

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

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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:**

**CLEAR INVESTING, LLC  
JOHN CARROLL HAMMANS**

**Respondents.**

**ORDER TO SHOW CAUSE**

Docket No. SD-08-0025  
Docket No. SD-08-0026

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It appears to the Director of the Utah Division of Securities (Director) that Clear Investing LLC and John Carroll Hammans (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) of the Act while

engaged in the offer and sale of securities in Utah.

## **STATEMENT OF FACTS**

### **THE RESPONDENTS**

2. Clear Investing, LLC (Clear Investing) registered as a Utah limited liability company on March 25, 2005, and its entity status is currently “active.” John Carroll Hammans and Mandy Hammans are the only members of Clear Investing.
3. John Carroll Hammans (Hammans) resides in Davis County, Utah.

### **GENERAL ALLEGATIONS**

4. On June 20, 2006, Hammans solicited an investment from JB at her home in Davis County in a deal involving the purchase and sale of local property for a profit of between 20-30%. Hammans wanted \$65,000 and said JB would get her money back, plus a percentage of any profits, in three to six months. JB had previously rejected two other solicitations by Hammans – one for \$100,000 six months earlier – because the amount was so high.
5. JB agreed to invest and gave Hammans a personal check for \$65,000, made payable to Clear Investing, that same day.
6. Hammans deposited JB’s check on or about June 25, 2006.
7. On July 10, 2006, JB’s husband received an e-mail from Hammans, stating that Hammans was not able to purchase the property he told JB about.
8. JB has since requested that Hammans return her money, but to date she has received

nothing.

9. Hammans owes JB \$65,000 in principal alone.
10. Bank records reveal that JB's money was not used to purchase any real estate.
11. Hammans used JB's money to pay personal expenses such as, tuition at Utah State University, payment for credit repair services, pre-school expenses, attorneys fees, mortgage payments, and dining expenses, just to name a few.

## **CAUSES OF ACTION**

### **COUNT I**

#### **Securities Fraud under § 61-1-1 of the Act**

12. The Division incorporates and re-alleges paragraphs 1 through 11.
13. The investment opportunity offered and sold to JB by Clear Investing and Hammans is an investment contract, and therefore a security, 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).

14. In connection with the offer and sale of a security to JB, Clear Investing and Hammans, directly or indirectly, made false statements, including, but not limited to, the following:
  - a. JB's money would be used to purchase local real estate; and
  - b. JB would get her money back, plus a percentage of profits, in three to six months.
15. In connection with the offer and sale of a security to JB, Clear Investing and Hammans, 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. That Hammans would use some of JB's money to pay personal expenses; and
  - b. Some or all of the information typically provided in an offering circular or prospectus regarding Clear Investing, such as:
    - i. Identities of the principals of Clear Investing along with their experience;
    - ii. The business and operating history for Clear Investing;
    - iii. Financial statements for Clear Investing;
    - iv. The market for the product or service of the company;
    - v. The nature of the competition for the product or service;
    - vi. Current capitalization of Clear Investing;
    - vii. The company's past performance for its investors;
    - viii. Risk factors for investors;
    - ix. The number of other investors;

- x. The minimum capitalization needed to participate in the investment;
- xi. The disposition of any investments received if the minimum capitalization were not achieved;
- xii. The liquidity of the investment;
- xiii. Discussion of pertinent suitability factors for the investment;
- xiv. The proposed use of the investment proceeds;
- xv. Any conflicts of interest the issuer, the principals, or the agent may have with regard to the investment;
- xvi. Agent commissions or compensation for selling the investment;
- xvii. Whether the investment is a registered security or exempt from registration; and
- xviii. Whether the person selling the investment was licensed.

16. Based upon the foregoing, Clear Investing and Hammans violated § 61-1-1 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 Tuesday, May 6th, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2<sup>nd</sup> 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 Clear Investing LLC and John Carroll Hammans should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;
- b. Why Clear Investing LLC and John Carroll Hammans 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;
- c. Why Clear Investing LLC and John Carroll Hammans should not be ordered to pay a fine, jointly and severally, of one hundred thousand dollars (\$100,000) to the Division, which may be reduced by restitution paid to the victim.

DATED this 7<sup>th</sup> day of March, 2008.



THAD LEVAR  
Acting Director, Utah Division of Securities



Approved:



JEFF BUCKNER  
Assistant Attorney General

J. S.

Division of Securities  
Utah Department of Commerce  
160 East 300 South, 2<sup>nd</sup> Floor  
Box 146760  
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:

CLEAR INVESTING, LLC  
JOHN CARROLL HAMMANS

Respondents.

NOTICE OF AGENCY ACTION

Docket No. SD-080025  
Docket No. SD-08-0026

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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 Tuesday, May 6th, 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, 2<sup>nd</sup> 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.

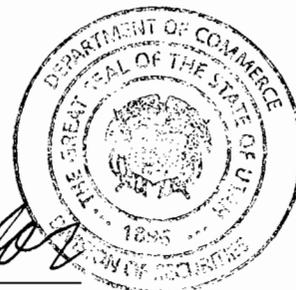
The Administrative Law Judge will be J. Steven Eklund, Utah Department of Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6648. Questions regarding the Order to Show Cause and Notice of Agency Action should be directed to the Division's attorney, Jeff Buckner, at (801) 366-0310.

DATED this 7<sup>th</sup> day of March, 2008.



THAD LEVAR

Acting Director, Utah Division of Securities



**Certificate of Mailing**

I certify that on the 10TH day of March, 2008, I mailed, by certified mail, a true and correct copy of the Order to Show Cause and Notice of Agency Action to:

John Carroll Hammans  
2616 N. 720 W.  
Clinton, UT 84105

Certified Mailing # 7004 1160 000301956290

Clear Investing, LLC  
C/O Mandy Hammans, Registered Agent  
4520 S. 900 W. #321  
Riverdale, UT 84405

Certified Mailing # 7004 1160 000301956306

TAM RADZINSKI  
Executive Secretary