



STATE OF UTAH

DEPARTMENT OF COMMERCE | DIVISION OF SECURITIES

SECURITIES COMMISSION | ELECTRONIC MEETING

PENDING MEETING MINUTES | OCTOBER 14 | 9:00 AM - 10:00 AM

PARTIES

SECURITIES COMMISSION

Gary Cornia

Brent A. Cochran

Lyle White

Lyndon Ricks

Peggy Hunt

Chair

Commissioner

Commissioner

Commissioner

Commissioner

DIVISION OF SECURITIES

Jason E. Sterzer

Zoe Gomez

Ken Barton

Dave Hermansen

Bryan Cowley

Karen McMullin

Francswai Grayson

Division Director

Administrative Assistant

Manager of Compliance

Manager of Enforcement

Manager of Licensing and Registration

Investor Education Coordinator

Securities Analyst

ASSISTANT ATTORNEY GENERALS

Jen Korb

Stephen Gilles

Robert Wing

Counsel for Division

Counsel for Division

Counsel for Division

DEPARTMENT OF COMMERCE

Bruce Dibb

Administrative Law Judge



STATE OF UTAH

DEPARTMENT OF COMMERCE | DIVISION OF SECURITIES SECURITIES COMMISSION | ELECTRONIC MEETING PENDING MEETING MINUTES | OCTOBER 14 | 9:00 AM - 10:00 AM

WELCOME AND CALL TO ORDER

9:03 AM

Chairman Cornia commenced the Securities Commission meeting.

1. APPROVAL OF AUG 5, 2021 MINUTES

Commissioner Ricks made a motion to approve the Minutes and Commissioner Cochran seconded the motion.

✓ The motion was approved unanimously.

DIRECTOR'S REPORT | JASON E. STERZER

9:04 AM

Director Jason Sterzer began the Director's report with personnel updates as follows:

- ← The Division hired Zoe Gomez as the Division's Administrative Assistant and Clerk for the Securities Commission. Prior to joining the Division Zoe worked as the Judicial Assistant for Judges Kouris and McKelvie in the Third District Court. Zoe graduated from Weber State University with a degree in Criminal Justice.
- ← The Division hired Amanda Paddock as an Office Specialist. She previously worked as an office manager, an administrative assistant and a paralegal. Amanda has an associate's degree in paralegal studies.
- ← The Division hired Ethan Fey as a Securities Enforcement Investigator. Ethan graduated from Brigham Young University with a degree in Political Science and Business. Ethan served for 13 years in the United States Army, 8.5 years of that service on active duty. During his service in the military he was selected for assignment with the U.S. Army Rangers and he was deployed twice to Afghanistan. He is a badged and credentialed counterintelligence special agent and conducted investigations for the Army.
- ← Mr. Sterzer announced that the new commissioner Mark Zimbleman was appointed by Governor Cox to serve on the Securities Commission and his Senate confirmation hearing has been scheduled for October 19, 2021 in the Senate Business and Labor Committee meeting.
- ← Mr. Sterzer concluded his report by providing time for Jennifer Korb to introduce Assistant Attorney General Steven Gillies who will also be representing the Securities Division moving forward.

SECTION REPORTS

9:07 AM

Licensing and Registration | Bryan Cowley

- ← Mr. Cowley explained changes to the fee structure related to Regulation D, Rules 506 (b) and (c), often referred to as private offering exemptions. These Safe Harbor exemptions permit issuers to sell securities and to lawfully raise capital without meaningful oversight due to federal preemption of state regulation. Mr. Cowley explained that in Utah the new notice filing fee is variable and ranges from \$0 if the offering is under \$500,000 and \$100 for \$500,001 and above.
- ← Mr. Cowley concluded his report mentioning that Utah had 1,653 Private Placements in 2020 and during the fiscal year 2020-2021 the Division had 2,192 with approximately \$300,000 in fees.



STATE OF UTAH

DEPARTMENT OF COMMERCE | DIVISION OF SECURITIES

SECURITIES COMMISSION | ELECTRONIC MEETING

PENDING MEETING MINUTES | OCTOBER 14 | 9:00 AM - 10:00 AM

Compliance | Ken Barton

Mr. Barton reported the following:

- ← The Compliance Section has opened thirty-one examinations and closed thirty-four exams. Of the 31 exams open 14 were “cause exams” initiated by an investor complaint or regulatory referral, 10 were routine exams, and 7 were investment adviser licensing application examinations. Of the 34 examinations closed during the period 25 were closed by exit or deficiency letter, 8 were closed by referral for agency action.
- ← Compliance Securities Examiner Tyler Hardman resigned in September 2021. The Compliance Section will be recruiting to fill the open position.

Enforcement | Dave Hermansen

Mr. Hermansen reported the following:

- ← There are 43 cases currently under investigation. 28 criminal cases that are being prosecuted by the Utah Attorney General’s office, U.S. Attorney’s office, Salt Lake County, Utah County, Davis County and Cache County. Mr. Hermansen mentioned that due to COVID-19 the courts are backed up and trials have been delayed. There are currently 3 civil cases pending.
- ← Mr. Hermansen completed his report by highlighting a recent training that the Enforcement Section attended regarding Cryptocurrency investigations.

