such amount as set forth in this Section 4 above, plus the Venturers share of the assets of the (HTHJVP).

5. Division Of Highlands Town Homes.

Until modified by mutual consent of all the Ventures, the Assets of (HTHJVP) shall be shared by the Partners in the following proportions:

(Joint Ventures)= 3/3 Percent

(Venturer)= 3/3 Percent

6. Books and Records of Account.

The Partnership books and records shall be maintained at the principal office of the Venture and each Venturer shall have access to the books and records at all reasonable times.

7. Future Projects.

The (HTHJVP) recognize that future projects for the Venture depend upon many factors beyond present control, but the Venturers wish to set forth in writing and to mutually acknowledge their joint understanding, intentions, and expectations that the relationship among the Venturer's will continue to flourish in future projects on similar terms and conditions as set forth in this Agreement, but there shall be no legal obligations among the Venturers to so continue such relationship in connection with future projects.

8. Time and Salary shall not be applicable to (HTHJVP).

Until and unless otherwise decided by unanimous agreement of the Partners, _____ Each Venture shall nonetheless be expected to devote such time and attention to (HTHJVP) affairs as shall from time to time be determined by agreement of the Venturer's. No Venture shall be entitled to any salary.

9. Transfer of Ventures Interests.

A. Restrictions on Transfer. None of the Venturers shall sell, assign, transfer, mortgage, encumber, or otherwise dispose of the whole or part of that Venturer's interest in the Venture (HTHJVP), and no purchaser or other transferee shall have any rights in the Venture as an assignee or otherwise with respect to all or any part of that (HTHJVP) interest attempted to be sold, assigned, transferred, mortgaged, encumbered, or otherwise disposed of, unless and to the extent that the remaining Venture(s) have given consent to such sale, assignment, transfer, mortgage, or encumbrance, but only if the transferee forthwith assumes and agrees to be bound by the provisions of this Agreement and to become a Venturer for all purposes hereof, in which event, such transferee shall become a substituted Venture under this Agreement. All Distribution upon Dissolution are to be at the completion of Filing Of Final Plat development Of (HTHJVP) Assets.

B. **Transfer Does Not Dissolve (HTHJVP)**.. No transfer of any interest in the Partnership, whether or not permitted under this Agreement, shall dissolve the (HTHJVP) . No transfer, except as permitted under Subsection 9.A. above, shall entitle the transferee, during the continuance of the Partnership, to participate in the management of the business or affairs of the Partnership, to require any information or account of Partnership transactions, or to inspect the books of account of the Partnership; but it shall merely entitle the transferee to receive the assets to which the assigning Venturer would otherwise be entitled and, in case of dissolution of the Partnership, to receive the interest of the assigning Venturer and to require an account from the date only of the last account agreed to by the Venturer.

10. Death, Incompetency, Withdrawal, or Bankruptcy.

Neither death, incompetency, withdrawal, nor bankruptcy of any of the Venturers or of any successor in interest to any (HTHJVP) shall operate to dissolve this (HTHJVP) , but this (HTHJVP) shall continue as set forth in Section 3, subject, however, to the following terms and conditions:

A. Death or Incompetency.

In the event any Venturer dies or is declared incompetent by a court of competent jurisdiction, the successors in interest of that Partner shall succeed to the partnership interest of that (HTHJVP) and shall have the rights, duties, privileges, disabilities, and obligations with respect to this Venture, the same as if the successors in interest were parties to this Agreement, including, but not limited to, the right of the successors to (HTHJVP) , in the same manner and to the same extent as the deceased or incompetent Venturer; the right of the successors in interest to continue in this (HTHJVP) . and all such further rights and duties as are set forth in this Agreement with respect to the Venturer, the same as if the words "or his or her successors in interest" followed each reference to a Venturer; provided, however, that no successor in interest shall be obligated to devote any service to this Venture and, provided further, that such successors in interest shall be treated as holding a passive, rather than active, ownership of assets.

B. Payments Upon Retirement or Withdrawal of Venturer.

- (1) **Amount of Payments.** Upon the retirement or withdrawal of a Venturer, that Venturer or, in the case of death or incompetency, that Venturer's legal representative shall be entitled to receive the amount of the (HTHJVP) Assets
- (2) **Time of Payments.** Subject to a different agreement among the Ventures or successors thereto, the amount specified above shall be paid in cash, in full, but without interest, no later than twelve (3) months following the date of the retirement or withdrawal.

