

**Utah Division of Securities Commission
Meeting Minutes
March 23, 2017**

Division of Securities Staff Present

Keith Woodwell, Division Director
LeeAnn Clark, Commission Secretary
Kenneth Barton, Compliance Director (Excused)
Dave Hermansen, Enforcement Director
Benjamin Johnson, Licensing & Registration Director
Chip Lyons, Securities Analyst
Andreo Micic, Securities Analyst
Dee Johnson, Investor Education Director
Karen McMullin, Investor Education Coordinator (Excused)
John Bickmore, Enforcement Investigator
Francswai Davis, Securities Examiner
Jason Sterzer, Securities Examiner
Bryan Cowley, Securities Examiner
Russ Bulloch, Securities Examiner
Nathan Summers, Securities Examiner

Other State of Utah Employees

Tom Melton, Assistant Attorney General
Jennifer Korb, Assistant Attorney General
Wayne Jones, Assistant Attorney General
Elizabeth Harris, Assistant Attorney General
Kevin McLean, Assistant Attorney General
Bruce Dibb, Department of Commerce Administrative Law Judge

Commissioners Present

Erik Christiansen, Parsons Behle & Latimer
Brent A. Cochran, Crewe Advisors
Gary Cornia, Brigham Young University
Brent Baker, Clyde, Snow & Sessions
Lyle White, Fidelity Investments (Excused)

Public Present:

Jeff Brimhall, Financial Planning Association
Jerry Garrett, Financial Planning Association
Josh Wagstaff, Student Utah Valley University
Christy Tribe, Junior Achievement of Utah
Kresten Snow, Reneer and Associates
Theral Ledward

Minutes: At 1:00pm the meeting was called to order by Commissioner **Erik Christiansen**. Commissioner **Gary Cornia** made the motion to approve the minutes

from the January 26, 2017 Commission meeting and Commissioner **Brent Baker** seconded the motion and the motion was approved unanimously.

Director's Report: Director Woodwell provided the Securities Commission an update on recent events in the Division of Securities, including an update on the 2017 Legislative Session.

- **HB0106 – Utah Uniform Securities Act Amendments Update:** This bill specifically dealt with the section of the Division's Code, 61-1-22 and how interest is calculated in a private right of action suit. Director Woodwell stated that this was not a substantive change; only required a technical fix. The Bill passed unanimously through the House and Senate.
- **HB0171 – Securities Exemptions Amendments:** This bill specifically dealt with crowdfunding. The original draft was a specialized real estate crowdfunding exemption. Director Woodwell said he met with Representative Green and expressed concerns. The dialog outcome initiated a substitute bill to include a more broad-based crowdfunding exemption. The Bill passed the House; however, it did not pass the Senate.

Director Woodwell reported that minor changes to the State of Utah Money Management Act were discussed at the 2017 Legislative Session. These minor changes included changing the standards for Certified Broker Dealers who work with public treasurers. These changes were not included in the final legislation but may be discussed during the 2018 Legislative Session.

Enforcement Section Report: Dave Hermansen provided the Securities Commission an update on the Enforcement Section. Mr. Hermansen reported that the Section currently has an Enforcement Investigator position available; received 42 applications for review. The Section is investigating 33 cases. Of the 33 cases, five are ready to be screened for administrative action and 26 are being prosecuted criminally. The Section has four outstanding OSCs, seven OSCs in the drafting stage, and nine OSCs that have been stayed pending criminal action. Mr. Hermansen provided an update on the successful conclusion of the Dee Allen Randall criminal case. Mr. Chip Lyons was instrumental in advancing this case forward. Mr. Lyons was commended for a job well done.

Compliance Section Report: Chip Lyons provided the Securities Commission an update on the Compliance Section. Audit Statistics YTD 2017- The Compliance Section has initiated six audits. Five audits were for-cause audits triggered by investor complaints or regulatory agency referrals; one routine audit was opened. Audits were opened for both investment advisor firms and broker-dealer branch offices. The Section has four administrative actions in progress; one action is scheduled for an administrative hearing on April 27th and 28th; in two actions an Order to Show Cause or Petition to Censure and Fine has been filed with the respondents; one administrative action involving a Dee Randall agent, Dean Hamilton, has been stayed since January 2013 pending criminal charges, which are now resolved. On March 7, 2017 the Division filed a motion to lift the stay and the Division is now in settlement negotiations with Hamilton.

The Compliance Section has referred three cases to the Utah Attorney General's office for criminal prosecution.

1. Dean Hamilton an agent in the Dee Randall case as part of a negotiated settlement plead guilty to one count of attempted securities fraud a Class A Misdemeanor. On January 30, 2017 Hamilton was ordered to pay \$382,000 in restitution and sentenced to 250 days in jail with work release.
2. The securities fraud case involving George Marshall and Michael Aitken, is ongoing. Each defendant is charged with two counts of securities fraud, one count of unlicensed activity and one count of the sale of unregistered securities.
3. The Scott Stewart securities fraud trial is still delayed pending an appeal to the Utah Supreme Court related to the use of time barred dismissed count witnesses providing testimony relating to the State's Pattern of Unlawful Activity Count against Stewart.

