

State of Utah  
Department of Commerce  
Division of Securities  
160 East 300 South  
P.O. Box 146760  
Salt Lake City, Utah 84114-6760  
Telephone: 801 530-6600

---

**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

---

**IN THE MATTER OF:**

**ALBERT CLARK ALVEY, CRD#3088610**

**Respondent.**

**STIPULATION AND CONSENT ORDER**

**Docket No. SD-10-0011**

---

The Utah Division of Securities (“Division”), by and through its Director of Licensing and Compliance, Dave R. Hermansen, and Respondent Albert Clark Alvey (Alvey/Respondent) hereby stipulate and agree as follows:

1. Mr. Alvey has been the subject of an investigation by the Division into allegations that he violated the Utah Uniform Securities Act (“Act”), Utah Code Ann. §61-1-1, *et seq.*
2. On or about March 25, 2010, the Division initiated an administrative action against the Respondent by filing an Order to Show Cause.
3. Respondent is hereby agreeing with the Division to settle this matter by way of this Stipulation and Consent Order (“Order”). If entered, the Order will fully resolve all claims the Division has against Respondent pertaining to the March 25, 2010 Order to Show Cause.

4. Respondent admits that the Division has jurisdiction over him and the subject matter of this action.
5. Respondent hereby waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
6. Respondent has read this Stipulation and Consent Order, understands its contents, and submits to the entry of the Order voluntarily. No promises or other agreements have been made by the Division, nor by any representative of the Division, to induce him to enter into this Order, other than as described in this Order.
7. Respondent understands that he may be represented by counsel in this matter, understands the role that counsel would play in defending and representing his interests in this case, and knowingly, freely and voluntarily, waives his right to have counsel represent him in this proceeding.

#### **I. FINDINGS OF FACT**

8. Respondent Albert Clark Alvey is a Utah resident.
9. From January 27, 2003 through November 16, 2007, Alvey was licensed in Utah as a broker-dealer agent and investment adviser representative of Investment Management Corporation ("IMC"), CRD#37196. From November 2007 through April 2009, Alvey was licensed in Utah as a broker-dealer agent and investment adviser representative with Paulson Investment Company, Inc., CRD#5670. He has not been licensed in the securities industry in any capacity since April 30, 2009.
10. Alvey has taken and passed the Series 7 General Securities Representative Licensing Examination, the Series 63 Uniform Securities Agent State Law Examination, and the

Series 65 Uniform Registered Investment Adviser Examination.

11. Double A Investments, Inc. (“Double A”) is a Utah corporation formed by Alvey. Alvey is Double A’s president and sole director. Double A has never been licensed as a broker-dealer.
12. IMC and its agents, including Alvey, sold securities investments in “Vescor”, which as used herein collectively refers to a network of approximately 150 companies owned or controlled by Val Edmund Southwick (“Southwick”). Those companies include, but are not limited to VesCor Capital Corp., VesCorp Capital, LLC, VesCor Capital, Inc., VesCor Capital IV-M, LLC, Vescor Development, LLC, and VesCor Capital IV-A, LLC.
13. Vescor was a Ponzi scheme in which new investor monies were used to pay interest to prior investors or for personal use. In 2008, Southwick pled guilty to nine felony counts of securities fraud for defrauding investors from Utah and several other states out of approximately \$180 million. He was sentenced to 1-15 years in prison on each count and is presently incarcerated.
14. In 2008, IMC was expelled from membership by the Financial Industry Regulatory Authority (“FINRA”). IMC’s principals, Brian Y. Horne (“Horne”), CRD#1830136, and Kevin D. Kunz (“Kunz”), CRD# 1274540, were barred from associating with any FINRA member in any capacity.
15. Deseret Financial Services, Inc. (“Deseret Financial”) was a Utah corporation incorporated in 2000 by Horne, who was its president, secretary and director.
16. Deseret Financial was not licensed as a broker-dealer at any time.

