

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:

JEFFREY LANE MOWEN;
ELIZABETH WARD (aka MOWEN);

Respondents.

NOTICE OF ENTRY OF DEFAULT
AND ORDER

Docket No. SD-06-0037
Docket No. SD-06-0038

I. BACKGROUND

A formal adjudicative proceeding was initiated by the Division's Order to Show Cause (OSC) and Notice of Agency Action (Notice) dated June 29, 2006, against Jeffrey Lane Mowen and Elizabeth Ward. The Division has moved for entry of a default judgment against Jeffrey Lane Mowen. The administrative action against Elizabeth Ward is currently ongoing.

II. FINDINGS OF FACT

1. On June 29, 2006, the Division mailed, by certified mail, an OSC and Notice to Jeffrey Lane Mowen (Mowen), advising that a default order would be entered if he failed to file a written response to the OSC within thirty (30) days of the mailing date of the Notice.

2. On July 7, 2006, the Division received notice from the United States Postal Service that the OSC and Notice were successfully delivered to Mowen at the Utah County Jail, where he was held temporarily as an inmate.
3. At a hearing held on Friday, August 4, 2006, the presiding officer, Wayne Klein, extended Mowen's deadline to respond to the OSC to August 18th, 2006.
4. Mowen attended the August 4th hearing, along with attorney Michael Holje, of Brown Bradshaw and Moffat, and said he planned to retain Mr. Holje in the following weeks and file an answer to the OSC by the given deadline.
5. Despite the extension of time, Mowen failed to file a response by August 18th, 2006.
6. Jeffery Lane Mowen resides in Utah County, Utah.
7. In July 2005, Mowen solicited \$200,000 in Utah from Washington residents, J. C. and C. W., husband and wife. Mowen told the investors he would invest their money in currency, international markets, and stock, using his connections in international banking.
8. J. C. and C. W. had known Mowen and his wife Elizabeth, since 2000 because they all sold products for USANA Health Sciences, Inc., a Utah based, multi-level, network marketing company.
9. During telephone conversations with J. C. and C. W., Mowen said he was an international banker who worked in currency markets. Mowen said he got up every day at 3 a.m. to watch the markets on-line and in real time, and had been extremely successful, even doubling his money on a good day. Mowen said he typically only

traded for himself, his company, and his family, and had even declined a request to trade Isagenix International's¹ money.

10. Mowen also told J. C. and C. W. that he was writing a book on prosperity; he and another person owned a large development / construction company; he earned his first million dollars in real estate by the age of 19, Robert G. Allen's books regarding investing in real estate were written using Mowen's investment methods; he worked directly with Mark Hughes, the owner of Herbalife, another multi-level marketing company, to develop the first "autoship" program in the industry; he worked directly with Tony Robbins, a motivational speaker; and he was an importer of "gray market" cars in the 1980s.
11. C. W. told Mowen her money was in a self-directed IRA, and asked Mowen if he could "protect her money" as if it were in her IRA. Mowen told C. W. he could do that in several different ways, and would look into the best method.
12. C. W. decided to withdraw her money from her IRA so Mowen could make investments for her, and asked him to increase her money so she could purchase the real property next to her current home.
13. On July 18, 2005, Mowen e-mailed C. W. an outline of a "Letter of Understanding" between himself and C. W. The outline stated that Mowen would "handle all of the financial affairs, in particular our investing activities." The outline also stated that from July 18, 2005, through mid-October, Mowen would "include [C. W.'s] monies with his,

¹ Mowen and his wife, Elizabeth, started selling products for Isagenix International, an Arizona based, multi-level, network marketing company, after they stopped selling for USANA Health Sciences, Inc.

treating it as the same.” Finally, the outline stated that Mowen would “charge no fee and pass along all profits as personal support to [C. W.]”

14. On July 19 and 21, 2005, C. W. withdrew \$99,000 and \$101,000, respectively, from her IRA at Ameritrade, and immediately transferred the money to her account at Inland Northwest Bank.
15. On July 22, 2005, C. W. invested with Mowen by sending \$200,000, via wire transfer, from Inland Northwest Bank to Mowen’s account at US Bank in Pleasant Grove, Utah.
16. After C. W. invested with Mowen, Mowen said he was adding her \$200,000 to his \$800,000 to form a million dollar block of money. Mowen said to get into the lucrative international markets he had to work with large blocks of money.
17. On November 30, 2005, Mowen sent C. W. an email stating that her monthly return had been “just shy of 5%,” and the total amount in her account was \$237,000.
18. On Wednesday, December 21, 2005, C. W. sent Mowen an email, requesting that her money be returned by Tuesday or Wednesday of the following week. C. W. needed the money to close on the real property. C. W. included account and routing information for her bank, in anticipation of Mowen returning her money via wire transfer.
19. On Thursday, December 29, 2005, Mowen responded to C. W.’s email and explained that he had not returned her money because his bank froze his account after his travel consolidator debited his account several times for the same plane tickets, leaving his account with a negative balance.

20. On January 10, 2006, Mowen sent C. W. an email explaining that problems created by the Patriot Act prevented him from sending her money.
21. Mowen continued to give C. W. excuses as to why he could not return her money.
22. C. W. has received no return of principal or interest from her investment through Mowen.

