Division of Securities
Utah Department of Commerce
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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF **JORDAN N. TENNEY; and** **COMMUNICOM DIRECT, INC.** **Respondents.**	**EMERGENCY ORDER TO CEASE AND DESIST and ORDER TO SHOW CAUSE** **Docket no.** SD-05-0074 **Docket no.** SD-05-0075

This matter comes before the Director of the Utah Division of Securities (the Division) on allegations of Division staff that Jordan N. Tenney and CommuniCom Direct, Inc., (collectively, Respondents) have engaged in acts and practices which violate the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, et seq. (the Act). Having been advised of relevant facts discovered in the course of the Division staff's investigation of this matter, the Director finds and concludes that Respondents' conduct presents an immediate and significant danger to the public welfare, and that the threat requires immediate action by the Division. The Director issues this Emergency Order in accordance with the provisions of Utah Code Ann. §63-46b-20. The Director further issues this Order to Show Cause in accordance with the provisions of Utah Code Ann. § 61-1-20 (1).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In support of this Emergency Order and Order to Show Cause, the Division's staff has received evidence establishing the following facts:

PARTIES

1. Jordan N. Tenney (Tenney Jr.) is a resident of Salt Lake County, Utah. He is the controller and corporate treasurer for CommuniCom Direct, Inc.

2. CommuniCom Direct, Inc. (CommuniCom) registered as a Utah corporation in May 2002. CommuniCom's corporate status expired as of May 2005. CommuniCom is located at 9710 South 700 East, Suite 111, in Sandy, Utah, and John B. Tenney (Tenney Sr.), Jordan N. Tenney's father, is listed as the president, director, and registered agent. CommuniCom is a contractor for Comcast, and installs Comcast Internet, cable, and telephone services in Massachusetts.

FACTORING PROGRAM

3. John B. Tenney (Tenney Sr.) approached S. D. (Investor) in April 2005 soliciting Investor's investment in factoring agreements issued by CommuniCom. Tenney Sr. was president, director, and registered agent for CommuniCom.

4. Tenney Sr. told Investor that CommuniCom performed contract work for Comcast, Inc., then billed Comcast for the work. Investor was told that CommuniCom would sell the invoice (the account receivable) to investors at a discounted price in order to receive immediate funds. When CommuniCom received payment on the invoice from Comcast, CommuniCom would pay the amount of the invoice to the investor.

5. Tenney Sr. told Investor that CommuniCom's operations in Massachusetts was managed

by his partner, Mike Espinoza (Espinoza). Operations in Utah were managed by Tenney Sr., with the help of his son, Tenney Jr.

6. Tenney Sr. told Investor that he could profit by buying the receivables at a discount and receiving a higher recovery when the invoice was paid. Tenney Sr. said if an investor had purchased the receivables at a discount, CommuniCom would pay all the proceeds received from Comcast on the receivable directly to the investor.

7. Tenney Sr. told Investor that CommuniCom was a very successful company and was growing rapidly.

8. Tenney Sr. arranged for Investor to meet with David B. and George W., both of whom claimed to be factoring CommuniCom's invoices. David B. and George W. told Investor they received all their payments when expected and that they had experienced no problems with CommuniCom.

9. Investor decided to purchase factoring agreements from CommuniCom. Between April 23, 2005 and October 22, 2005, Investor purchased 52 factoring agreements from CommuniCom, paying a total of $295,800. Thirty-two of these factoring agreements were purchased by Investor based on solicitations by Tenney Sr.

10. Beginning in early June, 2005, Investor no longer received calls from Tenney Sr. Instead, Tenney Jr. began soliciting purchases of factoring agreements. Twenty of the factoring agreements were purchased after June 6, 2005 from Tenney Jr.

11. Forty-nine of the 52 factoring agreements purchased by Investor were signed by Tenney Jr. as "Controller/Treasurer" for CommuniCom. The other three factoring agreements had a line for the signature of Tenney Jr., but were unsigned.

12. Each of the factoring agreements provided that Investor would be granted a security interest in "all of CommuniCom's Comcast accounts receivable; otherwise all of CommuniCom's Comcast accounts receivable are free of any security interest or encumbrance." Each factoring agreement contained a section entitled "Guaranteed repurchase in default" which provided: "Upon any default in the payment of any accounts receivable here assigned to [Investor], CommuniCom shall . . . purchase at face value any such account in default."

