

DEPARTMENT OF COMMERCE
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114
Telephone: (801) 530-6628

BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF

TONIA SCHNAE BROWN,

RESPONDENT.

**RECOMMENDED ORDER ON MOTION
FOR DEFAULT**

Case no. **SD-15-035**

BY THE PRESIDING OFFICER:

This adjudicative proceeding was initiated pursuant to a July 15, 2015 Notice of Agency Action and Order to Show Cause. On August 13, 2015, Respondent filed a response to the Division's Order to Show Cause which included a general denial of all allegations and a request to stay the administrative proceeding pending adjudication of a parallel criminal proceeding. On September 2, 2015, the Presiding Officer issued an order staying the proceedings. On December 12, 2016, after the conclusion of the criminal matter, the Presiding Officer issued an order lifting the stay and setting a prehearing conference for January 12, 2017. The order was mailed to Respondent at the Utah State Prison, where she is serving the sentence in the criminal matter.

Counsel for the Division contacted the prison to determine whether Respondent could participate in the pretrial conference by telephone conference call. Respondent's case workers at the prison informed counsel for the Division that Respondent could participate in a conference

call, but that Respondent wanted to be represented by her lawyer, Dan Conaway, a Georgia attorney. Counsel for the Division contacted Mr. Conaway and notified him of the prehearing conference. Mr. Conaway informed counsel that he may not represent Respondent in the administrative proceeding. Counsel for the Division sent Mr. Conaway Respondent's Order to Show Cause, Answer, and order lifting the stay. Neither Mr. Conaway nor Respondent appeared at the prehearing conference, either by telephone or otherwise, on January 12, 2017. Mr. Conaway has not filed a notice of appearance of counsel on behalf of Respondent or otherwise notified the Presiding Officer that he intends to represent her.

The Presiding Officer issued a Scheduling Order and Hearing Notice shortly after the pretrial conference. The Scheduling Order and Hearing Notice was sent to Respondent at the Utah State Prison by mail and to Dan Conaway, the Georgia attorney, by email. The Scheduling Order and Hearing Notice gave Respondent until January 26, 2017 to file an amended response to the Order to Show Cause. It also notified Respondent that failure to do so may result in the entry of a default judgment against her. Respondent did not file an amended response to the Order to Show Cause by the deadline and has not filed one in the time since.

FINDINGS OF FACT

The Presiding Officer finds that:

1. Pursuant to Utah Code § 63G-4-209(1)(b) and (c), proper factual and legal bases exist for entering a default order against Respondent by reason of the fact that the Respondent failed to attend or participate in a properly scheduled hearing after receiving proper notice.
2. The promissory note and the investment contract offered and sold to an investor by the Respondent were securities under §61-1-13 U.C.A.

3. The total amount paid for these securities by the investor was an aggregate of \$140,000.
4. In selling the securities, the Respondent made material false statements and provided the investor with materially false documents.
5. In selling the securities, the Respondent failed to disclose material information about the transactions, which information was necessary in order to make the statements that were made by the Respondent not misleading.
6. The described transactions constituted violations of, and securities fraud under, §61-1-1 U.C.A.

RECOMMENDED ORDER

The Presiding Officer recommends that the Utah Securities Commission make findings and an order as follows:

- a. That the allegations outlined in the Division's order to show cause are true;
- b. That Respondent cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1 *et seq.*;
- c. That Respondent pay a fine of \$175,000 to the Utah Division of Securities, with \$35,000 of the fine due and payable in full upon receipt of the final order and the remaining \$140,000 subject to offset for a period of 30 days following the date of the final order on a dollar-for-dollar basis for any restitution paid to investors;
- d. That, should Respondent fail to provide proof of restitution payments to investors within the 30-day period following the date of the final order, the full \$175,000 fine shall immediately become due, payable and subject to collection; and
- e. That Respondent is permanently barred from associating with any broker-dealer or

investment adviser licensed in Utah; from acting as an agent for any issuer soliciting funds in Utah; and from being licensed in any capacity in the securities industry in Utah.