Vescor Sales by Alvey

17. Between January 2003 and October 2005, Alvey solicited investors in Utah and elsewhere to purchase investment promissory notes issued by Vescor.
18. The promissory notes offered and sold by Alvey are securities under the Act.
19. From 2003 to 2005, Alvey sold Vescor notes to 34 investors, raising approximately \$4.7 million and receiving approximately \$300,000.00 in selling compensation. Some of the transactions and Alvey's selling compensation were not recorded on the books and records of IMC, as required by securities regulations.
20. While licensed with IMC, Alvey entered into a "Special Incentive" bonus contract with Southwick and Vescorp Capital to solicit funds from investors from April 1, 2003 to April 1, 2004.
21. On December 1, 2003, Vescorp Capital LLC paid \$2,000 by check to Deseret Financial with "Alvey, Bert Bonus" written on the memo line of the check pursuant to the terms of the "Special Incentive" bonus contract.
22. On May 4, 2004, in an IMC "kickoff" meeting for the 2004 Vescorp IV-A and Vescorp IV-M Note Program, Alvey was one of six IMC agents who received a \$500 bonus and special recognition for meeting a sales goal of \$1 million in the 2003 offering.
23. After Vescor and IMC agreed to suspend sales of Vescorp IV-A and Vescorp IV-M notes on August 13, 2004, Alvey continued to solicit investor funds for investments with Vescor in 2004 and 2005. On July 1, 2005, P.H. and J.H. invested \$1 million with Vescor.
24. In July 2006, after Vescor ceased making interest payments to investors, Alvey loaned at

least \$16,500 to Southwick so Vescor could continue making payments to a certain few of Alvey's clients.

25. Alvey told at least 2 of the 34 investors who received the Division's February 2007 Vescor investigative questionnaires that they did not need to complete or return the questionnaires to the Division.
26. From March 2003 to March 2004, Alvey received at least \$178,092.52 in compensation and commissions for securities transactions from Vescor that were paid through Deseret Financial, an entity used by IMC and its principals to conceal payments from regulators.<sup>1</sup>
27. At least \$31,617.30 of the \$178,092.52 Vescor commissions were paid by Deseret Financial to Alvey through Double A, instead of being paid to Alvey by his broker-dealer, IMC, as required by securities regulations. At no time was Alvey a licensed agent of Deseret Financial or Double A.
28. Despite being paid compensation by Deseret Financial for securities transactions, Alvey's Form U4<sup>2</sup> failed to disclose his outside business activities with Deseret Financial.
29. Alvey's Form U4 also failed to disclose his investment-related activity and receipt of securities commissions through Double A. The Form U4 instead described his activities

---

<sup>1</sup>As a result of a prior disciplinary action IMC had been prohibited by FINRA's predecessor, NASD, from selling private securities offerings.

<sup>2</sup>The Form U4, Uniform application for Securities Registration or Transfer, is filed by a firm with FINRA and the Division in order for an individual to become a licensed securities agent in Utah. It is submitted electronically to the Division through the Central Registration Depository ("CRD"). The Form U4 requires the disclosure of all business activities conducted by licensed individuals. It is the agent's responsibility to ensure the form is accurate.

with Double A as “a personal S corp and marketing name for offering fixed insurance products, mortgages, and real estate sales and/or development. 3 to 5 hours per week.”

Investor M.F. as Trustee for the G.F. Trust

30. Alvey sold two \$25,000 Vescor promissory notes to investor M.F. as trustee for the G.F. Trust, one in September 2003, and the other in November 2003. The notes were for 36 months, and promised to pay 10% annual interest to be paid monthly.
31. Alvey misrepresented to M.F. that VesCor and Southwick had a “30 year good track record” of business, but provided no specifics. Alvey misrepresented that the note would be secured by real estate for collateral. Alvey failed to disclose to M.F. that the trust did not have an ownership interest in projects, recorded interests in collateral, or real estate trust deeds that the notes were allegedly being used to finance.