13. In July 2005, payments to Investor on the factoring agreements ceased.

14. When Investor questioned Tenney Jr. as to why payments had stopped, Tenney Jr. told Investor that CommuniCom was experiencing some problems, but the problems had been worked out and he would get his money in the next week or so. Investor received a few partial payments over the next three months.

15. In late October 2005, Investor went to the offices of CommuniCom along with his accountant and Espinoza, seeking to review the financial records of CommuniCom. The financial records made available by Tenney Jr. showed that some of CommuniCom's money was used to pay personal expenditures of Tenney Sr., including the expenses of hiring an expert witness to defend against criminal charges filed against Tenney Sr.

UNDISCLOSED INFORMATION, CRIMINAL BACKGROUNDS OF THE PROMOTERS

16. On March 16, 2005, Tenney Sr. was convicted of securities fraud, selling unregistered securities, selling securities without being licensed, and engaging in a pattern of unlawful activity. This conviction was for offering and selling securities in the form of factoring agreements for a company named Echo-Tek Communications.

17. At the time Tenney was soliciting money from Investor for CommuniCom, he was awaiting sentencing on his conviction for securities violations. Tenney Sr. has been incarcerated at the Utah State Prison since his June 6, 2005 sentencing.

18. In 1993, Tenney Sr. also had been convicted of securities fraud, sale of an unregistered security, and sale by an unlicensed agent, relating to the sale of stock in his company, Cellwest, Inc.

19. In 2002, Espinoza also was charged with securities fraud for selling factoring agreements in Echo-Tek. He entered guilty pleas on November 1, 2005 and is scheduled to be sentenced in February 2006.

20. Tenney Jr. has been named as a defendant in three civil suits, each resulting in judgments against Tenney Jr.

21. Respondents failed to file or perfect any security interests in the accounts receivable reflecting Investor's factoring agreements. This means Investor had no protected security interest in the receivables of CommuniCom.

REGISTRATION VIOLATIONS

22. The CommuniCom factoring agreements offered and sold by Respondents are securities under the Utah Uniform Securities Act (Act).

23. The factoring agreements were offered and sold in this state.

24. The factoring agreements offered and sold by Respondents are not registered under the Act and Respondents have not filed any claim of exemption relating to the agreements.

25. Respondents offered and sold unregistered securities in Utah in violation of Utah Code Ann. §61-1-7.

LICENSING VIOLATIONS

26. Respondents offered or sold securities in Utah.

27. When offering and selling these securities on behalf of CommuniCom, Respondent Tenney Jr. was acting as an agent of an issuer.

28. Respondent Tenney Jr. has never been licensed to sell securities in Utah as an agent of this issuer or any other issuer.

29. Respondent Tenney Jr. offered and sold securities in Utah in violation of Utah Code Ann. § 61-1-3(1).

30. Respondent CommuniCom hired an unlicensed agent, Tenney Jr., to offer and sell its securities in Utah.

31. Respondent CommuniCom employed an unlicensed agent to offer and sell its securities in violation of Utah Code Ann. § 61-1-3(2)(a).

MISREPRESENTATIONS, OMISSIONS, FRAUDULENT PRACTICES

32. In connection with the offer and sale of securities in this state, Respondents made misrepresentations of material facts, omitted to state material facts, and engaged in acts, practices, and courses of business that operate or would operate as a fraud or deceit on investors.

33. The material misrepresentations made by Respondents include:

    a. Claims that CommuniCom was growing rapidly and was a very successful company;

    b. Promises that purchasers of accounts receivables (invoices to Comcast) would receive full payment on the invoices directly from CommuniCom as soon as

CommuniCom received payment from Comcast;

c. Assertions that purchasers of factoring agreements would have security interests in all of CommuniCom's accounts receivable from Comcast;

d. Falsely stating that the Comcast receivables were free of any security interest or encumbrance; and

e. Claiming that the factoring agreement was guaranteed and that CommuniCom would repurchase them at full value in the case of default.