11. Procedure on Dissolution of Venture (HTHJVP).

Except as provided in Section 10.B.(3) above, this Venture may be dissolved only by a unanimous agreement of the Venturers. Upon dissolution, the Partners shall proceed with reasonable promptness to Assignment Of % percentages state in this agreement. the has determined under Section 5.

12. Title to Venturers Property.

If for purposes of confidentiality, title to (HTHJVP) property is taken in the name of a nominee or of any individual Venturer, the assets shall be considered to be owned by the Partnership and all beneficial interests shall accrue to the Partners in the percentages set forth in this Agreement.

13. Controlling Law.

This Agreement and the rights of the (HTHJVP) under this Agreement shall be governed by the laws of the State of Washington .

14. Notices.

Any written notice required by this Agreement shall be sufficient if sent to the Venturers of (HTHJVP) or other party to be served by registered or certified mail, return receipt requested, addressed to the Partner or other party at the last known home or office address, in which event the date of the notice shall be the date of deposit in the United States mails, postage prepaid.

16. General.

This Agreement contains the entire agreement of the Venturers with respect to the (HTHJVP) and may be amended only by the written agreement executed and delivered by all of the Partners.

17. Binding Upon Heirs.

This Agreement shall bind each of the venturers and shall inure to the benefit of (subject to the Sections 9 and 10) and be binding upon their respective heirs, executors, administrators, devisees, legatees, successors and assigns.

IN WITNESS WHEREOF, the Partners have executed this Agreement the date first above written.

VENTURER [Signature] / DATE 11/08/04
JOINT VENTURER [Signature] / DATE 11/8/04
JOINT VENTURER Manjit Gulati / DATE 11/08/04

**Part 2 Highlands Town Homes JOINT VENTURE AGREEMENT
Penalties For Additional % Relation PT1**

For any Reason the plat stops for technical reasons and cannot run on schedule the money shall accrue interest at maximum return of 30% Gross with 10% interest and legal fees; against Laurance Anthoné' (HTHJVP) Venturer, and shall be awarded to (HTHJVP) Joint Venturers based On the value of capital contribution to the (HTHJVP).

Partners Capital Contribution Disbursement Schedule

1. Partners Capital Contribution #1 \$50,000.00 due upon signing and submittal of application 11/08/2004.
2. Partners Capital Contribution #2 \$450,000.00 due when Closing Or Sale.

IN WITNESS WHEREOF, the Partners have executed this Agreement the date first above written.

VENTURER *Laurance Anthoné'* / DATE *11/08/04*

JOINT VENTURER *[Signature]* / DATE *11/8-04*

Manjiv Dulli *11/08/04*

Appendix D



20041222001766

LAWYERS TITLE AGENCY OF WASHINGTON
PAGE 001 OF 003
12/22/2004 14:09
KING COUNTY, WA

Return Address
ANTHONE PROPERTIES, LLC, LAWRENCE ANTHONE and DALBIR BHULLER
6000 SOUTHCENTER BLVD. SUITE 20
TUKWILA, WA 98188

Statutory Warranty Deed

ESCROW NO. 04-448136
Assessor's Tax Parcel Number(s):
092305-9131-02 LEVY CODE: 2100

FILED FOR RECORD AT REQUEST OF
FIDELITY NATIONAL TITLE CO OF WA, INC.

THE GRANTOR A3 INVESTMENTS L.L.C., A WASHINGTON LIMITED LIABILITY
COMPANY for and in consideration of

ten dollars and other good and valuable consideration

in hand paid, conveys and warrants to ANTHONE PROPERTIES, L.L.C., A
WASHINGTON LIMITED LIABILITY COMPANY

the following described real estate, situated in the County of KING, State
of Washington:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT 'A' AND MADE A PART
HEREOF BY THIS REFERENCE.

SUBJECT TO RESERVATIONS OF ALL COAL AND MINERALS AS RECORDED JULY 24,
1940 UNDER RECORDING NO. 3112854.
THIS EXCEPTION DOES NOT REFLECT CURRENT OWNERSHIP OF SAID MINERAL RIGHTS.

