

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:

**E & R HOLDINGS, LLC, and
RAYMOND PAUL MORRIS,**

Respondents.

ORDER TO SHOW CAUSE

**Docket No. SD-07-0087
Docket No. SD-07-0088**

It appears to the Director of the Utah Division of Securities (Director) that E & R Holdings, LLC, and Raymond Paul Morris (Respondents) may have engaged in acts and practices that violate the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, et seq. (the Act). Those acts are more fully described herein. Based upon information discovered in the course of the Utah Division of Securities' (Division) investigation of 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 JURISDICTION

1. Jurisdiction over the Respondents and the subject matter is appropriate because the Division alleges that Respondents violated §§ 61-1-1 (Securities Fraud, Fraudulent

Practices), and 61-1-3 (Sale by Unlicensed Agent) of the Act, while engaged in the offer and sale of securities in or from Utah.

STATEMENT OF FACTS

THE RESPONDENTS

2. E & R Holdings, LLC (E & R Holdings) is a Utah limited liability company in good standing with the Utah Division of Corporations and Commercial Code. E & R Holdings was registered as a limited liability company in Utah on March 22, 2007. The primary business address of the company is 90 W. 500 South, Suite 415, Bountiful, UT 84010. E & R Holdings also uses 880 West Heritage Park Blvd., #100B, Layton, UT 84041 as a business address.
3. Raymond Morris a.k.a. Ray Morris (Morris) is the manager and registered agent of E & R Holdings. His address is 90 W. 500 South, Suite 415, Bountiful, UT 84010.

GENERAL ALLEGATIONS

4. On June 7, 2007, the Division received a Rule 506 Notice Filing from Respondents describing an offering of high-yield, variable-rate, unsecured promissory notes to both accredited and non-accredited investors under Regulation D, Rule 506 of the Securities Act of 1933 (the Securities Act). Promissory notes are securities under the Utah Uniform Securities Act (Act).
5. In August 22, 2007, the Division also received copies of subscription agreements in

connection with notes sold by Respondents along with investor questionnaires, and a private placement memorandum as follows:

- a. An agreement dated June 7, 2007 for investor Prado Capital Management, LLC signed by M.H. and Morris on June 9, 2007. The agreement evidenced the purchase of \$946,000 in 12-month promissory notes at an annual rate of return of 192%.
- b. An agreement dated June 7, 2007 for Prado signed by M.H. and Morris on June 27, 2007. The agreement evidences the purchase of \$815,000 in 12-month promissory notes at an annual rate of return of 192%.
- c. An agreement of June 7, 2007 for Prado signed by M.H. and Morris on July 12, 2007. The agreement evidences the purchase of \$60,000 in 12-month promissory notes at an annual rate of return of 192%.
- d. An agreement dated June 7, 2007 for investor D.R. signed by him and Morris on June 9, 2007 for the purchase of \$109,200 in 12-month promissory notes at an annual rate of return of 120%.
- e. An agreement dated June 7, 2007 for investor S.W. signed by her on May 29, 2007, and signed by Morris on May 30, 2007 for the purchase of \$135,000 in 12-month promissory notes at an annual rate of return of 120%.

- f. An agreement dated June 7, 2007 for investor S.W. signed by her but not dated and signed by Morris on June 14, 2007 for the purchase of \$15,000 in 12-month promissory notes at an annual rate of return of 120%.
 - g. An agreement dated April 27, 2007 for investor Cornerstone Capital Fund, LLC signed by J.H. and Morris on July 19, 2007 for the purchase of \$4,761,975 in 12-month promissory notes at an annual rate of return of 240%.
 - h. An agreement dated June 7, 2007 for investor J&K Capital Holdings, LLC signed by J.R.H. and Morris July 15, 2007 for the purchase of \$453,000 in 12-month promissory notes at an annual rate of return of 144%.
 - i. An agreement dated June 7, 2007 for investor C.B. signed by him on June 9, 2007 and by Morris on what appears to be “05-01-06.” The agreement is for the purchase of \$100,000 in promissory notes with an annual rate of return of 240%.
6. Except for the agreement referenced in paragraph 5(g), all of the subscription agreements referenced above contained an Appendix captioned “Placement of Proceeds” containing the following language:

The Company [E&R] hereby designates the proceeds received by the Investor from the purchase of Notes pursuant to this Subscription Agreement to be invested in the following investment vehicle:

**ACQUISITION OF HIGH YIELD PROMISSORY NOTES
OFFERED BY (NAME WITHHELD)* COMPANY.**

*Name of particular company withheld for confidentiality reasons.

