

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

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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:**

**Paragon Capital Investments, LP  
Ascent Capital Management, LLC  
Jonathan Charles Thatcher, CRD#4442559  
Kevin Stewart  
Randall Homer**

**Respondents.**

**ORDER TO SHOW CAUSE**

Docket No. SD-10-0027  
Docket No. SD-10-0028  
Docket No. SD-10-0029  
Docket No. SD-10-0040  
Docket No. SD-10-0041

It appears to the Director ("Director") of the Utah Division of Securities ("Division") that Respondents Paragon Capital Investments, LP ("Paragon"), Ascent Capital Management, LLC ("Ascent"), Jonathan Charles Thatcher ("Thatcher"), Kevin Stewart ("Stewart"), and Randall Homer ("Homer") (hereinafter referred to collectively at times as "Respondents") 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**

**The Parties**

1. Paragon is a Delaware limited partnership formed on August 27, 2008. Paragon's

executive address is: 160 Greentree Drive, Suite 101, Dover, Delaware, 19904.

2. Ascent is a Utah limited liability company whose principal place of business is 13721 South Duskywing Way, Riverton, Utah 84096.
3. Thatcher is Ascent's registered agent and manager, and Thatcher, Stewart and Joshua Floyd Black ("Black"), CRD#4280729, are Ascent's three principals.
4. Thatcher was previously licensed as a broker-dealer agent with Great Eastern Securities, Inc. from October 1, 2004 through May 1, 2005 and with Fidelity Brokerage Services LLC from August 14, 2001 through October 4, 2002, and was not licensed in any capacity during the times at issue in this matter. Thatcher's current address is listed as 13721 South Duskywing Way, Riverton, Utah, 84096.
5. Stewart and Homer have never been licensed in the securities industry in any capacity.
6. Black is currently licensed as a broker-dealer agent and investment adviser representative with Sunset Financial Services, Inc. ("SFS"). He has been employed with SFS since June 1, 2008, licensed as a broker-dealer agent since September 24, 2008, and licensed as an investment adviser representative since December 11, 2008.
7. Black is named as a respondent in a Petition filed by the Division contemporaneously with this action.

#### Division Investigation

8. On October 21, 2008 the Division received a Form D notice filing for Paragon that stated Paragon would be offering or selling securities in Utah under Regulation D, Rule 506.
9. The Form D identified Ascent as the general and/or managing partner of Paragon, and

listed four executive officers of Paragon: Thatcher, Black, Stewart, and Homer.<sup>1</sup>

10. The Form D stated that Paragon did not intend to sell to nonaccredited investors, and required a minimum investment of \$25,000.00.
11. Hannah M. Terhune (“Terhune”), of Capital Management Services Group (“CMSG”), signed the Form D as Paragon’s attorney.

#### Licensing Inquiry

12. On October 28, 2008, the Division sent an initial Inquiry Letter requesting that Paragon: (1) respond to licensing concerns regarding Ascent; (2) provide the Division Paragon’s offering documents; (3) provide the Division information about Paragon’s investors; and (4) explain why Paragon had not filed its Form D with the Securities and Exchange Commission (“SEC”).
13. On November 19, 2008, the Division received a response in which Paragon addressed the Division’s licensing concerns by stating that: (1) Paragon was a commodity pool; (2) that Ascent was licensed as a Commodity Pool Operator (“CPO”) with the National Futures Association (“NFA”) in compliance with rules and regulations of the Commodity Futures Trading Commission (“CFTC”); and (3) that such licensing was sufficient for Paragon to operate as a commodity pool. Paragon also provided some of the requested investor information (discussed below), the offering documents, and proof that it had filed Form D with the SEC on September 25, 2008.

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<sup>1</sup>Paragon later stated Homer was listed in error as he was never involved in the offering. However, that assertion conflicts with representations in a letter dated September 30, 2008, in which Homer indicated to Black’s employing broker-dealer that Homer was in the process of purchasing Black’s interest in Ascent.