DATED : 12-16-04

RECORDED BY
LAWYERS TITLE AGENCY
OF WASHINGTON

Pgs. 3 Fee 22
366659-E

A3 INVESTMENTS, LLC
BY: *[Signature]*
SIRVOOSH PAZOOKI, MANAGING MEMBER

STATE OF WASHINGTON
COUNTY OF _____

On this day personally appeared before me A3 INVESTMENTS, LLC to me known
to be the individual described in and who executed the within and foregoing
instrument, and acknowledged that he/she/they signed the same as
his/her/their free and voluntary act and deed, for the uses and purposes
therein mentioned.

GIVEN under my hand official seal this _____ day of _____.

Notary Public in and for the State of
Washington residing at _____

E2091863

12/22/2004 14:05
KING COUNTY, WA
TAX \$5,589.28
SALE \$314,000.00

EXHIBIT A

That portion of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 9, Township 23 North, Range 5 East, described as follows;

Beginning at the Southwest corner of the East $\frac{1}{2}$ of said subdivision,

Thence North along the West line of said East $\frac{1}{2}$ 315.35 feet to the True Point of Beginning of the Tract;

Thence West along a line parallel with the South line of said subdivision to an intersection with a line parallel with and 30 feet east of the West line of said Section 9;

Thence South along said parallel line 105 feet

Thence East along a line parallel with the South line of said subdivision to the West line of the East $\frac{1}{2}$ of said subdivision,

Thence North along said West line 105 feet to the True Point of Beginning.

Situate in the County of King, State of Washington.

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

On this 17th day of December, 2004, before me personally appeared Silvopsh Pa Zooki, to me known to be the member/manager of the Limited Liability Company that executed the within and foregoing document, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument on behalf of said Limited Liability Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Debbie Burnett
Name: Debbie Burnett

DEBBIE BURNETT
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
DECEMBER 29, 2007

NOTARY PUBLIC in and for the State of
Washington, residing at Bothell
commission expires 12-29-2007

Appendix E

MA QUIK FRAMING, INC. INVESTMENT/PROFIT SHARING AGREEMENT

PREMISES: Lot "TBD" at 73XX 132nd St, Seattle, WA, Washington 98178.

WHEREAS, Paulina Chhour, (hereinafter "Investor") with a home address of 13115 221st SE Pl. Kent, WA 98031, is desirous in investing in real estate construction/development projects to share profits from sales to "End Use Buyers" on real property located at Lot "TBD" at 73XX 132nd St, Seattle, WA 98178 (hereinafter the "Premises");

Legal Description: To be inserted by Developer

and

WHEREAS, Laurance Anthone' and/or Assigns, (hereinafter "Developer") with a business address of 6000 Southcenter Blvd. Suite 20, Tukwila, WA 98188, is desirous in entering into an investment Agreement to share profits with the Investor on the property described above;

It is mutually agreed that:

Investor agrees to deliver the Non-Refundable Deposit in the amount of \$ 13,500.00 (Thirteen Thousand Five Hundred Dollars), in certified funds, to the Developer, due upon mutual acceptance of this agreement. Funds are to be used by Developer in the course of day-to-day operations and applied towards the Premises development. This Non-Refundable Deposit will be secured by a Deed of Trust and Promissory Note to include profit.

Developer will grant Investor a Deed of Trust in the amount of \$73,500.00 (Seventy Three Thousand Five Hundred Dollars) secured by the above Premises to protect their initial \$13,500.00 as well as profit interest in the Premises and execute such documents to subordinate Investor's interest to the construction development loan funding taken out personally by Laurance Anthone' and/or Assigns.

Upon mutual acceptance of this Agreement, Developer shall have all rights of negotiations, access, ownership, and entry to the Premises for the purpose of encumbering, building, constructing, re-modeling, marketing and pre-sale of the Premises, including the right to place a for sale sign on the Premises.

Investor's rights are limited to right to share profit from the sale to "End Use Buyer" as outlined above in this agreement.

Investor or Investor's agents are not required to sign on any documentation for development loans other than the Deed of Trust and Subordination Agreement to development lender.

Investor understands that Premises may have a "proposed" Legal Description from survey map or Legal Description of entire property prior to short plat and shall authorize Developer, Developer's Attorney or Closing Agent to insert, attach or correct the Legal Description of the Premises and or issue corrected Deed of Trust.

Closing Date: The consummation of the transaction contemplated by this Agreement ("Closing") shall take place at Newcastle Escrow, 515 - 116th Ave. NE, #130, Bellevue, Washington 98004, on or before October 22, 2003, or at such earlier date as agreed mutually, unless extended by other provisions hereof.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations or changes) must be in writing.

