

Division of Securities  
Utah Department of Commerce  
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Salt Lake City, UT 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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IN THE MATTER OF:

**COIN TRADE CENTER, LLC**  
**HOWARD L. GURNEY**  
**TONI D. GURNEY**

Respondents.

NOTICE OF ENTRY OF  
DEFAULT AND ORDER

**Docket No. SD-08-0006**  
**Docket No. SD-08-0007**  
**Docket No. SD-08-0008**

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**I. BACKGROUND**

A formal adjudicative proceeding was initiated by the Division's Order to Show Cause and Notice of Agency Action dated January 31, 2008, against Coin Trade Center, LLC, Howard L. Gurney, and Toni D. Gurney. Coin Trade Center, LLC, and the Gurneys were properly served with the Order to Show Cause and Notice of Agency Action, but have never responded or otherwise appeared in this administrative proceeding.

## II. FINDINGS OF FACT

1. On January 31, 2008, the Division commenced a formal adjudicative proceeding by issuing an Order to Show Cause (OSC) and Notice of Agency Action (Notice) to Coin Trade Center, LLC, Howard L. Gurney and Toni D. Gurney.
2. On February 1, 2008, the Division mailed, by certified mail, an OSC to Coin Trade Center, LLC, Howard L. Gurney and Toni D. Gurney, along with a Notice, advising that a default order would be entered if they failed to file a written response to the OSC within thirty (30) days of the mailing date of the Notice.
3. The Gurneys are individual Respondents and the only members of Coin Trade Center, LLC. As such, service upon the Gurneys is service upon Coin Trade Center, LLC.
4. On February 5, 2008, the Division was notified by the United States Postal Service (USPS) that delivery of the OSC and Notice to Howard L. Gurney and Toni D. Gurney was successful.
5. As of this date, the Division has not received a response to the January 31, 2008 Order to Show Cause or the Notice of Agency Action from Coin Trade Center, LLC, or the Gurneys.
6. A hearing was scheduled for March 18, 2008, in the Notice of Agency Action served upon the Respondents. They did not appear for that hearing.

7. Coin Trade Center, LLC (CTC) was registered as a Utah limited liability company on May 27, 2004, but its registration expired on May 27, 2006. Howard L. Gurney and his wife Toni D. Gurney were the only two members of CTC. CTC was in the business of buying, selling, and trading in precious metals, collectibles, and jewelry.
8. Howard L. Gurney (H. Gurney) resided in Utah County, Utah at all relevant times.
9. Toni D. Gurney (T. Gurney) resided in Utah County, Utah at all relevant times.
10. From 1991 through 2005, Respondents collected a total of \$495,570.64 from at least ten Utah investors. Respondents offered an investment in a “Managed/Yearly” account or a “Storage/90-day” account, with CTC.
11. Respondents told investors the Managed/Yearly accounts were for investors who wanted a long-term investment. Respondents told investors the account could not be sold, withdrawn from, or added to, for a period of one year, and that the return was 20% per year, paid in ounces of the same precious metal that was invested.
12. Respondents told investors that the Storage/90-day accounts were for investors who wanted a short-term, flexible investment. Respondents told investors the return on the account averaged 10% per 90 days, but could be anywhere from 9 to 12%, paid in ounces of the same precious metal invested.

13. Respondents told investors that CTC could make more than 50% per year on invested coins by buying, selling, or trading the coins.
14. Investors had no role in the investment other than providing their money or coins to CTC.
15. In return for an investment, investors received a contract from CTC, signed by the investor and either T. Gurney or H. Gurney on behalf of CTC. The Managed/Yearly contracts are two page documents which state that “CTC agrees to trade said precious metals on any and all precious metals markets to which CTC has or may have access with the express purpose of increasing the precious metals belonging to Customer in the amount of Twenty percent (20%).” The Storage/90 day contracts are a single page and state “usage fees” for an investor’s silver bullion, gold bullion, 90% coin, and U.S. silver dollars. The Storage/90 days contracts state that “[i]f the precious metals stored is [sic] sold multiple times, the same usage fee shall apply for each time sold,” and that the precious metals “will be stored at the Coin Trade Center, L.C. for [investor’s] use.”
16. Each contract automatically renewed at the end of its term (1 year or 90 days) and the new contract included the amount of interest received. Investors would receive precious metals from their accounts only after making a request of CTC.
17. The majority of those who invested with CTC received no actual return of interest or principal.

