

Utah 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

**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.

ORDER TO SHOW CAUSE

Docket No. SD-10-0011

It appears to the Director ("Director") of the Utah Division of Securities ("Division") that Respondent Albert Clark Alvey ("Alvey") may have engaged in acts and practices that violate the Utah Uniform Securities Act ("Act"), Utah Code Ann. § 61-1-1, *et seq.* Those acts and practices are more fully described herein. Based upon the Division's investigation into 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 FACTS

1. 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.

2. 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.
3. 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.
4. 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.
5. 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.
6. In 2008, IMC was expelled from membership by the Financial Industry Regulatory Authority (“FINRA”). IMC’s principals, Brian Y. Home (“Home”), CRD#1830136, and Kevin D. Kunz (“Kunz”), CRD# 1274540, were barred from associating with any FINRA member in any capacity.
7. Deseret Financial Services, Inc. (“Deseret Financial”) was a Utah corporation incorporated in 2000 by Home, who was its president, secretary and director.

8. Deseret Financial was not licensed as a broker-dealer at any time.

Vescor Sales by Alvey

9. Between January 2003 and October 2005, Alvey solicited investors in Utah and elsewhere to purchase investment promissory notes issued by Vescor.
10. The promissory notes offered and sold by Alvey are securities under the Act.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.

16. 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.
17. 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.
18. 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.¹
19. 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.
20. Despite being paid compensation by Deseret Financial for securities transactions, Alvey's Form U4² failed to disclose his outside business activities with Deseret Financial.
21. Alvey's Form U4 also failed to disclose his investment-related activity and receipt of

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

²The 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.

securities commissions through Double A. The Form U4 instead described his activities 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

22. 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.
23. 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.

24. 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.
25. 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.
26. 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.

27. 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% interest in quarterly payments, maturing in 36 months.
28. Alvey misrepresented that the investment was safe and backed by a security agreement that stated there was collateral worth twice the investment.
29. 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.

30. 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 % interest in quarterly payments, maturing in 36 months.
31. Alvey misrepresented that the investment was safe and backed by a security agreement that stated there was collateral worth twice the investment.
32. 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.

33. 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.
34. 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.³

35. 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."
36. 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.

³J.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.

37. 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.
38. 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.
39. 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.
40. 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.
41. 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.
42. 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.

FIRST CAUSE OF ACTION
Securities Fraud Under § 61-1-1(2) of the Act

43. As set forth above, in connection with the offer or sale of securities, 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.

SECOND CAUSE OF ACTION
Securities Fraud Under § 61-1-1(3) of the Act

44. 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;
 - b. receiving securities commissions made payable to Double A rather than to himself as the selling agent; and
 - c. failing to report his business activities with Deseret Financial and Double A.

THIRD CAUSE OF ACTION
Unlicensed Agent Under § 61-1-3 of the Act

45. The only entity through which Alvey was licensed to sell securities was IMC.
46. As described above, Alvey conducted securities transactions through and was paid compensation by Deseret Financial. He was not a licensed agent of that entity.
47. 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.

FOURTH CAUSE OF ACTION
False Statements to Division Under § 61-1-16 of the Act

48. 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.

REQUEST FOR RELIEF

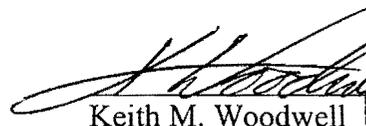
The Director, pursuant to Utah Code Ann. § 61-1-20, hereby orders the Respondent to appear at a formal hearing to be conducted in accordance with Utah Code Ann. §§ 63G-4-202 and 63G-4-204 through -209, and held before the Division. As set forth in the Notice of Agency Action accompanying this Order, Respondent is required to file a written response with the Division, and an initial hearing on this matter has been scheduled for May 4, 2010 at 9:00 a.m. The initial hearing will take place at the Division of Securities, 2nd floor, 160 East 300 South, Salt Lake City, Utah. The purpose of the initial hearing is to establish a scheduling order and address any preliminary matters. If Respondent fails to file a written response or appear at the initial hearing, findings may be entered, a permanent Order to Cease and Desist may be issued, and a fine may be imposed against Respondent, as provided by Utah Code Ann. §§ 63G-4-206 or -209.

At the Order to Show Cause hearing, Respondent may show cause, if any he has:

1. Why Respondent should not be found to have engaged in the violations of the Act alleged by the Division in this Order to Show Cause;

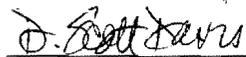
2. Why Respondent should not be ordered permanently to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1, -3, -7 or any other section of the Act;
3. Why Respondent should not be ordered to pay a fine to the Division in an amount to be determined at a hearing.
4. Why Respondent should not be barred from: a) associating with a licensed broker-dealer or investment adviser licensed in this state; and b) from acting as an agent for any issuer raising funds in this state.