Investors D.W. and S.W.

32. Alvey met with D.W. and S.W. at their home in August 2003, after which they invested \$100,000 in Vescor through a promissory note that promised to repay the note with 10.5% interest in monthly payments over 24 months.
33. Alvey misrepresented that the promissory note was secured by a deed of trust and that the investment was secured by real property. Alvey did not provide D.W. and S.W. a private placement memorandum (PPM) for the offering prior to their investing. D.W. and S.W. signed a subscription agreement that was pre-notarized by Kevin Kunz.
34. D.W. and S.W. received \$29,759 in monthly payments from Vescor from October 2003 through July 2006, at which time they requested repayment from Alvey, IMC and Vescor. D.W. was told by Alvey that the properties needed to be sold and then they

should get the rest of the money under the terms of the note. D.W. and S.W. did not receive any further payments from Vescor.

Investor M.B.

35. In April 2003, Alvey sold investor M.B. a promissory note issued by VesCor Capital in the amount of \$64,500, which promised to repay the investment at 12% annual interest, maturing in 36 months.
36. Alvey misrepresented that the investment was safe and backed by a security agreement that stated there was collateral worth twice the investment.
37. Alvey failed to disclose or advise M.B. what recourse she would have if the investment failed, whether M.B. could lose her investment principal, whether she had any ownership interest in the real estate project for which the note was allegedly being used, and whether she had any legal title to any project or property.

Investor R.B.

38. In April 2003, Alvey sold investor R.B. a promissory note issued by VesCor Capital in the amount of \$70,500, which promised to repay the investment at 12 % annual interest, maturing in 36 months.
39. Alvey misrepresented that the investment was safe and backed by a security agreement that stated there was collateral worth twice the investment.
40. Alvey failed to disclose or advise R.B. what recourse he would have if the investment failed, whether R.B. could lose his investment principal, whether he had ownership in the real estate project for which the note was allegedly being used, and whether he had any legal title to any project or property.

Investor H.B.

41. In April 2004, Alvey sold investor H.B. a VesCorp Capital IV-A, LLC, promissory note in the amount of \$75,000, which promised to repay the investment at 12% over three years.
42. Alvey misrepresented to H.B. that the investment was very safe; that VesCor had 30 years of success; that the risk was minimal; that the investment would not fail, but if it did, H.B. had the promissory note as recourse; that H.B.'s principal investment was guaranteed; that Vescor had not had a bankruptcy or default in 30 years; and that all Vescor projects were successful.

Investors J.H. and P.H.<sup>3</sup>

43. Beginning in May 2005, investors J.H. and P.H. were solicited to invest in Vescor. Because J.H. and P.H. had at least a million dollars to invest, Alvey arranged and attended meetings between J.H., P.H. and Southwick. After meeting with Southwick, Vescor emailed J.H. and P.H. on June 29, 2005, telling them that a minimum investment of \$1,000,000 by July 5, 2005 was necessary to achieve "true platinum status."
44. In July 2005, J.H. and P.H. invested \$1,000,000 in Vescor for a preferred equity, non-voting ownership interest in a limited liability company, Vegas Vista 6 holdings, LLC. The investment in the limited liability company was for 36 months and purportedly secured by a recorded deed in property located in Las Vegas, Nevada.

---

<sup>3</sup>J.H. and P.H. initiated an arbitration proceeding through the Financial Industry Regulatory Authority (FINRA), and received an award finding that Alvey was liable for breach of fiduciary duty and suitability.