14. NFA records listed Paragon as an “Exempt Commodity Pool” but contained no information that Ascent was licensed as a commodity pool operator as stated in Paragon’s written response.
15. The Private Placement Memorandum (“PPM”) submitted by Paragon permitted its investment manager and general partner, Ascent, to invest in securities beyond commodities. Specifically, Paragon stated that the limited partners “...by pooling their assets in the Partnership, will be able to invest their funds in a portfolio of securities managed by the Investment Manager....”
16. Based on the discretion to invest in securities as set forth in the PPM, the Division determined that Ascent needed to be licensed as an investment adviser and that Thatcher, Black, Stewart and Homer needed to be licensed as investment adviser representatives.
17. After several conversations with Thatcher and Terhune, the Division sent a second Inquiry Letter, dated December 30, 2008, that explained: (1) that Paragon’s November 19 response failed to exempt Ascent from licensing as an investment adviser; (2) that Paragon’s investments in securities required licensing as an investment adviser; (3) that the payment of performance-based compensation as described in the PPM required Ascent to comply with R164-2-1 of the Utah Administrative Code; and (4) that if Paragon sought an exemption from licensing for Ascent, the Division would require that Paragon be limited to the current investors who were family members and friends, and that no compensation could be received by the manager.
18. On January 11, 2009, the Division received notification from Terhune that she and CMSG would no longer be representing Paragon and Thatcher.

19. After receiving this notification, Division staff had a conversation with Thatcher in which he stated his intention to shut down Paragon, but that he needed to find new counsel first. On April 29, 2009, the Division received a letter from Paragon's new counsel.
20. On May 7, 2009, the Division sent a third Inquiry Letter dated May 6, 2009 requesting that Paragon provide to the Division: (1) more detailed information about Paragon's investors; (2) an accounting of the fund's balances; (3) an accounting of all compensation paid for the management of the fund; and (4) any communication sent to clients regarding the closing of their accounts and the closing of Paragon.
21. On June 8, 2009, Paragon provided the requested information and reaffirmed some of the statements in the November 19 response and those made in conversations with Terhune and Thatcher. The response included the following representations:
  - a. On October 31, 2008, Paragon sold limited partnership interests to five investors, including the principals. The investors were as follows:
    - i. S.T. invested \$23,302.00, and was listed as an accredited investor.
    - ii. J.B. invested \$6,516.00, and was listed as a non-accredited investor.
    - iii. Stewart invested \$6,516.00, and was listed as a non-accredited investor.
    - iv. Black invested \$6,033.00, and was listed as a non-accredited investor.
    - v. Thatcher invested \$6,033.00, and was listed as a non-accredited investor.
  - b. Paragon did not acquire any other investors.
  - c. The five investors neither made any additional deposits nor withdrew any funds.
  - d. Paragon, Ascent, and its principals did not withdraw any compensation as no profits had been made in the partnership.
  - e. As of June 8, 2009, Paragon had lost 46 percent of investors' funds, and the

principal amount of \$48,400 initially invested was then worth \$22,374.<sup>2</sup>

- f. Paragon generally communicated to its investors in writing, but only verbally informed each investor of Paragon's losses.
22. On June 10, 2009, the Division had a conversation with Respondents' new counsel in which it was agreed that Paragon would proceed to shut down the fund and that Thatcher would keep all remaining monies in the fund pending the Division's decision on this matter.

**FIRST CAUSE OF ACTION**  
**Unlicensed Investment Adviser and Investment Adviser Representatives**  
**under Section 61-1-3 of the Act**  
**(Paragon, Ascent, Thatcher, Stewart, and Homer)**

23. Paragon and Ascent transacted business as investment advisers while not licensed, in violation of Utah Code Ann. § 61-1-3(3)(a).
24. Through their activities with Paragon and Ascent, Thatcher, Stewart, and Homer transacted business as investment adviser representatives while not licensed, in violation of Utah Code Ann. § 61-1-3(3)(a).