34. Respondents omitted to disclose material information to offerees and investors about the investment. The information that should have been disclosed includes:

a. That Tenney Sr. had two prior convictions for securities fraud, including one conviction for a fraud relating to factoring of receivables;

b. That at the time Tenney Sr. was soliciting and accepting investment monies, he was awaiting sentencing on his conviction for securities fraud;

c. That Espinoza had been charged with multiple criminal securities violations for his participation in a factoring scheme;

d. That Tenney Jr. had at least three civil judgments entered against him for prior business activities;

e. That some of CommuniCom's funds were used to pay the expenses of an expert witness hired to assist in the criminal defense of Tenney Sr.;

f. That there were no filings made with the Utah Division of Corporations to perfect a security interest for Investor in the accounts receivable for CommuniCom;

g. That the securities being offered and sold were not registered, as required, and that

the sellers of the investment program were not licensed to sell securities in Utah, as required; and

h. The type of information ordinarily given to investors in a prospectus including financial statements, descriptions of the backgrounds of company officers and directors, the intended use of proceeds, a list of the risk factors relating to the investment, and a discussion of the company's business operations.

35. Respondents engaged in acts, practices, or courses of business that operate or would operate as a fraud or deceit on an investor, including:

a. Using monies promised to investors to pay for the defense costs of the criminal trial of Tenney Sr.; and

b. Tenney Sr.'s conduct in soliciting and accepting funds from investors while awaiting sentencing for a prior, similar scheme.

DANGER OF IMMEDIATE HARM TO THE PUBLIC

36. Officers of CommuniCom have been soliciting and accepting money from investors when those officers have prior criminal convictions for similar frauds. Those solicitations occurred at a time when CommuniCom's president was awaiting sentencing on another conviction and continued even after he was incarcerated. Solicitations of Investor have continued, including solicitations made in November, 2005. Investor was told, as recently as November 28, 2005, that Respondents had a new potential investor.

37. The Division believes, based on the scope of the securities offering and the continuing solicitations, that Respondents will continue to offer and sell unregistered securities in

this state, by means of unlicensed agents and utilizing misleading and fraudulent statements.

EMERGENCY ORDER

1. The Director finds and concludes that Respondents' continuing solicitation of at least one Utah resident and their claims of having other potential investors poses an immediate and significant danger to the public welfare because the securities offered have not been registered with the Division, are being marketed by unlicensed agents, and involve fraudulent conduct. Proper registration of securities is an essential safeguard serving to protect the public from securities fraud. Utah residents offered securities by the Respondents are not being provided with the detailed investment information required by the Act. In addition, the unlicensed entities marketing the securities at issue in this case have unlawfully failed to subject themselves to the regulatory scrutiny of the Division. Licensing of securities sales agents is essential to ensure that broker-dealers and their agents have demonstrated that they possess the training and knowledge necessary to transact business in securities and do not have criminal backgrounds.

2. In light of the foregoing and in order to prevent or avoid further danger to the public welfare, it is hereby ORDERED in accordance with Utah Code Ann. § 63-46b-20 that:

   a. Respondents, together with their employees, agents, affiliates, successors, and associated entities, shall immediately CEASE AND DESIST from offering or selling securities in this State, and from directly or indirectly aiding or assisting other individuals or entities from offering or selling securities in this State when the securities are not registered.

b. Respondents, together with their employees, agents, affiliates, successors, and associated entities, shall immediately CEASE AND DESIST from selling securities in this State without being licensed.

c. Respondents, together with their employees, agents, affiliates, successors, and associated entities, shall immediately CEASE AND DESIST from selling securities in this State by means of misrepresentations and omissions of material fact and the use of fraudulent acts, practices and courses of business.

d. Respondents, together with their employees, agents, affiliates, successors, and associated entities, shall immediately CEASE AND DESIST from employing unlicensed agents to sell securities in this State.

e. Respondents, together with their employees, agents, affiliates, successors, and associated entities, shall immediately CEASE AND DESIST from any other violations of the Act.

3. Respondents are advised that, pursuant to the Utah Code Ann. § 61-1-21, any violation of this Emergency Order is punishable as a third-degree felony.