45. Alvey was paid a commission of at least \$115,000 on the investment in the form of a price reduction on two parcels of real property Alvey purchased from Vescor.
46. Alvey misrepresented to the investors that Vescor had many years of successful development and an excellent history of investments, that the investment was low-risk, and that the investment would be used to develop property.
47. Alvey advised J.H. and P.H. that they did not need an attorney to review the investment because IMC had an in-house attorney to review all the documents.
48. After investing and after their repeated requests for documentation of the investment, J.H. and P.H. received a “closing booklet” which included a deed for property, but it was not recorded. When they asked why it was not recorded they were advised by Vescor that the State of Nevada or the County Recorder’s office was “backed up.” They were later told by Vescor that there were legal problems concerning the property that needed to be resolved.
49. The “closing booklet” also contained copies of the documents relating to the limited liability company, Vegas Vista 6, LLC, that was created so that J.H. and P.H. could partner with Southwick to invest in the Las Vegas, Nevada property.
50. Alvey failed to disclose to J.H. and P.H. that Southwick and his companies would have a controlling interest in Vega Vista 6, LLC, or the real property purchased with their monies, that J.H. and P.H. may be required to provide additional operating capital, and that J.H. and P.H. could not dispute the valuation of assets contributed to the LLC by Southwick or his companies.

## II. CONCLUSIONS OF LAW

51. As described above, Alvey misrepresented or omitted material facts necessary in order to make the statements made not misleading, in violation of Section 61-1-1(2) of the Act.
52. Alvey engaged in acts, practices or a course of business which operated as a fraud, including but not limited to:
- a. accepting compensation for securities transactions from Deseret Financial, an entity not licensed as a broker-dealer and with which he was not licensed as a securities agent; and
  - b. failing to report his business activities with Deseret Financial.

These actions violate Section 61-1-1(3) of the Act.

53. The only entity through which Alvey was licensed to sell securities was IMC.
54. As described above, Alvey conducted securities transactions through and was paid compensation by Deseret Financial. He was not a licensed agent of that entity.
55. Accordingly, each offer or sale of Vescor securities by Alvey for which he was paid by Deseret Financial violated Section 61-1-3 of the Act.
56. Alvey's Form U4, a document filed with the Division through the CRD, was false and misleading at the time it was filed because it failed to disclose his outside business activities with Deseret Financial, and significantly, did not disclose that he was receiving substantial investment-related securities compensation from Deseret Financial, rather than IMC, the broker-dealer with which he was licensed, a violation of Section 61-1-16 of the Act.

### III. REMEDIAL ACTIONS/SANCTIONS

57. Mr. Alvey neither admits nor denies the Division's findings and conclusions, but consents to the sanctions below being imposed by the Division. Respondent represents that he acted in good faith in reliance on the information provided by Vescor, IMC, Horne and Kunz.
58. Mr. Alvey represents that the information he has provided to the Division as part of the Division's investigation is accurate and complete.
59. Pursuant to Utah Code Ann. §61-1-20(1)(f), and in consideration of the guidelines set forth in Utah Administrative Code Rule R164-31-1 the Division imposes a fine against Mr. Alvey in the amount of \$75,000.00, of which \$74,000.00 shall be suspended so long as Mr. Alvey complies with the terms and conditions of this Stipulation and Consent Order. The remaining \$1,000.00 of the fine shall be paid within one year of the date of the entry of the Order set forth below. If the Division finds that Mr. Alvey materially violates any term of this Stipulation and Consent Order, the suspended portion of the fine shall become immediately due and payable.
60. Mr. Alvey agrees that he will not seek licensure or apply to be licensed by the Utah Securities Division as a broker-dealer agent or investment adviser, nor licensing as an agent for any issuer soliciting investor funds, nor licensing in any other capacity in the securities industry in the State of Utah at any time in the future.
61. Mr. Alvey agrees that he will provide truthful testimony and cooperation, including production of documents, with any State or Federal investigation involving Southwick, the VesCor companies, and any individuals under investigation as a result of their

affiliation with VesCor and/or Southwick.

62. Mr. Alvey agrees to cease and desist from violating the Utah Uniform Securities Act.

**IV. FINAL RESOLUTION**

63. Mr. Alvey acknowledges that this Order, upon approval by the Utah Securities Commission, shall be the final compromise and settlement of this matter. Respondent further acknowledge that if the Commission does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.

