

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 THE LICENSE
OF:**

**R P CAPITAL MANAGEMENT, LLC,
CRD#143929**

Respondent.

ORDER DENYING APPLICATION

Docket No. SD-08-0021

On May 11, 2007, R P Capital Management, LLC ("RPCM"), CRD#143929, initiated this proceeding by filing with the Utah Division of Securities ("Division") an SEC Form ADV-Uniform Application for Investment Adviser Registration ("Form ADV") requesting that RPCM be licensed in Utah as an investment adviser. Rule R164-18-6(D)(3) of the Utah Administrative Code ("UAC") designates submission of the Form ADV as a request for agency action. In response to the request for agency action, the Director of the Division ("Director") hereby issues this Order Denying RPCM's Application, pursuant to the authority of Section 61-1-

6 of the Utah Uniform Securities Act (“Act”) and Section 63-46b-3(3)(d)(ii) of the Utah Administrative Procedures Act (“UAPA”).

I. FINDINGS

1. On May 11, 2007, RPCM filed application materials with the Division seeking to become licensed as an investment adviser. RPCM filed Form ADV Part I through the Investment Adviser Registration Depository (“IARD”)¹.
2. The Form ADV identified RPCM’s office address as 1178 E. Brickyard Road, Salt Lake City, UT 84106. However, the Form ADV specified a different contact address for RPCM, 1505 S. Roger Drive, Salt Lake City, UT 84124.
3. The Form ADV also provided a telephone number of (801) 360-7755 and fax number of (801) 274-9222, as well as an e-mail address for designated official Michelle Remington (“Remington”).
4. Because the application was incomplete, on May 15, 2007 the Division sent a letter by certified mail to the Roger Drive address, requesting additional information necessary to

¹IARD is an electronic filing system that facilitates investment adviser registration, regulatory review, and the public disclosure information of investment adviser firms. The Financial Industry Regulatory Authority (“FINRA”) is the developer and operator of the IARD system. The system has been developed according to the requirements of its sponsors, the Securities and Exchange Commission (SEC) and the North American Securities Administrators Association (NASAA), along with those of an Industry Advisory Council representing investment adviser firms.

complete the application. The Division enclosed a form for waiver of the Act's automatic effectiveness provisions of Section 61-1-4(1)(e)(i), in order to allow RPCM additional time to complete the application. The return receipt was signed by a Kathy Korkishko ("Korkishko").

5. On May 16, 2007, RPCM filed Form ADV Part II through IARD. The Form ADV Part II listed yet another address for RPCM, 1433 E. Harvard Avenue, Salt Lake City, UT 84105.
6. On May 29, 2007, Remington's husband ("JR") sent an e-mail to the Division, indicating that he was helping his wife with RPCM's application and that the RPCM's bond was pending. JR attached a signed waiver of the automatic effectiveness provisions of 61-1-4(1)(e)(i).
7. On June 6, 2007, the Division sent a comment letter to RPCM raising questions and concerns about the application, including JR's involvement with RPCM as he was not a licensed investment adviser representative. The comment letter was mailed to the same Roger Drive address as the May 15 letter, and a return receipt was later received, also signed by Korkishko.
8. On June 8, 2007, the Division sent Remington an e-mail to express concerns about RPCM's telephone number forwarding to JR's voicemail, and JR's increasing

involvement in the application process as he was not a licensed investment adviser representative.

9. On June 11, 2007, Remington returned the Division's call, and explained that her cell phone was currently inactive but that she would update RPCM's contact information in IARD once her new telephone line was established. She did not mention any changes to RPCM's address.
10. Later that day, Remington updated RPCM's information on IARD, changing both RPCM's office and contact addresses to 150 E. Vine Street, Murray, UT, 84107. Remington also changed the telephone number to (512) 786-3074. The fax number and e-mail address were not changed.
11. On July 5, 2007, Remington e-mailed the Division a response to the June 6 comment letter, as well as an incomplete Corporate Indemnity Bond of Investment Adviser Form 4-5BIA, and a revised Form ADV Part II. The Form ADV Part II was also filed online through IARD.
12. On August 6, 2007, the Division sent a second comment letter to RPCM that highlighted unresolved issues with the application and some additional concerns. That letter was sent to the Roger Drive address as the Division was unaware of the June 11 address change.
13. On August 7, 2007, the Division left a voicemail for Remington at the original telephone number, (801) 360-7755 (as the Division was unaware of the June 11 change) to inform

her of the second comment letter. The Division also sent a scanned copy of the letter by e-mail to Remington.

14. On August 9, 2007 Remington confirmed receipt of the Division's email and the scanned copy of the second comment letter, and stated she would submit a response soon thereafter.
15. On August 13, 2007, the Division's second comment letter was returned to sender as "Attempted - Not Known" and "Unable to Forward."
16. On August 15, 2007, the Division spoke with Remington about the returned letter and she explained she had updated RPCM's information through the IARD system, that the Vine Street address was valid, and the telephone number (512) 786-3074 should be used to contact her. This was the last communication the Division received from Remington or RPCM.
17. On two subsequent occasions, September 6 and October 4, the Division left voicemails on the updated telephone number for Remington inquiring about RPCM's pending response.
18. On November 14, 2007 the Division sent a letter to Remington asking for either RPCM's response to the August 6 comment letter, or withdrawal of the application. The letter was sent to the Vine Street address by certified mail, and a return receipt was received on

November 16, 2007, signed by a Linda Larson. The letter was also sent by fax and e-mail to Remington.

19. RPCM made no response and did not withdraw the application.
20. On December 10, 2007, the Division left another voicemail for Remington informing her of the November 14 letter and the Division's intent to deny RPCM's application.
21. RPCM's application remains incomplete, and since August 15, 2007, Remington has not returned any of the Division's telephone calls, nor responded to the Division's letters or e-mails.

II. GROUNDS FOR DENIAL

22. Section 61-1-6(7) of the Act provides that "[i]f the director finds that any . . . applicant for a license is no longer in existence, has ceased to do business . . . or cannot be located after a reasonable search" the Division may summarily deny the application.
23. Based upon RPCM's failure to respond, the Division has determined that RPCM cannot be located after a reasonable search, has ceased doing business, or is no longer in existence.
24. It is, therefore, in the public interest that RPCM's investment adviser application be denied.

III. ORDER

The Director, pursuant to § 61-1-6 of the Act hereby ORDERS that RPCM's application for licensure as an investment adviser in Utah is denied.

DATED this 27th day of February, 2008.

Wayne Klein
Wayne Klein
Director



Certificate of Mailing

I certify that on the 28th day of FEBRUARY, 2008, I mailed, by certified mail, a true and correct copy of the Order Denying Application to:

R P Capital Management, LLC
150 E. Vine Street

7005 1620 0003 7190 7026

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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Pamela Rossini
Executive Secretary

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