**REQUEST FOR RELIEF**

The Director, pursuant to Utah Code Ann. § 61-1-20, hereby orders the Respondents 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, Respondents are required to file a written response with the Division, and an initial hearing on this matter has been scheduled for July 27, 2010 at 9am. The

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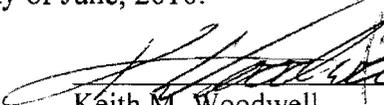
<sup>2</sup>These figures appear to be incorrect, as a 46% loss would reflect a current value of \$26,136 rather than \$22,374.

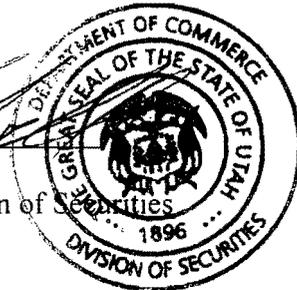
initial hearing will take place at the Division of Securities, 2<sup>nd</sup> floor, 160 East 300 South, Salt Lake City, Utah. The purpose of the initial hearing is to establish a scheduling order and address any preliminary matters. If Respondents fail to file a written response or appear at the initial hearing, findings may be entered, a permanent Order to Cease and Desist may be issued, and a fine may be imposed against Respondents, as provided by Utah Code Ann. §§ 63G-4-206 or -209.

At the Order to Show Cause hearing, Respondents may show cause, if any they have:

1. Why Respondents 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 Respondents should not be ordered permanently to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-3 or any other section of the Act;
3. Why Respondents should not be ordered to pay fines to the Division in the following amounts:
  - a. Paragon, Ascent, and Thatcher, jointly and severally: \$2,500.00
  - b. Paragon, Ascent, and Stewart, jointly and severally: \$2,500.00
  - c. Paragon, Ascent and Homer, jointly and severally: \$2,500.00

Dated this 17<sup>th</sup> day of June, 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, 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:**

**Paragon Capital Investments, LP  
Ascent Capital Management, LLC  
Jonathan Charles Thatcher, CRD#4442559  
Kevin Stewart  
Randall Homer**

**Respondents.**

**NOTICE OF AGENCY ACTION**

Docket No. SD-10-0027  
Docket No. SD-10-0038  
Docket No. SD-10-0039  
Docket No. SD-10-0040  
Docket No. SD-10-0041

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THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENTS:

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, 2<sup>nd</sup> 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, 5<sup>th</sup> Floor  
Salt Lake City, UT 84114-0872  
(801) 366-0310

An initial hearing in this matter has been set for July 27, 2010 at the Division of Securities,

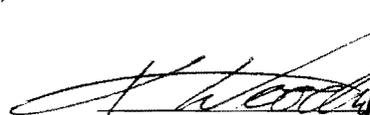
2<sup>nd</sup> Floor, 160 East 300 South, Salt Lake City, Utah, at 9 a.m.

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 17<sup>th</sup> day of June, 2010.

  
Keith M. Woodwell  
Director, Division of Securities



Certificate of Mailing

I certify that on the 21<sup>st</sup> day of JUNE, 2010, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

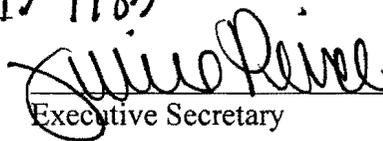
Paragon Capital Investments, LP  
160 Greentree Drive, Suite 101  
Dover, Delaware 19904  
Certified Mail # 7009 2820 0001 2595 4710

Ascent Capital Management, LLC  
13721 South Duskywing Way  
Riverton, Utah 84096  
Certified Mail # 7009 2820 0001 2595 4709

Jonathan Charles Thatcher  
13721 South Duskywing Way  
Riverton, Utah 84096  
Certified Mail # 7009 2820 0001 2595 4752

Kevin Stewart  
3322 North Alpine Vista Way  
Lehi, Utah 84043  
Certified Mail # 7008 1140 0004 1092 2798

Randall Homer  
1563 Brigadoon Park Dr.  
West Jordan, UT 84088  
Certified Mail # 7009 2820 0001 2595 4783

  
Executive Secretary