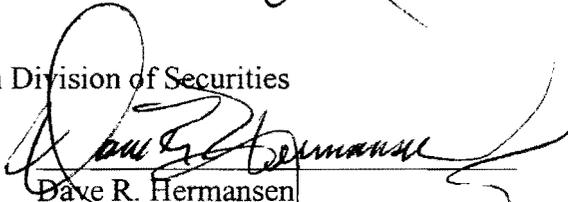
64. Respondent acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against him arising in whole or in part from his actions, and that the Order does not affect any criminal causes of action that may arise as a result of his conduct referenced herein. Mr. Alvey also acknowledges that any civil, criminal, arbitration or other causes of actions brought by third-parties against him have no effect, and do not bar, this administrative action by the Division against him.

65. This Order 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 Order in any way.

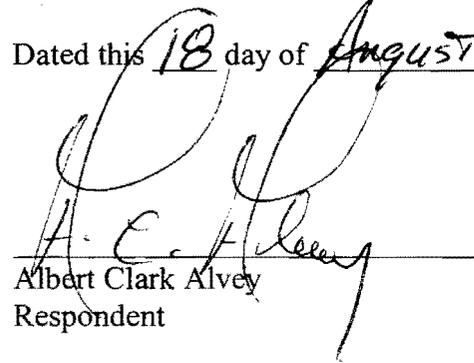
Dated this 18 day of AUGUST, 2010.

Utah Division of Securities

By:

  
Dave R. Hermansen  
Director of Licensing and Compliance

Dated this 18 day of AUGUST, 2010.

  
Albert Clark Alvey  
Respondent

Approved:

  
\_\_\_\_\_

D. Scott Davis

Assistant Attorney General

### **ORDER**

IT IS HEREBY ORDERED THAT:

1. The Division's Findings and Conclusions, which are neither admitted nor denied by the Respondent, are hereby entered.
2. Pursuant to Utah Code Ann. §§ 61-1-20(1)(f), and in consideration of the guidelines set forth in Utah Admin. Code Rule R164-31-1, a fine of \$75,000.00 is imposed against the Respondent, \$74,000.00 of the fine is and shall be suspended so long as the Respondent complies with the terms and conditions of this Stipulation and Consent Order. The remaining \$1,000.00 of the fine shall be paid within one year of the date of the entry of this Order. If the Division finds that Mr. Alvey materially violates any term of this Stipulation and Consent Order, the suspended portion of the fine shall become immediately due and payable.
3. Respondent shall not seek licensure or apply to be licensed by the Utah Securities Division as a broker-dealer agent or investment adviser, nor licensing as an agent for any issuer soliciting investor funds, nor licensing in any other capacity in the securities industry in the State of Utah at any time in the future.
4. Respondent shall provide truthful testimony and cooperation (including production of documents) with any State or Federal investigation involving Southwick, the VesCor companies, and any individuals under investigation as a result of their affiliation with VesCor and/or Southwick.

5. Respondent shall cease and desist from violating the Utah Uniform Securities Act and comply with the requirements of the Act in all future business in this state.

**BY THE UTAH SECURITIES COMMISSION:**

DATED this 24 day of August, 2010.



\_\_\_\_\_  
Tim Bangerter



\_\_\_\_\_  
Jane Cameron

\_\_\_\_\_  
Erik Christiansen

\_\_\_\_\_  
Michael O'Brien



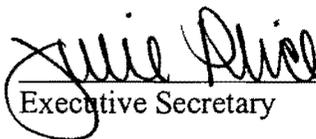
\_\_\_\_\_  
Laura Polacheck

**Certificate of Mailing**

I certify that on the 20th day of AUGUST, 2010, I mailed, by certified mail, a true and correct copy of the signed and executed Stipulation and Consent Order to:

Albert Clark Alvey  
1235 East 2100 South  
Bountiful, Utah 84010

7008 1140 0007 1042 2750

  
\_\_\_\_\_  
Executive Secretary