This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Developer and Investor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Developer:

Laurance Anthony CEO
Developer

7/22/03
Date

Laurance Anthony CEO
Print Name and Title

Investor:

Paulina Chhour
Paulina Chhour

7/22/03
Date

13115 SE 221st Pl
Address

Kent, WA 98031
City, State Zip

(206) 351-4529
Phone Number

Appendix F

MA QUIK FRAMING, INC.
INVESTMENT/PROFIT SHAREING AGREEMENT

PREMISES: Lot "TBD" AT 12707 68th Ave. S, Seattle, WA, Washington 98178.

WHEREAS, Fred Wilson and Dennis Rossignol, (hereinafter "Investor") with a home address of 22712 96th Pl. S. Kent, WA 98031, is desirous in investing in real estate construction/development projects to share profits from sales to "End Use Buyers" on real property located at Lot "TBD" AT 12707 68th Ave. S, Seattle, WA 98178 (hereinafter the "Premises");

Legal Description: To be inserted by Developer

and

WHEREAS, Laurance Anthoné' and/or Assigns, (hereinafter "Developer") with a business address of 6000 Southcenter Blvd. Suite 20, Tukwila, WA 98188, is desirous in entering into an investment Agreement to share profits with the Investor on the property described above;

It is mutually agreed that:

Investor agrees to deliver the Non-Refundable Deposit in the amount of \$ 20,000.00 (Twenty Thousand Dollars), in certified funds, to the Developer, due upon mutual acceptance of this agreement. Funds are to be used by Developer in the course of day-to-day operations and applied towards the Premises development. This Non-Refundable Deposit will be secured by a Deed of Trust and Promissory Note to include profit.

Developer will grant Investor a Deed of Trust in the amount of \$65,000.00 (Sixty Five Thousand Dollars) secured by the above Premises to protect their initial \$20,000.00 as well as profit interest in the Premises and execute such documents to subordinate Investor's interest to the construction development loan funding taken out personally by Laurance Anthoné' and/or Assigns.

Upon mutual acceptance of this Agreement, Developer shall have all rights of negotiations, access, ownership, and entry to the Premises for the purpose of encumbering, building, constructing, re-modeling, marketing and pre-sale of the Premises, including the right to place a for sale sign on the Premises.

Investor's rights are limited to right to share profit from the sale to "End Use Buyer" as outlined above in this agreement.

Investor or Investor's agents are not required to sign on any documentation for development loans other than the Deed of Trust and Subordination Agreement to development lender.

Investor understands that Premises may have a "proposed" Legal Description from survey map or Legal Description of entire property prior to short plat and shall authorize Developer, Developer's Attorney or Closing Agent to insert, attach or correct the Legal Description of the Premises and or issue corrected Deed of Trust.

Closing Date: The consummation of the transaction contemplated by this Agreement ("Closing") shall take place at Newcastle Escrow, 515 - 116th Ave. NE, #130, Bellevue, Washington 98004, on or before December 2, 2003, or at such earlier date as agreed mutually, unless extended by other provisions hereof.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Unless otherwise specified in this Agreement, any notice required or permitted in, or related to, this Agreement (including revocations or changes) must be in writing.

This Agreement constitutes the entire understanding between the parties and supersedes all prior or contemporaneous understandings and representations. No modification of this Agreement shall be effective unless agreed in writing and signed by Developer and Investor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Developer:

Lawrence Anthony
Developer

8/01/03
Date

Lawrence Anthony CEO
Print Name and Title

Investor:

Fred Wilson
Fred Wilson

8/1/03
Date

Dennis Rossignol
Dennis Rossignol

8/1/03
Date

15413 AMBAUM BLVD. SW
Address

BURIEN, WA, 98166
City, State Zip

(206) 786-0098
Phone Number

LA 2148

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON)	
)	
Respondent,)	
)	
v.)	COA NO. 69716-1-I
)	
LAURANCE ANTHONE,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 13TH DAY OF NOVEMBER 2013, I CAUSED A TRUE AND CORRECT COPY OF THE **BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY EMAIL AND/OR DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] LAURANCE ANTHONE
DOC NO. 362562
REYNOLD WORK RELEASE
410 4TH AVENUE
SEATTLE, WA 98104

SIGNED IN SEATTLE WASHINGTON, THIS 13TH DAY OF NOVEMBER 2013.

X *Patrick Mayovsky*