The Presiding Officer recommends that, upon entering the Default Order, the Utah Securities Commission dismiss any further proceedings in this case.

DATED March 16th, 2017.

UTAH DEPARTMENT OF COMMERCE

A handwritten signature in blue ink, appearing to read "Bruce Dobb", written over a horizontal line.

Bruce Dobb, Presiding Officer

DIVISION OF SECURITIES
KEITH WOODWELL, DIRECTOR
DEPARTMENT OF COMMERCE
P.O. BOX 146741
160 EAST 300 SOUTH
SALT LAKE CITY, UTAH 84114-6711
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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF

TONIA SCHNAE BROWN,

RESPONDENT.

DEFAULT ORDER

Case no. **SD-15-035**

BY THE UTAH SECURITIES COMMISSION:

The Presiding Officer's Recommended Order on Motion for Default in this matter is hereby approved, confirmed, accepted, and entered by the Utah Securities Commission.

ORDER

The Utah Securities Commission ("Commission") accepts the allegations outlined in the Order to Show Cause and finds that they are true. The Commission hereby orders as follows:

Respondent is ordered to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1 or any other section of the Utah Uniform Securities Act.

Respondent is ordered to pay a fine of \$175,000 to the Utah Division of Securities. For a period of 30 days following the date of entry of this Default Order, the fine shall be offset on a dollar-for-dollar basis for any restitution paid to investors as restitution in connection with

Respondent's parallel criminal proceeding (Case no. 151902943, Third District Court, Salt Lake County, Utah). In the criminal action, Respondent was ordered to pay restitution in the amount of \$140,000 plus interest.

Respondent is barred permanently from associating with any broker-dealer or investment adviser in Utah, from acting as an agent for any issuer raising monies in Utah, and from being licensed in any capacity in the securities industry in Utah.

All further proceedings in this case are dismissed. This dismissal does not relieve Respondent from her obligation to comply with the terms of the Default Order.

This order shall be effective on the signature date below.

DATED this 22nd day of March, 2017

UTAH SECURITIES COMMISSION:

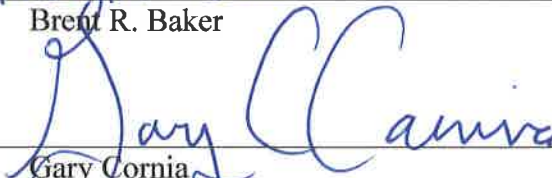
Lyle White



Erik A. Christiansen



Brent R. Baker



Gary Cornia



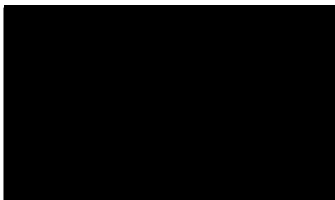
Brent A. Cochran

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

Agency review of this order may be obtained by filing a request for agency review with the Executive Director of the Department of Commerce, 160 East 300 South, Box 146701, Salt Lake City, Utah 84114-6701, within thirty (30) days after the date of this order. A motion to set aside the order may also be filed with the presiding officer. The agency action in this case was a formal proceeding. The laws and rules governing agency review of this proceeding are found in Section 63G-4-101 et seq. of the Utah Code, and Rule 151-4 of the Utah Administrative Code.

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of March, 2017 the undersigned served a true and correct copy of the foregoing DEFAULT ORDER by mailing a copy through first-class mail, postage prepaid, to:



and caused a copy to be hand delivered to:

Jennifer Korb, Assistant Attorney General
Office of the Attorney General of Utah
Fifth Floor, Heber M. Wells Building
Salt Lake City, Utah

Utah Division of Securities
Second Floor, Heber M. Wells Building
Salt Lake City, Utah



LeeAnn Clark
Administrative Secretary