Investor JS

18. The Gurneys introduced JS to the investment opportunity in the early 1990s while visiting their store.

19. The Gurneys told JS the following regarding the investment opportunity in CTC's Managed/Yearly and Storage/90-day Accounts:
- a. CTC could buy and sell gold and silver recovering a premium on each transaction;
  - b. The Gurneys had the ability, knowledge, and connections to trade the precious metal to increase the value of the investments according to gold/silver ratios;
  - c. A customer could not trade precious metals as efficiently and as economically as CTC;
  - d. Since the investment contract paid in metals and not cash, investors experienced a taxable gain only if the gold and/or silver was sold or liquidated for money;
  - e. The Managed/Yearly accounts provided a return of 20% per year, and the Storage/90-day accounts provided a return of approximately 10% every 90 days;
  - f. There was a bond or insurance policy in place to protect against loss to CTC;
  - g. CTC's Storage/90-day accounts were insured against loss;

- h. Insured values would not be exceeded and when the maximum was reached, no one would be allowed to deposit metals until someone withdrew metals to keep the invested totals under the limit;
  - i. The only risk with a precious metal was the fluctuating “spot” price of the metal.
- 20. JS invested money and precious metals totaling \$78,251.91 with Respondents from April 29, 1991 to January 7, 2005. JS invested in seven Managed/Yearly accounts and two Storage/90-day accounts, with an expectation of making a profit of 10 to 20 % on these investments.
  - 21. After each investment, JS received a written contract evidencing his investment which was signed by JS and either T. Gurney or H. Gurney.
  - 22. While invested in CTC, JS withdrew \$27,587.32 in precious metals from his Storage/90-day accounts, but nothing from his Managed/Yearly accounts.
  - 23. In February and March 2005, JS attempted to withdraw some of the interest he had earned from his accounts, but Respondents denied his requests.
  - 24. In a letter dated April 8, 2005, from the Gurneys, the Gurneys stated that CTC was experiencing financial trouble.
  - 25. Respondents still owe JS \$66,291.77 in principal alone.

Investor BW

26. From January 1998 to January 2005, BW invested a total of \$17,575 worth of gold and silver coins in CTC's Managed/Yearly accounts.
27. Prior to investing, T. Gurney told BW the following regarding the investment opportunity with CTC:
  - a. CTC offered an investment program for a few special customers who had historically purchased a lot of precious metals from CTC;
  - b. The Managed/Yearly accounts would pay interest of 20% per year on silver, and 10% per year on gold;
  - c. CTC could trade silver easier than gold; and
  - d. CTC had been doing these types of investments since 1979.
28. BW and either T. Gurney or H. Gurney executed a contract for BW's investments, and renewed the Managed/Yearly contracts each year.
29. In 2004, BW withdrew \$4,215 in precious metals from one of his accounts at CTC.
30. Respondents still owe BW \$17,575 in principal alone.

Investor MV

31. From February 19, 2003 through March 2004, MV invested a total of \$17,000 in CTC's Managed/Yearly accounts and Storage/90-day accounts.
32. MV mainly spoke to T. Gurney about the investment opportunities, and T. Gurney told MV the following:
  - a. Invested money would be used to purchase inventory for CTC and would be held as precious metals;

- b. The Managed/Yearly accounts paid interest of 20% per year, and the Storage/90-day accounts pay interest of 11% every 90 days;
  - c. The investment was guaranteed;
  - d. MV could convert the precious metals into jewelry which T. Gurney could sell at a better price;
  - e. MV's investments would be covered by insurance against loss;
  - f. MV could liquidate the Managed/Yearly accounts after one year by giving CTC 30 days notice; and
  - g. MV could liquidate the Storage/90 day accounts by giving CTC 14 days notice.
33. On February 19, 2003, MV invested \$10,000 with CTC by purchasing silver rounds which were divided between Managed/Yearly accounts and Storage/90 day accounts. MV invested by personal check made payable to CTC.
34. On March 27, 2003, MV invested \$2,000 with CTC by purchasing silver rounds that were placed in the Managed/Yearly accounts. MV invested by personal check made payable to CTC.
35. On March 9, 2004, MV invested \$5,000 with CTC by purchasing silver rounds which were placed in the Managed/Yearly accounts. MV invested by personal check made payable to CTC.
36. MV received a contract from CTC with each investment, which was signed by MV and either T. Gurney or H. Gurney.
37. After investing, MV spoke to T. Gurney several times and was told that the investments were doing well.

