

PARTIES PRESENT

DIVISION OF SECURITIES

Tom Brady	Division Director
Sabrina Afridi	Administrative Assistant
Ken Barton	Manager of Compliance
Dave Hermansen	Manager of Enforcement
Bryan Cowley	Manager of Registration and Licensing
Dee Johnson	Manager of Investor Education
Karen McMullin	Coordinator for Investor Education
Chip Lyons	Securities Analyst
Francswai Grayson	Securities Analyst
Andrew Stagg	Securities Examiner
Curt Trickett	Securities Examiner
Haris Rozajac	Investigator
Liz Blaylock	Investigator
Sean Fuller	Investigator

SECURITIES COMMISSION

Gary Cornia	Chair
Brent A. Cochran	Commissioner
Lyle White	Commissioner
Lyndon Ricks	Commissioner
Peggy Hunt	Commissioner

ASSISTANT ATTORNEY GENERALS

Tom Melton	Counsel for Division
Jen Korb	Counsel for Division
Paula Faerber	Counsel for Division

DEPARTMENT OF COMMERCE

Bruce Dibb	Administrative Law Judge
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PUBLIC

Rod Decker	
Stephen Mouritsen	Attorney, represented ProLung, Inc

UTAH DIVISION OF SECURITIES | COMMISSION MEETING | **APPROVED MINUTES**
JANUARY 9, 2020 | ROOM 451 | 9:03AM-10:10AM

WELCOME AND CALL TO ORDER

9:03AM

Meeting commenced.

Chair Gary Cornia

APPROVAL OF MINUTES

NOVEMBER 7, 2019

Commissioner Brent Cochran made a motion to approve the Minutes and Commissioner and Peggy Hunt seconded the motion.

✓ The motion was approved unanimously.

DIRECTOR'S REPORT

TOM BRADY

Complaints Increasing

Director Tom Brady began his report by explaining over the past year and a half the Division remains focused on optimizing Enforcement processes to address the significant caseload. Director Brady emphasized the Division's ongoing support to as many victims as possible is priority.

Personnel

Director Tom Brady then announced all of the Division's new hires.

- Beginning with, Curt Trickett who recently joined the Division as a Securities Examiner, within the Compliance section. Mr. Trickett was a cross-country athlete at Weber State University before he graduated from University of Utah's Law school.
- Andrew Stagg, who is a newly hired Securities Examiner within the Registration and Licensing Section. Mr. Stagg completed his undergrad at Utah State University and later graduated from law school at UNLV.
- Haris Rozajac, was hired as a Securities Investigator within the Enforcement Section. Mr. Rozajac originally began with the Division as an exceptional intern. Currently, Mr. Rozajac is attending Brigham Young University (BYU) and will be graduating in April 2020 with his Masters of Public Administration (MPA).
- Lastly, the Division hired Corallee Alexander as an Intern. Ms. Alexander currently an MPA student with BYU, as well. Prior to her Graduate program, Ms. Alexander was a softball athlete with BYU-Hawaii.

Legislation

Mr. Brady concluded the report with following-up on an ongoing Legislation item. The Director explained how the Division continues to work with Representative Mike McKell and Senator Dan Hemmert to run a bill on the basis of updating and clarifying provisions within the *Utah Securities Act*. Given the recent inquiries the Director has received, he anticipates blockchain technology and regulatory sandbox are practices that the Division will be engaging in.

SECTION REPORTS

9:36AM

COMPLIANCE

KEN BARTON

2019 YTD Exam Statistics

Ken Barton began the Compliance report by explaining exams are related to securities licensed entities as well as agents.

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- 40 compliance examinations, 22 of which were for-cause and opened as a result of investor complaint or Regulatory Agency Referral. Thus, for-cause exams year-to-date is 55%.
- 18 routine exams.
- 35 new Investment Advisor licensing approval exams
- Mr. Barton finished 2019 exam statistics by explaining how the section finished 4 percentage points above average on complaint driven exams and lastly, the overall exams initiated by the Section was 61.

Administrative Action updates

Mr. Barton concluded his report by explaining there are 2 Administrative Actions the Compliance section is currently working on.

ENFORCEMENT

DAVE HERMANSEN

Complaints

Mr. Hermansen began the Enforcement section report by explaining the case load involving complaints as follows:

- 53 are under investigation
- 41 cases in the queue pending investigation

Administrative Actions

Dave then discussed the status of Administrative Actions as follows:

- 53 are under investigation
- 15 outstanding and 6 of which are stayed pending the outcome due to criminal actions.
- 7 cases in the queue to be drafted
- 3 outstanding Civil Filings

Criminal Actions

Mr. Hermansen concluded the Enforcement report by explaining the status of criminal actions as follows:

- 22 cases are currently in the process of being prosecuted and 7 of which are scheduled for trial between now and the end of May 2020.

