

Division of Securities
Utah Department of Commerce
160 East 300 South
P.O. Box 146760
Salt Lake City, Utah 84114-6760
Telephone: 801 530-6600
Facsimile: 801 530-6980

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

IN THE MATTER OF:

DAVID C. YOUNG, CRD#4250635

Respondent.

ORDER TO SHOW CAUSE

Docket No. SD-07-0010

**TO: David C. Young
3527 Caribou Cir.
South Jordan, UT 84095**

It appears to the Director ("Director") of the Utah Division of Securities ("Division") that Respondent David C. Young, ("Young") may have engaged in acts and practices that violate the Utah Uniform Securities Act ("Act"), Utah Code Ann. § 61-1-1, *et seq.* Those acts and practices are more fully described herein. Based upon the Division's investigation into this matter, the Director issues this Order to Show Cause in accordance with the provisions of § 61-1-20(1) of the Act.

STATEMENT OF FACTS

1. Young was licensed as a broker-dealer agent in the State of Utah with HarrisDirect LLC, CRD#42159, from January 26, 2004 through February 10, 2005, and with Waddell and Reed, Inc. (“Waddell & Reed”), CRD#866, from January 31, 2001 through September 22, 2003. Young was also licensed as an investment adviser representative with Waddell & Reed during that period. He currently holds no securities licenses.
2. Young has taken and passed the Series 7, General Securities Representative Licensing Examination, and the Series 66, Uniform Combined State Law Examination.

Annuity Account for L.A.

3. While employed at Waddell & Reed, Young solicited his mother-in-law, B.F., to purchase a variable annuity contract for B.F.’s mother, L.A. B.F. held a valid general power of attorney to act on L.A.’s behalf.
4. On September 21, 2001, a Waddell & Reed Advisers Select Annuity contract was issued by Nationwide Life and Annuity (“Nationwide”). The contract named B.F. as the account owner and L.A. as the annuitant. A total of \$128,380 was invested, from which Young was paid a commission of \$3,590.72. In addition, Young’s sales supervisor, sales manager, and a regional vice president were paid overrides totaling \$1,400.39.

Unauthorized Withdrawals from the Annuity and Conversion

5. Beginning on January 24, 2002, Young began making unauthorized withdrawals from the annuity by forging B.F.’s signature on withdrawal documents submitted to Nationwide.

6. Young withdrew a total of \$61,156 from L.A.'s annuity on seven occasions between January 2002 and July 2003, as follows:

<u>Date of Withdrawal Request</u>	<u>Amount of Withdrawal</u>
01/24/2002	\$4,800.00
04/03/2002	\$7,200.00
06/09/2002	\$12,000.00
10/02/2002	\$10,000.00
12/03/2002	\$13,253.00
12/19/2002	\$1,403.11
07/08/2003	\$12,500.00
Total	\$61,156.11

7. Some of the monies were deposited into a Datek Online Financial Services LLC ("Datek") brokerage account held in Young's wife's name and used to purchase securities and pay margin interest in that account. The monies were also used to cover overdrafts in Young's checking account, make car payments, purchase an all-terrain vehicle, pay for other personal expenses, or were withdrawn as cash.
8. On two occasions, Young requested that Nationwide change payee information on the checks – to "Merrill Inv." and "U.A.E." – and checks were mailed to Young's mother's address in Riverton, Utah.
9. Young's unauthorized withdrawals incurred \$2,161.90 in surrender charges to L.A.'s account. In addition, Nationwide had to sell mutual fund holdings within the annuity to

effect each of the withdrawals, reducing any investment gains. The withdrawals were also taxable transactions and therefore caused tax consequences for L.A. and B.F.

10. In e-mail correspondence dated August 8, 2005, Young admitted to B.F. that he had made unauthorized withdrawals from L.A.'s annuity and converted the monies for his own use.

COUNT I

Securities Fraud under § 61-1-1(3) of the Act

11. Young violated Section 61-1-1(3) of the Act by making unauthorized withdrawals from L.A.'s account and using the money for his own purposes, which conduct constitutes an act, practice, or course of business which operated as a fraud or deceit upon L.A., B.F., and Nationwide, and exposed Waddell & Reed and Nationwide to civil liability.

REQUEST FOR RELIEF

The Director, pursuant to Utah Code Ann. § 61-1-20, hereby orders Respondent to appear at a formal hearing to be conducted in accordance with Utah Code Ann. §§ 63-46b-4 and 63-46b-6 through -11, and held before the Division. As set forth in the Notice of Agency Action accompanying this Order, Respondent is required to file a written response with the Division, and a hearing on this matter has been scheduled for March 22, 2007 at 1pm. The hearing will take place at the Division of Securities, Room 210, 160 East 300 South, Salt Lake City, Utah. If Respondent fails to file a written response or appear at the hearing, findings may be entered, a permanent Order to Cease and Desist may be issued, and a fine may be imposed against Respondent, as provided by Utah Code Ann. §§ 63-46b-8 or -11.