Registration and Licensing: Benjamin Johnson provided the Securities Commission an update on the Registration and Licensing Section. Mr. Johnson reported –year-to-date Section statistics including Notice Filings for the new Tier 2 Reg A Offerings received. During the time period of July 2016 to February 2017, the Division has received 34 Reg A Filings and 80 Coordinated Registrations. The Division has received only 17 Rule 506(c) Filings this fiscal year as compared to over 600 Rule 506(b) filings. The Notice Filings/Tier 3 Crowdfunding fees have been approved. This scheduled filing fee will begin July 1, 2017. Mr. Johnson said that the SEC's Rule 505 Exemption has been repealed. There is a companion state rule called the Uniform Limited Offering designed to replace the Rule 505 Exemption. A version of this Rule will be presented at the next business meeting.

Investor Education Report:

In February, the Division presented Investor Protection seminars to three groups totaling approximately 125 seniors. The partnering organizations included the Osher Institute at the University of Utah, the IHC Living Well program in St. George and the Staying Put Community Group in Kayenta/Ivins. In March, Director Woodwell participated on a panel for the SIFMA Legal and Compliance Society and Karen McMullin spoke to School Office Professionals at the UAEOP Annual Conference. Our "Senior Safe" material is being distributed today at a large Senior Fair involving approximately 19 senior centers in Salt Lake County. The total audience outreach estimate to date, since last Commission Meeting, is 330.

1. **Stock Market Game Update:** The Stock Market Game Spring 2017 Student Session has 1,040 teams playing under the registration of 88 teachers. Bryan Cowley and Heidie George extended extra help to teachers new to the game by visiting their classrooms. The Spring Student session ends on April 21 with the awards banquet scheduled for May 12.
2. **Website Changes:** The Investor Education portion of the website has been updated and includes a new component called "Investor University". It contains the newly revised 12 FINRA education modules with titles such as "Key Investment Concepts", "Retirement Savings Vehicles", "Managing Investment Risk" and "Safeguarding Your Investments". The "Whistle Blower" referral form is now available through a link on our homepage. A webpage has also been created to explain more about the Whistleblower referral process.

3. **URS Partnership:** The first of the 19 URS member seminars for 2017 will be held next week. The Division has been working with URS to coordinate our seminar presentation and has received individual member referrals from URS advisors with whom we have been able to meet and provide more individualized education.

Grant Request for Junior Achievement of Utah Christy Tribe addressed the Commission and reviewed how previous grants to the Junior Achievement of Utah have been used and how the current funds requested will be spent. Director Woodwell responded to questions and indicated support for the request. The Commission approved the grant for \$5,000.

Commissioner **Erik Christiansen** called for a motion to approve. Commissioner **Brent Baker** made the motion to approve the Junior Achievement of Utah Grant and Commissioner **Gary Cornia** seconded the motion and the motion was approved unanimously.

Grant Request for Utah Financial Planners Jerry Garrett addressed the Commission and reviewed how previous grants to the Utah Financial Planners have been used and how the current funds requested will be spent. Director Woodwell responded to questions and indicated support for the request. The Commission approved the grant for \$5,000.

Commissioner **Erik Christiansen** called for a motion to approve. Commissioner **Gary Cornia** made the motion to approve the Utah Financial Planners Association Grant and Commissioner **Brent Cochran** seconded the motion and the motion was approved unanimously.

Education and Training Fund Report:

Following the presentation of the Education and Training fund accounting by Benjamin Johnson, Commissioner **Erik Christiansen** called for a motion to approve. Commissioner **Brent Baker** made the motion to approve the funding request, in the amount of \$22,588.94. Commissioner **Gary Cornia** seconded the motion and the motion was approved unanimously.

Consideration and Approval of Proposed Orders

Tonia Schnae Brown, SD-15-0035; Order on Motion for Default

Jennifer Korb reported that on or about October 29, 2014, the Division filed a Notice of Agency Action and Order to Show Cause against Respondent. On August 13, 2015 Respondent filed a response to the Division's Order to Show Cause which was a general denial of all allegations. The administrative action was stayed pending adjudication of the parallel criminal proceedings. On December 12, 2016, after the conclusion of the criminal matter, the stay was lifted and a prehearing conference was set for January 12, 2017. Notice of the Order was mailed to the Respondent at the prison and the Division contacted Respondent's attorney in Georgia. Neither Respondent nor her counsel appeared at the January 12 hearing. Respondent and counsel were notified that they had until January 26, 2017 to file an amended response to the Order to Show Cause, but failed to do so. Under the terms of the Default Order, all allegations outlined in the Division's Order to Show Cause are deemed to be true.

Respondent ordered to pay a fine of \$175,000 to the Division, with \$35,000 of the fine due and payable upon receipt of the final Order. The remaining \$140,000 subject of offset on a dollar-for-dollar basis for a period of 30 days following date of this Order for restitution. The Order also includes a cease and desist order and a permanent securities bar against Respondent.

Commissioner **Erik Christiansen** called for a motion to approve. Commissioner **Gary Cornia** made the motion to approve the proposed Default Order. Commissioner **Brent Baker** seconded the motion and the motion was approved unanimously.

Future Meeting Schedule:

- April 27 & 28, 2017, room 403, starting at 9am
- May 25, 2017, room 403, starting at 9am
- August 3, 2017, room 403, starting at 9am
- September 28, 2017, room 403, starting at 9am
- December 7, 2017, room 403, starting at 9am

Commissioner **Erik Christiansen** called for a motion to adjourn the March 23, 2017 Division of Securities Commission Meeting. Commissioner **Gary Cornia** made a motion adjourn the Commission meeting and Commissioner **Lyle White** seconded the motion and the motion was approved unanimously. Meeting adjourned at 11:10 am.

Approved:  _____
Erik Christiansen, Chairman

Date: 5/25/17