INVESTOR EDUCATION

KAREN MCMULLIN

Recent Statistics

Karen McMullin began the Investor Education report by explaining the Division's participation in 5 events with an audience of (approximately) 2,800.

Year-to-Date Events

Ms. McMullin then explained the Division's year-to-date participation as follows:

- 56 events with an estimated audience of 7,122 – 39 (events) of which involved adults being 50+ years of age and primarily focused on training others to recognize financial exploitation.

Accomplishments

Ms. McMullin then began discussing how Investor Education successfully met 2 goals for 2019:

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1. Increase the Division's staff event contribution. Karen explained how this was accomplished—as 17 staff members, which included 5 interns, participated in Investor Education events by speaking or distributing educational material.
2. Partner with the Division of Consumer Protection. Karen discussed the success story of how the Division of Consumer Protection participated in all AARP events, in addition to the training events held for law enforcement. Furthermore, both the Divisions participated in 35 of the 40 PEHP Medicare seminars held during the Medicare open enrollment time period.

Educational Resources

Karen then transitioned into discussing a new brochure and the educational analysis that will shed light on elder financial exploitation.

- The redesigned brochure is titled, *Financial Exploitation Checklist*. The checklist includes 6 simple, self-evaluation questions regarding financial knowledge and retirement preparation. The interactive design appropriate for a wide variety of events, including seminars, expos and conferences.
- Karen described the analysis in depth by providing 3 points. First, adults at the age of 50+ years need increased financial education regarding their investments and retirement accounts. Secondly, adults in that same age bracket avoid material which include graphics of *very old* adults and/or use verbiage such as: *elder, aging or older*. Karen concluded the analysis with her third and final point, the same age group is making important decisions regarding their retirement assets and may profit from ongoing financial education both online and from a local non-profit agency such as the Division of Securities.

Upcoming Events

Karen concluded the Investor Education report by addressing the *current* 2020 events as follows:

- 2020 will mark the 7th year for a successful partnership with Utah Retirement Systems (URS). URS and the Division continue to share the investor protection message with public employees who are URS members. While URS maintains their partnership with the Division's educational seminars – 15 seminars will be held throughout the state.

REGISTRATION AND LICENSING

BRYAN COWLEY

Bryan Cowley began the Registration and Licensing report by providing a complete itemization of fees collected from agents and firms due to annual registrations. Mr. Cowley explained how the Division accounted for a sum of \$8,447,480 as follows:

- Broker Dealer Firms: 1,477 x \$200 firms brought in \$295,400
- Broker Dealer Registered Representatives: 129,003 x \$60 brought in \$7,740,180
- Investment Adviser Firms: 1,431 x \$100 brought in \$131,000
- Investment Adviser Representatives: 5,616 x \$50 brought in \$280,800

Mr. Cowley concluded the Registration and Licensing report by emphasizing that are 1,196 Federal Covered Firms and 230 State Covered Firms (\$11,500). Thus, majority of the fees collected are from out of state firms, agents and representatives.

	In State	Out of State
Broker-Dealers	1.5%	98.0%
Broker-Dealer Agents	5.0%	95.0%
Investment Adviser Firms	80%	20.0%
Federal Covered Advisers Firms	7.5%	92.5%
IA Representatives	65.0%	35.0%

EDUCATION AND TRAINING FUND REPORT

BRYAN COWLEY

Commissioner Brent Cochran made a motion to approve the report and Commissioner Lyle White seconded the motion.

✓ The Commission approved the Education and Training Fund (i.e. budget) unanimously.

CONSIDERATION AND APPROVAL OF PROPOSED ORDERS

9:37AM

In the matter of: Lignell, Keith | SD-17-0036

Stipulation and Consent Order | Presenter: Francswai Grayson

Mr. Lignell agreed to the Proposed Order and Under this Order, Mr. Lignell neither admits nor denies the Division's Findings of Facts and Conclusions of Law. Mr. Lignell agrees to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in this state. Mr. Lignell agrees to be barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent of any issuer soliciting investor funds in Utah. Ordered in the Criminal Action, Mr. Lignell agrees to pay restitution in the amount of \$19,000 (plus interest) to investor B.C. and \$12,500 to investor E.C. Under this Order, Mr. Lignell agrees to pay the following: \$7,500 to the Division (terms are set forth in ¶ 65) and restitution in the amount of \$10,000 to investor J.M. (terms are set forth in ¶ 64).