At the hearing, Respondent may show cause, if any he has:

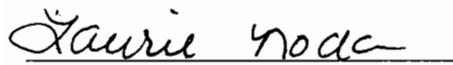
1. Why Respondent should not be found to have willfully violated the Utah Uniform Securities Act;
2. Why Respondent should not be ordered permanently to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1 or any other section of the Act;
3. Why Respondent should not be barred from acting as or associating with a licensed broker-dealer or investment adviser within this state.
4. Why Respondent should not be ordered to pay a fine of \$100,000 to the Division.

Dated this 8TH day of February, 2007


Wayne Klein
Director
Utah Division of Securities



Approved:


Laurie L. Noda
Assistant Attorney General

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
Telephone: (801) 530-6600
FAX: (801)530-6980

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

IN THE MATTER OF:

DAVID C. YOUNG, CRD#4250635

Respondent.

NOTICE OF AGENCY ACTION

Docket No. SD-07-0010

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT:

You are hereby notified that agency action in the form of an adjudicative proceeding has been commenced against you by the Utah Division of Securities (Division). The adjudicative proceeding is to be formal and will be conducted according to statute and rule. See Utah Code Ann. §§ 63-46b-3 and 63-46b-6 through 11; see also Utah Admin. Code R151-46b-1 et seq. The legal authority under which this formal adjudicative proceeding is to be maintained is Utah Code Ann. § 61-1-20. You may be represented by counsel or you may represent yourself in this proceeding. Utah Admin. Code R151-46b-6.

You must file a written response with the Division within thirty (30) days of the mailing date

of this Notice. Your response must be in writing and signed by you or your representative. Your response must include the file number and name of the adjudicative proceeding, your version of the facts, a statement of what relief you seek, and a statement summarizing why the relief you seek should be granted. Utah Code Ann. § 63-46b-6(1). In addition, pursuant to Utah Code Ann. § 63-46b-6(3), the presiding officer requires that your response:

- (a) admit or deny the allegations in each numbered paragraph of the Order to Show Cause, including a detailed explanation for any response other than an unqualified admission. Allegations in the Order to Show Cause not specifically denied are deemed admitted;
- (b) identify any additional facts or documents which you assert are relevant in light of the allegations made; and
- (c) state in short and plain terms your defenses to each allegation in the Order to Show Cause, including affirmative defenses, that were applicable at the time of the conduct (including exemptions or exceptions contained within the Utah Uniform Securities Act).

Your response, and any future pleadings or filings that should be part of the official files in this matter, should be sent to the following:

Signed originals to:

Administrative Court Clerk
c/o Pam Radzinski

A copy to:

Laurie L. Noda
Assistant Attorney General

Utah Division of Securities
160 E. 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
(801) 530-6600

160 E. 300 South, Fifth Floor
Box 140872
Salt Lake City, UT 84114-0872
(801) 366-0310

The hearing in this matter will take place March 22, 2007 at the Division of Securities, Room 210, 160 East 300 South, Salt Lake City, Utah, at 1pm.

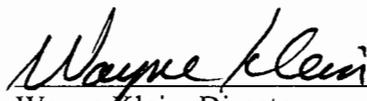
If you fail to file a response, as described above, or fail to appear at any hearing that is set, the presiding officer may enter a default order against you without any further notice. Utah Code Ann. § 63-46b-11; Utah Admin. Code R151-46b-10(11). After issuing the default order, the presiding officer may grant the relief sought against you in the Order to Show Cause, and will conduct any further proceedings necessary to complete the adjudicative proceeding without your participation and will determine all issues in the proceeding. Utah Code Ann. § 63-46b-11(4); Utah Admin. Code R151-46b-10(11)(b). In the alternative, the Division may proceed with a hearing under § 63-46b-10.

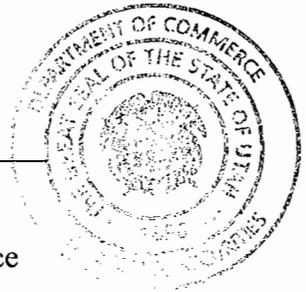
The presiding officer in this case is Wayne Klein, Director, Division of Securities. An administrative law judge may be assigned to hear this matter. At any hearings, the Division will be represented by the Attorney General's Office. You may appear and be heard and present evidence on your behalf at any such hearings.

You may attempt to negotiate a settlement of the matter without filing a response or proceeding to hearing. To do so, please contact the Utah Attorney General's Office. Questions

regarding the Order to Show Cause should be directed to Laurie L. Noda, Assistant Attorney General, 160 E. 300 South, Fifth Floor, Box 140872, Salt Lake City, UT 84114-0872, Tel. No. (801) 366-0310.

Dated this 8th day of February, 2007.


Wayne Klein, Director
Division of Securities
Utah Department of Commerce



Certificate of Mailing

I certify that on the 9TH day of FEBRUARY, 2007, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

David C. Young
3527 Caribou Circle
South Jordan, UT 84095

Certified Mail #7005 1820 0003 7190 3938

Pam Raszinski

Executive Secretary