38. In 2005, MV started to discuss an exit strategy with T. Gurney and was assured by T. Gurney that the metal was on hand to fulfill MV's contracts.
39. Respondents still owe MV \$17,000 in principal alone.

### **III. CONCLUSIONS OF LAW**

40. The investment opportunities offered and sold by Respondents to investors are investment contracts, and therefore securities, under § 61-1-13 of the Act. An investment contract includes,

any investment in a common enterprise with the expectation of profit to be derived through the essential managerial efforts of someone other than the investor; or . . . any investment by which . . . an offeree furnishes initial value to an offerer; . . . a portion of this initial value is subjected to the risks of the enterprise; . . . the furnishing of the initial value is induced by the offerer's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind over and above the initial value will accrue to the offeree as a result of the operation of the enterprise; and . . . the offeree does not receive the right to exercise practical or actual control over the managerial decisions of the enterprise.

UTAH ADMIN. CODE R164-13-1(B)(1)(a) and 1(b).

41. In connection with the offer and sale of securities to investors, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:
  - a. The Managed/Yearly accounts provided a return of 20% per year, and the Storage/90-day accounts provided a return of approximately 10% every 90 days;
  - b. The precious metals invested in the Storage/90-day accounts were stored at the CTC, when in fact, the coins were in trading markets;

- c. The Gurneys told JS that because his investment contract paid in precious metals as opposed to cash, he would experience a taxable gain only if his gold or silver were liquidated for money;
  - d. The Gurneys told JS and MV that their investments were insured against loss;
  - e. The Gurneys told JS that insured values would be monitored so as not to be exceeded;
  - f. The Gurneys told JS the only risk involved with precious metals was the fluctuating “spot” price of the metals;
  - g. The Gurneys told BW that only certain customers of CTC were introduced to the investment opportunities;
  - h. The Gurneys told BW that CTC had been offering the investment opportunities since 1979;
  - i. The Gurneys guaranteed MV’s investments; and
  - j. The Gurneys told MV he could liquidate his Managed/Yearly accounts after one year with 30 days notice, and that MV could liquidate his Storage/90 day accounts with 14 days notice.
42. In connection with the offer and sale of a security to investors, Respondents, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make representations made not misleading:

- a. Respondents failed to provide investors with some or all of the information typically provided in an offering circular or prospectus regarding CTC, such as:
  - i. The business and operating history for CTC;
  - ii. Financial statements for CTC;
  - iii. The market for CTC's service(s);
  - iv. The nature of the competition for the service(s);
  - v. The current capitalization for CTC;
  - vi. Risk factors for investors;
  - vii. The number of other investors;
  - viii. The minimum capitalization needed to participate in the investment;
  - ix. The disposition of any investments received if the minimum capitalization were not achieved;
  - x. Discussion of pertinent suitability factors for the investment;
  - xi. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;
  - xii. Agent commissions or compensation for selling the investment;
  - xiii. Whether the investment is a registered security or exempt from registration; and
  - xiv. Whether the person selling the investment is licensed.

43. Based upon the foregoing, Coin Trade Center, LLC, Howard L. Gurney, and Toni D. Gurney violated § 61-1-1 of the Act.

44. The Gurneys offered or sold securities in Utah.
45. When offering and selling these securities on behalf of CTC, the Gurneys were acting as agents of an issuer.
46. The Gurneys have never been licensed to sell securities in Utah as an agent of this issuer, or any other issuer.
47. Based on the above information, T. Gurney and H. Gurney violated § 61-1-3(1) of the Act.
48. The investment opportunity in CTC offered and sold by Respondents is a security under § 61-1-13 of the Act.
49. The securities were offered and sold in this state.
50. The securities offered and sold by Respondents were not registered under the Act, and Respondents did not file any claim of exemption relating to the securities.
51. Based on the above information, CTC, T. Gurney, and H. Gurney violated § 61-1-7 of the Act.