Dated this 25th day of March, 2010


Keith M. Woodwell
Director, Utah Division of Securities



Approved:



D. Scott Davis
Assistant Attorney General

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:

ALBERT CLARK ALVEY, CRD #3088610

Respondent.

NOTICE OF AGENCY ACTION

Docket No.

00-10-0011

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT:

You are hereby notified that agency action in the form of an adjudicative proceeding has been commenced against you by the Utah Division of Securities (Division). The adjudicative proceeding is to be formal and will be conducted according to statute and rule. See Utah Code Ann. §§ 63G-4-201 and 63G-4-204 through 209; see also Utah Admin. Code R151-46b-1, *et seq.* The legal authority under which this formal adjudicative proceeding is to be maintained is Utah Code Ann. § 61-1-20. You may be represented by counsel or you may represent yourself in this proceeding. Utah Admin. Code R151-46b-6.

You must file a written response with the Division within thirty (30) days of the mailing date of this Notice. Your response must be in writing and signed by you or your representative. Your response must include the file number and name of the adjudicative proceeding, your version of the

facts, a statement of what relief you seek, and a statement summarizing why the relief you seek should be granted. Utah Code Ann. § 63G-4-204(1). In addition, pursuant to Utah Code Ann. § 63G-4-204(3), the presiding officer requires that your response:

- (a) admit or deny the allegations in each numbered paragraph of the Order to Show Cause, including a detailed explanation for any response other than an unqualified admission. Allegations in the Order to Show Cause not specifically denied are deemed admitted;
- (b) identify any additional facts or documents which you assert are relevant in light of the allegations made; and
- (c) state in short and plain terms your defenses to each allegation in the Order to Show Cause, including affirmative defenses, that were applicable at the time of the conduct (including exemptions or exceptions contained within the Utah Uniform Securities Act).

Your response, 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 Julie Price
Utah Division of Securities
160 E. 300 South, 2nd Floor
Box 146760
Salt Lake City, UT 84114-6760
(801) 530-6600

A copy to:

D. Scott Davis
Assistant Attorney General
Utah Division of Securities
160 East 300 South, 5th Floor
Salt Lake City, UT 84114-0872
(801) 366-0310

An initial hearing in this matter has been set for May 4, 2020, at the Division of Securities, 2nd Floor, 160 East 300 South, Salt Lake City, Utah, at 9:00 a.m.

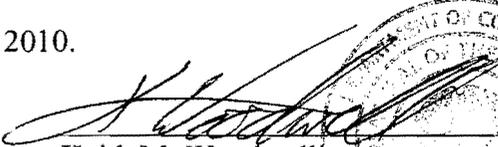
If you fail to file a response, as described above, or fail to appear at any hearing that is set,

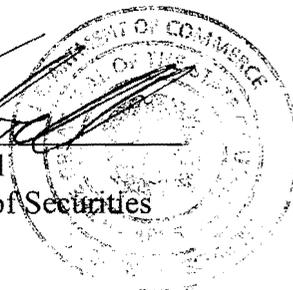
the presiding officer may enter a default order against you without any further notice. Utah Code Ann. § 63G-4-209; Utah Admin. Code R151-46b-10(11). After issuing the default order, the presiding officer may grant the relief sought against you in the Order to Show Cause, and will conduct any further proceedings necessary to complete the adjudicative proceeding without your participation and will determine all issues in the proceeding. Utah Code Ann. § 63G-4-209(4); Utah Admin. Code R151-46b-10(11)(b). In the alternative, the Division may proceed with a hearing under § 63G-4-208.

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. This adjudicative proceeding will be heard by Mr. Eklund and the Utah Securities Commission. You may appear and be heard and present evidence on your behalf at any such hearings.

You may attempt to negotiate a settlement of the matter without filing a response or proceeding to hearing. To do so, please contact the Utah Attorney General's Office. Questions regarding the Order to Show Cause should be directed to D. Scott Davis, Assistant Attorney General, 160 E. 300 South, 5th Floor, Box 140872, Salt Lake City, UT 84114-0872, Tel. No. (801) 366-0310.

Dated this 25th day of March, 2010.


Keith M. Woodwell
Director, Division of Securities

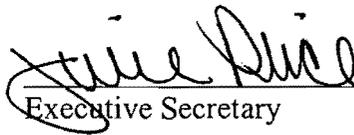


Certificate of Mailing

I certify that on the 29 day of March, 2010, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Albert Clark Alvey
1235 E. 2100 S.
Bountiful, Utah 84010

Certified Mail # 7009 2820 0001 2595 4201


Executive Secretary