ORDER TO SHOW CAUSE

The Director, pursuant to Utah Code Ann.§ 61-1-20, hereby orders Respondents to appear at a formal hearing to be conducted in accordance with Utah Code Ann. § 63-46b-4 and 63-46b-5, and held before the Utah Division of Securities. The hearing will occur on Friday, January 13, 2005, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, Salt Lake City, Utah 84114, telephone (801) 530-6001. The Division will be represented by Assistant Attorney General Jeff Buckner, 160 East 300 South

#500, Salt Lake City, Utah 84114. Respondents may elect to be represented by counsel. If any Respondent fails to appear at the hearing, an order to cease and desist may be issued and a fine imposed by default against that Respondent, as provided by Utah Code Ann. § 63-46b-11. At the hearing, Respondents may show cause, if any they have:

1. Why Respondents should not be ordered permanently to CEASE AND DESIST from engaging in any further conduct in violation of Utah Code Ann. §§61-1-1, 61-1-3, 61-1-7 or any other section of the Act;
2. Why Tenney Jr. should not be ordered to pay a fine to the Division in the amount of $50,000; and
3. Why CommuniCom should not be ordered to pay a fine to the Division in the amount of $50,000.

DATED this 7th day of December, 2005.

Wayne Klein
Director, Division of Securities
Utah Department of Commerce

Division of Securities
Utah Department of Commerce
160 East 300 South
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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF: **JORDAN N. TENNEY; and** **COMMUNICOM DIRECT, INC.** **Respondents.**	**NOTICE OF AGENCY ACTION** **Docket no. SD-05-0074** **Docket no. SD-05-0075**

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENTS:

The purpose of this Notice of Agency Action is to inform you that the Division hereby commences a formal adjudicative proceeding against you as of the date of the mailing of the Emergency Order to Cease and Desist and Order to Show Cause. The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. §§63-46b-3, 63-46b-6 through 11, and 63-46b-20. The facts on which this action is based are set forth in the foregoing Emergency Order to Cease and Desist and Order to Show Cause.

Within thirty (30) days of the mailing 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 Emergency Order to Cease and Desist and Order

to Show Cause. **A hearing date has been set for Friday, January 13, 2006, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2nd Floor, Salt Lake City, Utah.** Because of the emergency status of the foregoing Order to Show Cause, you may request an earlier hearing date by contacting the Division's Executive Secretary, Pam Radzinski, at (801) 530-6600.

If you fail to file a written response, as set forth herein, or fail to appear at the hearing, the Division of Securities may hold you in default, and a fine may be imposed against you in accordance with Utah Code Ann. § 63-46b-11, without the necessity of providing you with any further notice. In lieu of default, the Division may decide to proceed with the hearing under § 63-46b-10. At the hearing, you may appear and be heard and present evidence on your behalf. You may be represented by counsel during these proceedings.

The presiding officer in this case is Wayne Klein, Director, Division of Securities, 160 East 300 South, P.O. Box 146760, Salt Lake City, UT 84114-6760, telephone (801) 530-6600. The Administrative Law Judge will be J. Steven Eklund, Utah Department of Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6648.

Your written response should be filed with the Division, attention Pam Radzinski, P.O. Box 146760, Salt Lake City, Utah 84114-6760. A copy also should be mailed to the Division's attorney, Jeff Buckner, Assistant Attorney General in the Utah Attorney General's Office, 160 East 300 South, P.O. Box 140872, Salt Lake City Utah 84114-0872, telephone (801) 366-0310. Questions regarding the Order to Show Cause and Notice of Agency Action should be directed to Jeff Buckner.

DATED this 7th day of December, 2005.

WAYNE KLEIN
Director, Division of Securities
Utah Department of Commerce

CERTIFICATE OF MAILING

I hereby certify that on the 9th day of December 2005, I mailed, by certified mail, a true and correct copy of the forgoing Emergency Order To Cease and Desist and Order To Show Cause and Notice of Agency Action to:

Jordan N. Tenney
3641 Golden Oaks Drive
Salt Lake City, UT 84121

CERTIFIED MAIL: 7004 2510 0006 1196 9681

CommuniCom Direct Inc
9710 South 700 East #111
Sandy, UT 84070

CERTIFIED MAIL: 7004 2510 0006 1196 9674

Pamela Radzinski
Executive Secretary