Investor Education | Karen McMullin

Mrs. McMullin reported the following:

- ← Division employees attended the WeROC event for entrepreneurs, sponsored by Venture Capital, held at the Grand America Hotel. Through the Division’s grant, the Division had an ad in the conference book and the Division’s new logo was included in the conference center stage highlights.
- ← Bryan Cowley spoke at the annual “Utah Financial Planning Association Symposium” about different types of investment fraud. Approximately 90 people attended in person and online.
- ← At the “Women in the Money” conference last Friday, the Division hosted an in person and virtual booth. Jason Sterzer spoke during an afternoon breakout session at which approximately 117 people attended in person and virtually.
- ← The Division is contributing to the new Department of Commerce blog. The latest post on Oct. 12 is titled, “What is a Security” and helps the public understand the definition of a security according to Utah law. The blog can be accessed at commerce.utah.gov.
- ← Mrs. McMullin concluded her report mentioning that the Division’s new website is live after six weeks of collaboration with the Department of Commerce Administration and Department of Technology Services.



STATE OF UTAH

DEPARTMENT OF COMMERCE | DIVISION OF SECURITIES

SECURITIES COMMISSION | ELECTRONIC MEETING

PENDING MEETING MINUTES | OCTOBER 14 | 9:00 AM - 10:00 AM

2. EDUCATION FUND EXPENDITURE REQUEST

9:32 AM

Aaron Burgoyne

Mr. Burgoyne presented the Education Fund Expenditure Request for approval. The presentation noted previous grant requests, resources expended as well as a request for the Commission to approve the budget.

Commissioner Cochran made a motion to approve the request and Commissioner Ricks seconded the motion.

✓ The Commission unanimously approved the Education Fund Expenditure Request.

CONSIDERATION AND APPROVAL OF PROPOSED ORDER(S)

9:40 AM

3. In the matter of: Joel Ellowitz SD-19-0028

Stipulation and Consent Order Presented by Francswai Grayson

Mr. Ellowitz agreed to the Proposed Order and under this order, Mr. Ellowitz admits the Division's Findings of Fact and Conclusions of Law. Mr. Ellowitz agrees to cease and desist from violating the Utah Uniform Securities Act. Mr. Ellowitz agrees to be barred from the securities industry in the state of Utah. Mr. Ellowitz agrees to pay a fine of \$15,000 to the Division, \$6,000 of which will be paid to the Division within 30 days of the entry of the order. If Ellowitz timely pays restitution of \$19,000 within 36-months, as ordered in the criminal case, the Division will waive \$7,500 of the remaining fine. The remaining fine of \$1,500 will be due to the Division 30 days after 36 months.

Commissioner Cochran made a motion to approve the Stipulation and Consent Order and Commissioner Hunt seconded the motion.

✓ The Commission unanimously approved the Stipulation and Consent Order.

4. In the matter of Patriots Energy Group, Inc. SD-21-0007 and Mark Wayne Wheeler SD-21-0008

Stipulation and Consent Order Presented by Francswai Grayson

Patriots Energy Group and Mr. Wheeler agreed to the Proposed Order and under this order, Mr. Wheeler neither admits nor denies the Division's Findings of Fact and Conclusions of Law. Mr. Wheeler agrees to cease and desist from violating the Utah Uniform Securities Act. Mr. Wheeler agrees to be barred from the securities industry in the state of Utah. Mr. Wheeler and Patriots Energy Group agree to pay a fine of \$100,000 (jointly and severally) to the Division, \$25,000 of which will be paid to the Division within 45 days of the entry of the order. Mr. Wheeler and Patriots Energy Group will pay \$18,000 in consecutive \$1,500 quarterly payments for three years. If Wheeler and PEG make timely payments for the three-year period, the Division will waive \$17,000 of the remaining fine amount. The remaining fine of \$40,000 will be due to the Division within 30 days of the final quarterly payment. The Division will distribute the fines collected to investors who cooperated during the Division's investigation. Mr. Wheeler also agrees to cooperate in any further investigation related to this action.



STATE OF UTAH

**DEPARTMENT OF COMMERCE | DIVISION OF SECURITIES
SECURITIES COMMISSION | ELECTRONIC MEETING
PENDING MEETING MINUTES | OCTOBER 14 | 9:00 AM - 10:00 AM**

Commissioner Ricks made a motion to approve the Stipulation and Consent Order and Commissioner Cochran seconded the motion.

✓ The Commission unanimously approved the Stipulation and Consent Order.

5. In the matter of Elida Maria Abreu SD-21-0005

Order of Default Judgement Presented by Jennifer Korb

The Order of Default Judgement was entered and signed by the Commission. In the order, Ms. Abreu was ordered to cease and desist from violations of the Utah Uniform Securities Act. Ms. Abreu was ordered to pay \$50,600 in restitution to investors within five (5) days of the entry of the final order. Ms. Abreu was ordered to pay a fine of \$20,000 to the Division within five (5) days of the entry of the final order. Ms. Abreu was barred from the securities industry in the state of Utah.

MEETING ADJOURNED

9:52 AM

The next scheduled Securities Commission meeting is January 13, 2022.

APPROVED:

CHAIR

DATE