

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
Box 146760  
Salt Lake City, UT 84145-6760  
Telephone: (801) 530-6600

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

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**IN THE MATTER OF:**

**W.M.W. MANAGEMENT, INC.;  
MACK ASSOCIATES L.L.C.;  
MACK PARTNERS LTD;  
WILLIAM MACK WATKINS; AND  
CHRISTOPHER MACK WATKINS**

**Respondents.**

**AMENDED PETITION FOR ORDER  
OF CENSURE AND FINE**

**Docket no. SD-00-0037**

**Docket no. SD-00-0038**

**Docket no. SD-00-0039**

**Docket no. SD-00-0047**

**Docket no. SD-00-0048**

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The Utah Division of Securities (“Division”) submits the following Amended Petition for Order of Censure and Fine amending the petition dated June 21, 2000 in the matter of W.M.W. Management, Inc., Mack Associates, L.L.C., and Mack Partners.

Pursuant to the authority of § 61-1-6 of the Utah Uniform Securities Act (“Act”), the Utah Division of Securities, (“Division”), hereby petitions the Director of the Division, (“Director”) to enter an Order, subject to the approval of a majority of the Securities Advisory Board, to censure WMW Management, Inc., Mack Associates L.L.C., Mack Partners Ltd., William Mack Watkins and Christopher Mack Watkins, (collectively “Respondents”) and to

assess fines against Respondents, jointly and severally, of up to \$10,000. In furtherance of this petition, the Division alleges:

**STATEMENT OF FACTS**

1. WMW Management, Inc. (“WMW”), is an Investment Adviser licensed with the Division since December 4, 1990. WMW maintains an office at 10 East South Temple, Suite 1000, Salt Lake City, UT 84133.
2. Mack Partners Ltd. (“Mack Partners”) is a Utah Limited Partnership registered with the Utah Division of Corporations since February 16, 1993. Mack Partners maintains an office at 10 East South Temple, Suite 1000, Salt Lake City, UT 84133.
3. Mack Associates L.L.C. (“Mack Associates”) is the General Partner of Mack Partners that manages the investment pool, and is compensated based upon the performance of that pool.
4. William Mack Watkins (CRD# 459940) was the designated official of WMW from December 4, 1990 until January 11, 1999 and has been a manager of Mack Associates since February 16, 1993.
5. On or about July 1, 1998 William Mack Watkins left the United States for volunteer work in the Czech Republic.
6. Christopher Mack Watkins (CRD# 2376887) is the designated official of WMW and is the manager of Mack Associates while William Mack Watkins is out of the country.
7. On February 8 and 9, 2000, the Division conducted a routine audit at the office of WMW.

8. The audit revealed that there were a number of clients of WMW who had invested in a product called Mack Partners from February 16, 1993 to present.
9. Mack Partners was established for individuals to pool money and invest in securities. Mack Partners maintains a brokerage account with Dain Rauscher. Trades on the partnership account were entered by William Mack Watkins or Christopher Mack Watkins, who have trading authority over the Mack Partners account.
10. Mack Associates was compensated for this investment advice and portfolio management based upon the performance of the portfolio of securities.
11. The audit also revealed that the officers of WMW and/or managers of Mack Associates were selling securities in Mack Partners without being licensed by the Division as issuer agents.

#### **GROUND FOR RELIEF**

12. Jurisdiction is vested in the Director, pursuant to § 61-1-18 of the Act.
13. Section 61-1-7 of the Act states:  
  
**It is unlawful for any person to offer or sell any security in this state unless it is registered under this chapter, the security or transaction is exempted under Section 61-1-14, or the security is a federal covered security for which a notice filing has been made pursuant to the provisions of Section 61-1-15.5**
14. The securities of Mack Partners that were being offered for sale were not registered as required by § 61-1-7 of the Utah Uniform Securities.
15. Respondents were consequently in violation of § 61-1-7 of the Act.
16. Section 61-1-3 of the Act states:

**(1) It is unlawful for any person to transact business in this state as a broker-dealer or agent unless the person is licensed under this chapter.**

...

**(3) It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:**

**(a) the person is licensed under this chapter; . . .**

17. Pursuant to § 61-1-13 (2) of the Act:

**“Agent” means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. Agent does not include an individual who represents:**

**(a) an issuer, who receives no commission or other remuneration, directly or indirectly, for effecting or attempting to effect purchases or sales of securities in this state, and who:**

...

**(ii) effects transactions exempted by Subsection 61-1-14(2).**

18. The officers and directors of WMW or Mack Associates were not licensed as Issuer Agents.

19. Respondents were therefore in violation of § 61-1-3 (1) of the Act.

20. Mack Associates acted in the capacity of an Investment Advisor as defined in § 61-1-13(15) by offering investment advice without proper license.

21. Respondents were therefore in violation of § 61-1-3 (3) of the Act.

22. Section 61-1-2 (2)(a) of the Act states:

**Except as may be permitted by rule of the division, it is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing that:**

**(1)the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client; . . . .**

23. The officers and directors of WMW or Mack Associates were receiving performance-based compensation in connection with their management and ownership in Mack Partners.
24. Respondents were therefore in violation of § 61-1-2(2)(1) of the Act.

