

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:

CLEAR INVESTING, LLC
JOHN CARROLL HAMMANS

Respondents.

STIPULATION AND CONSENT
ORDER

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

The Utah Division of Securities (Division), by and through its Director of Enforcement, Michael Hines, and Clear Investing, LLC and John Carroll Hammans hereby stipulate and agree as follows:

1. Clear Investing, LLC (Clear Investing) and John Carroll Hammans (Hammans) were the subject of an investigation conducted by the Division into allegations that they violated certain provisions of the Utah Uniform Securities Act (the Act), Utah Code Ann. § 61-1-1, et seq, as amended.

2. In connection with that investigation, on March 7, 2008, the Division issued an Order to Show Cause to Clear Investing and Hammans, alleging that they violated the Act by committing securities fraud in connection with the offer and sale of a security in or from Utah.

3. Clear Investing, Hammans, and the Division have agreed to settle the matter by way of this Stipulation and Consent Order.

4. Clear Investing and Hammans are represented by attorney Kevin Timken, of Kruse, Landa, Maycock & Ricks, LLC, and are satisfied with the representation they have received.

5. Clear Investing and Hammans admit the jurisdiction of the Division over them and over the subject matter of this Stipulation.

6. Clear Investing and Hammans waive any right to a hearing to challenge the Division's evidence and present evidence on their behalf.

THE DIVISION'S INVESTIGATIVE FINDINGS

7. From September 2007 to March 2008, the Division conducted an investigation of Clear Investing and Hammans which revealed the following:

8. 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.

9. Hammans is a resident of Davis County, Utah.

10. 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%.

Hammons 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 Hammons – one for \$100,000 six months earlier – because the amount was so high.

11. JB agreed to invest and gave Hammons a personal check for \$65,000, made payable to Clear Investing, that same day.

12. Hammons deposited JB's check on or about June 25, 2006.

13. On July 10, 2006, JB's husband received an e-mail from Hammons, stating that Hammons was not able to purchase the property he told JB about.

14. JB has since requested that Hammons return her money, but to date she has received nothing.

15. Hammons owes JB \$65,000 in principal alone.

16. Bank records reveal that JB's money was not used to purchase any real estate.

17. Hammons 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.

MISREPRESENTATIONS AND OMISSIONS

18. In connection with the offer and sale of a security to a Utah investor, Clear Investing and Hammons, 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.

19. In connection with the offer and sale of a security to an investor, Clear Investing and Hammans, directly or indirectly, failed to disclose or provide material information to the investor, including, but not limited to, the following, which was necessary in order to make representations made, in the light of the circumstances under which they were 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.

THE DIVISION'S CONCLUSIONS

20. Based on the Division's investigative findings, the Division concludes that:

(a) The investment opportunity offered and sold by Clear Investing and Hammans to the investor 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).; AND

(b) Clear Investing and Hammans violated § 61-1-1 of the Act by making misrepresentations of material fact and omitting to state material facts in connection with the offer and sale of a security.

REMEDIAL ACTIONS

21. Clear Investing and Hammans admit the substance of the Division's investigative conclusions and consent to the Division entering an order:

(a) Requiring Clear Investing and Hammans to cease and desist from engaging in any further conduct in violation of the Utah Uniform Securities Act;

(b) Requiring Hammans and Clear Investing to pay a fine, jointly and severally, of sixty five thousand dollars (\$65,000) to the Division by March 31, 2009, reduced dollar for dollar by any restitution Hammans pays to the investor pursuant to case #081700417, State of Utah v. John Carroll Hammans, 2nd District Court, Davis County (Farmington);

(c) For a period of one year from the execution of this Stipulation and Consent Order, if Clear Investing and/or Hammans fail to comply in any respect with the Stipulation and Consent Order, the Division Director may issue an order imposing a fine against Clear Investing and/or Hammans in an amount not to exceed \$65,000. That order may be issued upon ex-parte motion of the Division, supported by an affidavit verifying such failure to

comply with the agreement, and the order shall require the payment of the fine within four months following the date of entry of the order.

22. Clear Investing and Hammans acknowledge that this Stipulation, upon approval by the Division Director, shall be the final compromise and settlement of this matter. Clear Investing and Hammans further acknowledge that if the Division Director does not accept the terms of the Stipulation, it shall be deemed null and void and without any force or effect whatsoever; provided, however, that the Division, Clear Investing, and Hammans waive any claim of bias or prejudgment which they might otherwise have with regard to the Division Director by virtue of his or her having reviewed this Stipulation, and this waiver shall survive such nullification.

23. Clear Investing and Hammans acknowledge that the Stipulation does not affect any civil or arbitration causes of action that third parties may have against Clear Investing or Hammans arising in whole or in part from their actions, and that the Stipulation does not affect any criminal cause of action that a prosecutor might bring.

24. This Stipulation constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Stipulation in any way.

25. Clear Investing and Hammans represent that any information they have provided to the Division is accurate and complete.

26. Violation of this Stipulation is a third degree felony pursuant to § 61-1-21(1) of the Act.

27. Clear Investing and Hammans have read this Stipulation, understand its contents, and enter into this Stipulation voluntarily. No promises or threats have been made by the Division, nor by any member, officer, agent, or representative of the Division other than as contained herein, to induce Clear Investing and Hammans to enter into this Stipulation.

Utah Division of Securities

Respondent Clear Investing

Date: 11/12/08

Date: 11/13/08

By: 
Michael Hines
Director of Enforcement

By: 
Its: Manager

Respondent John Carroll Hammans

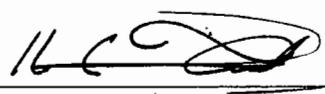
Date: 11/13/08

By: 
John Carroll Hammans

Approved:

Approved:


Jeff Buckner
Assistant Attorney General


Kevin Timken
Attorney for Respondents

ORDER

Pursuant to the terms of the Stipulation defined above, the Director of the Utah Division of Securities hereby orders that:

(a) Clear Investing, LLC and John Carroll Hammans CEASE and DESIST from engaging in any further conduct in violation of the Utah Securities Act;

(b) Requiring John Carroll Hammans and Clear Investing, LLC to pay a fine, jointly and severally, of sixty five thousand dollars (\$65,000) to the Division by March 31, 2009, reduced dollar for dollar by any restitution Hammans pays to the investor pursuant to case #081700417, State of Utah v. John Carroll Hammans, 2nd District Court, Davis County (Farmington);

(c) For a period of one year from the execution of this Stipulation and Consent Order, if John Carroll Hammans and/or Clear Investing, LLC fail to comply in any respect with the Stipulation and Consent Order, the Division Director may issue an order imposing a fine against John Carroll Hammans and/or Clear Investing, LLC in an amount not to exceed \$65,000. That order may be issued upon ex-parte motion of the Division, supported by an affidavit verifying such failure to comply with the agreement, and the order shall require the payment of the fine within four months following the date of entry of the order.

DATED this 8th day of November, 2008.



KEITH WOODWELL
Director, Utah Division of Securities



Certificate of Mailing

I certify that on the 18TH day of NOVEMBER, 2008, I mailed, via certified mail, a true and correct copy of the Stipulation and Consent Order to:

Kevin Timken, Attorney for Respondents
Kruse, Landa, Maycock & Ricks, LLC
136 E. South Temple, 21st Floor
Salt Lake City, UT 84145

Certified Mailing # 7004 1160 000301962024

Pam Radzinski
Executive Secretary