(bracketed item added; bolding and capitalization in original).

7. Respondents' Private Placement Memorandum provides no audited financial statements or disclosures regarding the operating entity who will ultimately receive and utilize the funds of each investor. The rates of return promised to investors varied based upon the size of the investment, and ranged from 10 to 120% per year. As detailed in paragraph 5 above, the actual subscription agreements promised rates of return as high as 192 to 240% per year.

CAUSE OF ACTION

COUNT I

Sales of an Unregistered Security under § 61-1-7 of the Act

8. The Division incorporates and re-alleges paragraphs 1 through 7.
9. The investment opportunity offered and sold by Respondents are securities under § 61-1-13 of the Act.
10. 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.

11. The securities sold by Respondents are not registered for sale in Utah.¹
12. Respondents are therefore currently selling unregistered securities in violation of the Act.

COUNT II
Securities Fraud Under 61-1-1(2) of the Act

13. The Division incorporates and re-alleges paragraphs 1 through 7.
14. Respondents violated Section 61-1-1(2) of the Act by omitting to state material facts necessary in order to make certain statements they did make not misleading in light of circumstances under which they were made, such as;
 - a. Whether the person selling the investment is licensed; and.
 - b. The business and operating history of the companies slated to receive investor funds;
 - c. Identities of all member or managers of the companies slated to receive investor funds;
 - d. Audited financial statements of the companies slated to receive investor funds;
 - e. The current capitalization of the companies slated to receive investor funds;

¹On June 7, 2007, Respondents made a notice filing claiming preemption from state registration under Rule 506 of the Securities Act of 1933. However, Respondents indicated therein that sales were being made to non-accredited investors. The Division has reviewed Respondent entity's offering materials and has noted that the disclosures required under Rule 502(b) including, without limitation, CPA-audited financial statements are not present. Thus, the Division Staff's position is that the Issuer is in material violation of the terms of SEC Regulation D and cannot rely upon the state-law preemption offered therein. Given the clearly excessive returns promised to investors and the deliberate non-disclosure by Respondents of the entities to which investors' funds would ultimately be committed, the Staff takes the position that any argument that financial statements were "non-material" to the understanding of the Issuer's investors is specious.

- f. The track record of the companies slated to receive investor funds;
 - g. Risk factors specifically tailored to the operations of the companies slated to receive investor funds;
 - h. The number of other investors;
 - i. The liquidity of the investment;
 - j. Agent commissions or compensation for selling the investment;
 - k. The background of those persons managing the companies slated to receive investor funds;
15. Based upon the foregoing, Respondents violated § 61-1-1(2) of the Act.

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

16. The Division incorporates and re-alleges paragraphs 1 through 15.
17. Respondents have engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon investors by promising excessive returns on investments while simultaneously declining to provide investors with full disclosure regarding the entity to which the investor's funds would ultimately be committed. Failure to provide this information, on its face, operates or would operate as a fraud or deceit on investors.²

² The Staff notes that pursuant to section 61-1-1 of the Utah Uniform Securities act, if conduct rising to the level of fraud in connection with the offer or sale of a security is established, the registration, exemption, or preemption status of the underlying security or the accreditation, sophistication, or any other characteristics of the