**REQUEST FOR RELIEF**

Wherefore, the Division respectfully requests that the Director enter an Order, subject to the approval of the Securities Advisory Board, and pursuant to § 61-1-6 of the Act providing that:

1. Respondents be censured.
2. The officers of WMW or Mack Associates be required to register with the Division as issuer agents, and maintain such registration as long as legally required in connection with the offer and sale of interests in Mack Partners.
3. In conjunction with the sales of additional interests in Mack Partners, the officers and directors of WMW or Mack Associates will be required to:
  - a. File appropriate notice with the Division under Utah Administrative Code § R164-14-25s; and
  - b. Make sales only in compliance with Utah Administrative Code § R164-14-25s.
4. Mack Associates will apply for licensing as an Investment Advisor with the Utah Division of Securities as outlined in Utah Administrative Code § R164-4-2.

5. Respondents shall not allow any person to be admitted to Mack Partners as a limited partner, unless such person would qualify as a person with whom an investment advisor could enter into a performance-based compensation contract under Utah Administrative Code § R164-2-1.
6. WMW or Mack Associates shall create a written document to be delivered to potential investors in Mack Partners containing the disclosure required by Utah Administrative Code § R164-2-1 of the UAC, which will also serve as summary disclosure regarding the offering of interests in Mack Partners, and as a brochure to supplement Part 2 of the Form ADV, (“supplementary brochure”).
7. The supplementary brochure shall be included with WMW’s Form ADV and shall be delivered to all potential investors in Mack Partners prior to their making an investment in Mack Partners.
8. That Respondents pay to the Division a fine, jointly and severally, of up to \$10,000.

**DATED** this 29<sup>th</sup> day of June, 2000.

Utah Division of Securities



George Robison  
Chief of Licensing and Compliance

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
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**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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<p><b>IN THE MATTER OF</b></p> <p><b>W.M.W. Management, Inc.;</b> <b>Mack Associates L.L.C.;</b> <b>Mack Partners Ltd.;</b> <b>William Mack Watkins; and</b> <b>Christopher Mack Watkins</b></p> <p style="text-align: center;">Respondents.</p>	<p style="text-align: center;"><b>NOTICE OF AGENCY ACTION</b></p> <p>Docket no. <b>SD-00-0037</b> <b>SD-00-0038</b> <b>SD-00-0039</b> <b>SD-00-0047</b> <b>SD-00-0048</b></p>
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THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT:

The purpose of this Notice of Agency Action is to inform you that the Division hereby commences an formal adjudicative proceeding against you as of the date of mailing of the Amended Petition for Order of Censure and Fine. The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. § 63-46b-3 and Utah Code Ann. §§ 63-46B-6 through 11. The facts on which this action is based are set forth in the foregoing Amended Petition for Order of Censure and Fine.

Within thirty (30) days of the date of this notice, you are required to file a written response with the Division. The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Amended Petition for Order of Censure & Fine.

You must attend a hearing that will occur at **160 East 300 South, 4<sup>th</sup> Floor, Room 4B, Salt Lake City, Utah; at 9:00 a.m.; on August 9, 2000.**

If you fail to file a written response, as set forth herein, or fail to appear at the hearing, you will be held in default and an Order for Censure will be entered and a fine may be imposed

against you in accordance with Utah Code Ann. §63-46b-11.

The presiding officer in this case is S. Anthony Taggart, Director, Division of Securities, 160 East 300 South, Box 146760, Salt Lake City, Utah 84114-6760, telephone (801) 530-6600. The hearing, will be conducted by J. Steven Eklund, Administrative Law Judge, Utah Department of Commerce, 160 East 300 South, Box 146701, Salt Lake City, Utah 84114-6701, telephone (801) 530-6648. At such hearing, the Division will be represented by the Utah Attorney General's Office, Box 140872, 160 East 300 South, Salt Lake City, Utah, 84114, telephone (801) 366-0310. At the hearing, you may appear and be heard and present evidence on your behalf.

You may attempt to negotiate a settlement of the matter without proceeding to the hearing. Should you so desire, please contact the Utah Attorney General's Office. Questions regarding the Petition and Notice of Agency Action may be directed to Don Hansen, Assistant Attorney General, 160 East 300 South, Box 140872, Salt Lake City, Utah 84114-0872, telephone (801) 366-0310.

DATED this 30<sup>th</sup> day of June, 2000.



  
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S. Anthony Taggart  
Director, Division of Securities  
Utah Department of Commerce

CERTIFICATE OF SERVICE

I certify that on the 30 day of June, 2000. I hand delivered a true and correct copy of the Amended Petition for Order of Censure and Fine, and Notice of Agency Action to the following Respondents: W.M.W. Management, Inc. 10 E South Temple, Ste 1000, Salt Lake City, UT 84133, Mack Associates, L.L.C., 10 E South Temple, Ste 1000, Salt Lake City, UT 84133, Mack Partners LTD, 10 E South Temple, Ste 1000, Salt Lake City, UT 84133, William Mack Watkins, 10 E South Temple, Ste 1000, Salt Lake City, UT 84133 and Christopher Mack Watkins, 10 E South Temple, Ste 1000, Salt Lake City, UT 84133.

  
Secretary