Commissioner, Brent Cochran made a motion to approve the Order and Commissioner, Peggy Hunt seconded the motion.

✓ The Commission approved the Order unanimously.

In the matter of: Mojo Fitness, LLC & Herrick, Jeffrey R. | SD-17-0037 & SD-17-0038

Stipulation and Consent Order | Presenter: Francswai Grayson

Respondents, Mojo Fitness, LLC & Jeffrey R. Herrick agreed to the Proposed Order and under this Order, Respondents neither admit nor deny the Division's Findings of Facts and Conclusions of Law. Respondents agree to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in this state. Respondents agrees to be barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent of any issuer soliciting investor funds in Utah. Order in the Criminal Action, Respondents agree to pay restitution in the amount of \$57,216.13. Under this Order, Respondents agree to pay \$25,000 to The Division (terms are set forth in ¶ 54).

Commissioner, Brent Cochran made a motion to approve the Order and Commissioner, Peggy Hunt seconded the motion.

✓ The Commission approved the Order unanimously.

In the matter of: Reincke, Richard Clayton | SD-18-0024

Stipulation and Consent Order | Presenter: Francswai Grayson

Mr. Reincke agreed to this Proposed Order which had been signed by his attorney, Nathan Crane. Under this Order, Mr. Reincke neither admits nor denies the Division's Findings of Facts and Conclusions of Law. Mr. Reincke agree to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in this state. Mr. Reincke agrees to be barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent of any issuer soliciting investor funds in Utah. Under this Order, Mr. Reincke agrees to pay \$13,000 to The Division (terms are set forth in ¶ 47).

Commissioner, Brent Cochran made a motion to approve the Order and Commissioner, Lyle White seconded the motion.

✓ The Commission approved the Order unanimously.

In the matter of: Johnson, Lars David | SD-18-0026

Stipulation and Consent Order | Presenter: Francswai Grayson

Mr. Johnson agreed to this Proposed Order which had been signed by his attorney, Eric Benson. Under this Order, Mr. Johnson neither admits nor denies the Division's Findings of Facts and Conclusions of Law. Mr. Johnson agree to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in this state. Mr. Johnson agrees to be barred from associating with any broker-dealer or investment adviser licensed in Utah, and from acting as an agent of any issuer soliciting investor funds in Utah. Under this Order, Mr. Johnson agrees to pay \$7,500 to the Division (terms are set forth in ¶ 84).

Commissioner, Peggy Hunt made a motion to approve the Order and Commissioner, Brent Cochran seconded the motion.

✓ The Commission approved the Order unanimously.

In the matter of: ProLung, Inc | SD-19-0014

Stipulation and Consent Order | Presenter: Francswai Grayson

Respondent, ProLung, Inc. agreed to this Proposed Order which had been signed by their counsel, Chad S. Pehrson. Under this Order, the Respondent neither admits nor denies the Division's Findings of Facts and Conclusions of Law. ProLung agrees to cease and desist from violating the Act and to comply with the requirements of the Act in all future business in this state. ProLung agrees to disclose the contents of this Order to investors and prospective investors in all future capital raising efforts and disclosure documents of ProLung, Inc. Under this Order, ProLung agrees to pay the Division a fine of \$55,000 (terms are set forth in ¶ 31).

Commissioner, Brent Cochran made a motion to approve the Order and Commissioner, Peggy Hunt seconded the motion.

✓ The Commission approved the Order unanimously.

In the matter of: Arenal Energy Corporation | SD-18-0023

Default Order | Presenter: Paula Faerber

Under this Order, the Respondents are ordered to cease and desist from engaging in any further conduct in violation Act and comply with the requirements of the Act in all future business in the state of Utah; to be permanently barred from associating with any broker-dealer or investment adviser licensed in Utah. Respondents are ordered to pay the Division a fine of \$25,000 within 10 business days following this Order.

Commissioner, Peggy Hunt made a motion to approve the Order and Commissioner, Lyndon Ricks seconded the motion.

✓ The Commission approved the Order unanimously.

MOTION TO ADJOURN

10:10AM

Chair, Gary Cornia called for a motion to adjourn the meeting. The next scheduled Securities Commission Meeting/Hearing is March 19, 2020.

APPROVED

APPROVED: _____

GARY CORNIA, CHAIR

3-29-2020

DATE

APPROVED