Use of C. W.'s Money

23. On July 21, 2005, the day before C. W. sent her investment of \$200,000 to Mowen's account, Mowen's account balance was a negative \$2,452.
24. The balance in Mowen's account on November 30, 2005, the date on which Mowen emailed C. W. with a status report of her supposed earnings, was a negative \$9,690.29.
25. From July 22, 2005 to November 30, 2005, aside from C. W.'s investment, the only other deposits made to Mowen's account were from interest paid by the bank, PayPal payments, and personal checks from one of Mowen's relatives, Erin Mowen, all of which totaled \$13,183.09. Of the \$13,183.09 deposited, \$12,900 was from three personal checks written by Erin Mowen, all of which bounced within a few days of being deposited.
26. As of November 1, 2006, Mowen had spent all of C. W.'s investment.
27. From July 22, 2005 to November 1, 2005, all of C. W.'s money was used by Mowen to pay the following:
 - a. Credit card payments of \$15,891.21;
 - b. A transfer to Forex Capital, a foreign currency broker, of \$10,000;

- c. Automobile expenses of \$4,290.77;
- d. An official bank check made payable to Direct Development² for \$100,000;
- e. Cash withdrawals of \$29,289;
- f. \$12,126.65 for food and entertainment;
- g. \$21,270.48 for uncategorized miscellaneous expenses;
- h. \$2,989.84 to pay utilities; and
- i. \$1,636.33 for travel.

Misrepresentations and Omissions

28. In connection with the offer and sale of a security to investors, Mowen failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations made not misleading:
- a. That in June 2004, Mowen pleaded guilty to two counts of securities fraud (class A misdemeanors) in Utah County, Utah, was ordered to pay restitution of \$10,000, and was still on probation as a result of those violations;
 - b. That in June 2004, Mowen pleaded guilty to a single count of securities fraud (third degree felony) in Davis County, Utah, and was ordered to pay restitution of \$23,000;

² Direct Development is a construction company based in Wisconsin. The president of Direct Development, John Hopfensperger, invested \$100,000 with Mowen in February 2005. Hopfensperger demanded Mowen return his investment, and in August 2005, Mowen used \$100,000 of C. W.'s investment to return Hopfensperger's principal.

- c. That in June 2004, Mowen pleaded guilty to giving false information to a police officer, and another misdemeanor, in Utah County, Utah, and was fined \$125;
 - d. That Mowen owed \$78,630 in outstanding judgments from 12 separate civil actions;
 - e. That Mowen would use C. W.'s money to make credit card payments, to pay a prior investor, to pay for travel expenses, to pay for food and entertainment, and to withdraw as cash for unknown uses;
 - f. Mowen's track record with prior investors;
 - g. The true risk involved in the investment;
 - h. The number of other investors;
 - i. Whether the investment was a registered security or exempt from registration;
 - j. The liquidity of the investment; and
 - k. That Mowen was not licensed to sell securities.
29. In connection with the offer and sale of a security to J. C. and C. W., Mowen made false statements, including, but not limited to, the following:
- a. Mowen told C. W. he would keep her investment as protected as if it was in her IRA;
 - b. Mowen told J. C. and C. W. that Isagenix asked him to trade its money in the currency market;
 - c. Mowen told J. C. and C. W. that he was an international banker;

- d. Mowen told J. C. and C. W. that he owned a construction company with another individual; and
- e. Mowen told J. C. and C. W. that he made his first million dollars by the age of 19.

III. CONCLUSIONS OF LAW

- 30. The service of the OSC and the Notice initiating these proceedings is valid upon Mowen. Additionally, Mowen's appearance at the initial hearing demonstrates actual knowledge of the proceedings and the filing deadline.
- 31. Because Jeffrey Lane Mowen did not file an answer or written response he is in default.
- 32. The investment opportunity offered and sold by Mowen is a security under the Utah Uniform Securities Act (the Act).
- 33. In connection with the offer and sale of a security, Mowen made untrue statements of material fact to Investor.
- 34. By this conduct, Jeffrey Lane Mowen violated § 61-1-1(2) of the Act.
- 35. In connection with the offer and sale of a security, Jeffrey Lane Mowen omitted to state to investors various material facts which were necessary to make the statements made not misleading.
- 36. By this conduct, Jeffrey Lane Mowen violated § 61-1-1(2) of the Act.

IV. ORDER

Based on the above, the Director hereby:

1. Declares Jeffrey Lane Mowen in default for failing to respond to the OSC and Notice issued June 29, 2006.
2. Enters, as its own findings, the Finding of Fact described in Section II above.
3. Enters, as its own conclusions, the Conclusions of Law describe in Section III above.
4. Finds that Jeffrey Lane Mowen willfully violated the Utah Uniform Securities Act by:
 - a. Making material misrepresentations in connection with the offer and sale of securities in Utah in violation of § 61-1-1(2); and
 - b. Omitting to disclose material information in connection with the offer and sale of securities in Utah in violation of § 61-1-1(2).
5. Orders Jeffrey Lane Mowen to permanently CEASE and DESIST from any violations of the Act.
6. Orders Jeffrey Lane Mowen to pay a fine of two hundred fifty thousand dollars (\$250,000) to the Division, by Thursday, November 30, 2006.

DATED this 6th day of September, 2006.


WAYNE KLEIN
Director, Division of Securities



Pursuant to § 63-46b-11(3), Respondent may seek to set aside the Default Order entered in this proceeding by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

Certificate of Mailing

CERTIFIED

I certify that on the 11TH day of September 2006, I mailed a true and correct copy of the Notice of Entry of Default and Order to:

Jeffery Mowen
915 E. 440 N.
Lindon, Utah 84062

Michael Holje, Attorney at Law
Brown Bradshaw & Moffat
10 W. Broadway #210
Salt Lake City, UT 84101

Pamela Radzinski
Executive Secretary