#### **IV. ORDER**

Based on the above, the Presiding Officer hereby:

1. Declares Coin Trade Center, LLC, Howard L. Gurney and Toni D. Gurney in default for failing to file a written response to the January 31, 2008, Notice of Agency Action and Order to Show Cause and for failing to appear at the March 18, 2008 hearing.
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 described in Section III above.

4. Finds that Coin Trade Center, LLC, Howard L. Gurney and Toni D. Gurney violated the Utah Uniform Securities Act as set forth in Section III above.
5. Orders Coin Trade Center, LLC, Howard L. Gurney and Toni D. Gurney to permanently CEASE and DESIST from any violations of the Act.
6. Orders Coin Trade Center to pay a fine of seven hundred fifty thousand dollars (\$750,000) to the Division within 5 years of the entry of this order. This fine shall be reduced by restitution paid to the victims identified herein.
7. Orders Howard L. Gurney to pay a fine of two hundred fifty thousand dollars (\$250,000) to the Division within 5 years of the entry of this order. This fine shall be reduced by restitution paid to the victims identified herein.
8. Orders Toni D. Gurney to pay a fine of two hundred fifty thousand dollars (\$250,000) to the Division within 5 years of the entry of this order. This fine shall be reduced by restitution paid to the victims identified herein.

DATED this 18<sup>th</sup> day of December, 2011.

  
J. STEVEN EKLUND  
Administrative Law Judge

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**

I certify that on the 1<sup>st</sup> day of December, 2011, I mailed a true and

correct copy of the Notice of Entry of Default and Order to:

Coin Trade Center, LLC  
1102 South State Street  
Orem, Utah 84097

Certified # 7007 0220 0001 0003 5/13

Howard L. and Toni D. Gurney  
289 N. 400 E.  
Lehi, Utah 84043

Certified # 7007 0220 0001 0003 5/13

  
Executive Secretary

Division of Securities  
Utah Department of Commerce  
160 East 300 South, 2nd Floor  
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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:

**COIN TRADE CENTER, LLC**  
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**TONI D. GURNEY**

Respondents.

AFFIDAVIT OF SERVICE AND NON-  
RESPONSE

**Docket No. SD-08-0006**  
**Docket No. SD-08-0007**  
**Docket No. SD-08-0008**

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I, Julie Price, first being duly sworn, depose and state as follows:

1. I am the Executive Secretary for the Department of Commerce Division of Securities (the Division).
2. As executive secretary for the Division, I am responsible for supervising the mailing of the Division's Orders to Show Cause and for receiving any responses filed by respondents.

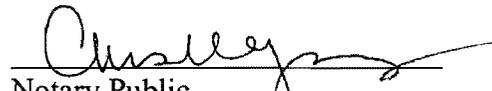
3. On February 1, 2008, the Division mailed, by certified mail, an Order to Show Cause (OSC) to Coin Trade Center, LLC, Howard L. Gurney and Toni D. Gurney, along with a Notice of Agency Action (Notice), advising that a default order would be entered if they failed to file a written response to the OSC within thirty (30) days of the mailing date of the Notice. The Gurneys are not only individual Respondents, but also the only two members of Coin Trade Center, LLC.
4. On February 5, 2008, the Division was notified by the United States Postal Service (USPS) that delivery of the OSC and Notice to Coin Trade Center, LLC, and Howard and Toni Gurney was successful.
5. As of the date of this Affidavit, the Division has not received a response from Coin Trade Center, LLC, or Howard L. Gurney, or Toni D. Gurney.

DATED this 10th day of November, 2011.

  
 JULIE PRICE  
 Executive Secretary

SALT LAKE COUNTY     )  
   ) ss  
 STATE OF UTAH         )

Signed and subscribed to before me this 30<sup>th</sup> day of November, 2011.

  
 Notary Public