18. Based upon the foregoing, Respondents violated § 61-1-1(3) of the Act.

ORDER

The Director, pursuant to § 61-1-20 of the Act, hereby orders the Respondents to appear at a formal hearing to be conducted in accordance with Utah Code Ann. §§ 63-46b-4 and 63-46b-6 through -10, and held before the Utah Division of Securities. The hearing will occur on **January 28, 2008, 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. The purpose of the hearing is to establish a scheduling order and address any preliminary matters. If the Respondents fail to file an answer and appear at the hearing, the Division of Securities may hold Respondents in default, and a fine may be imposed in accordance with Utah Code Ann. § 63-46b-11. In lieu of default, the Division may decide to proceed with the hearing under § 63-46b-

10. At the hearing, the Respondents may show cause, if any they have:

- a. Why Respondents should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;
- b. Why Respondents should not be ordered 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;

securities purchasers are irrelevant to the question of liability. No exemptions from the antifraud provisions exist.

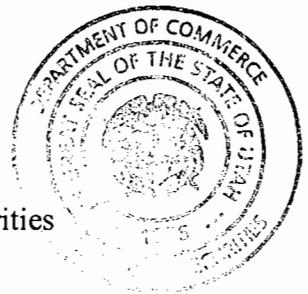
- c. Why Respondents, jointly and severally, should not be ordered to pay a fine to the Division in an amount equal to all investor monies collected plus \$25,000. The Division Staff will consent to a dollar-for-dollar reduction in the fine for all monies returned to investors.

DATED this 12TH day of December, 2007.



WAYNE KLEIN

Director, Utah Division of Securities



Approved:


JEFF BUCKNER

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
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NOTICE OF AGENCY ACTION

Docket No. SD-07-0087
Docket No. SD-07-0088

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 Order to Show Cause. The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. §§ 63-46b-3 and 63-46b-6 through 11. The facts on which this action is based are set forth in the foregoing Order to Show Cause.

Within thirty (30) days of the mailing date of this notice, you are required to file an Answer with the Division. The Answer must include the information required by Utah Code § 63-46b-6 (1). In addition, you are required by § 63-46b-6 (3) to state: a) by paragraph, whether you admit or deny

each allegation contained in the Order to Show Cause, including a detailed explanation for any response other than an unqualified admission; b) any additional facts or documents which you assert are relevant in light of the allegations made; and c) any affirmative defenses (including exemptions or exceptions contained within the Utah Uniform Securities Act) which you assert are applicable. To the extent that factual allegations or allegations of violations contained in the Order to Show Cause are not disputed in your Answer, they will be deemed admitted.

Your Answer, 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
Division of Securities
160 E. 300 S., Second Floor
Box 146760
Salt Lake City, UT 84114-6760
(801) 530-6600

A copy to:
Jeff Buckner
Assistant Attorney General
160 E. 300 S., Fifth Floor
Box 140872
Salt Lake City, UT 84114-0872
(801) 366-0310

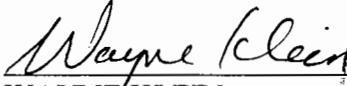
A hearing date has been set for **28 January, 2008**, at **9:00 a.m.**, at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2nd Floor, Salt Lake City, Utah.

If you fail to file an Answer, as set forth herein, or fail to appear at the hearing, the Division of Securities may hold you in default, and a fine and other sanctions 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. Questions regarding the Order to Show Cause and Notice of Agency Action should be directed to the Division's attorney, Jeff Buckner, at (801) 366-0310.

DATED this 12TH day of December, 2007.


WAYNE KLEIN
Director, Division of Securities
Utah Department of Commerce



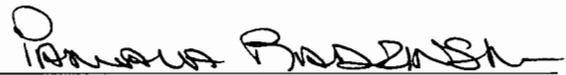
CERTIFICATE OF MAILING

I hereby certify that on the 12th day of December 2007, I mailed, by certified mail, a true and correct copy of the forgoing **Order to Show Cause and Notice of Agency**

Action to:

Raymond Morris
E&R Holdings
90 West 500 South Ste 415
Bountiful, UT 84010

CERTIFIED MAIL: 7007 0710 0003 0208 1372



Executive Secretary