

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:

DARIN FLOYD BEAL, CRD#4366066

Respondent.

ORDER TO SHOW CAUSE

Docket No. 07-11-0012

It appears to the Director ("Director") of the Utah Division of Securities ("Division") that Respondent Darin Floyd Beal 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. Between 2001 and 2006, and again between 2008 and 2009, Darin Floyd Beal ("Beal") was licensed in Utah as a broker-dealer agent with several broker-dealer firms. He was a licensed registered representative in Utah for four investment firms periodically between July 2001 and February 2006. Beal retook and passed the Series 7 Licensing Examination in July 2008. Beal has also passed the Series 63 and Series 65 Examinations. He is not currently licensed in the securities industry in any capacity.

2. Beal is, and has been at all times relevant to this action, a resident of Salt Lake County, Utah.
3. Beal was most recently licensed with E*Trade Securities, LLC, from July 2008 to April 2009. Beal was terminated for failing to disclose to his employer a personal bankruptcy filing.
4. Prior to E*Trade, Beal was previously employed in the securities industry with Fidelity Brokerage Services, LLC, World Group Securities, Inc, AXA Advisors, LLC, and Strategic Advisors, Inc.

Division Investigation

5. In August 2009, the Division received a complaint from Massachusetts resident G.P., age 60, alleging that Beal had defrauded her and caused her to lose \$100,000.00.
6. The Division's investigation revealed that in November 2006, G.P. heard an advertisement for "John Cummuta's Transforming Debt into Wealth" program. The advertisement invited individuals to call and receive a free CD-ROM with information about the program.
7. G.P. called to order the free CD-ROM, and was offered instead a sales pitch for a fee-based program offering "personal coaches" to help her achieve financial independence.
8. The John Cummuta program referred G.P. to Prosper, Inc., a company located in Provo, Utah, and a program called "Prosperlearning.com" for financial "coaching."
9. G.P. paid \$9,270.00 to participate in "Prosperlearning.com," which assigned Beal to be her "financial coach." and also provided her some course materials.
10. Beginning December 1, 2006, Beal provided financial "coaching" to G.P. once a week, in

in 35-40 minute sessions, for 12 weeks. Thereafter Beal “coached” G.P. on an as-needed basis.

11. In April of 2007, Beal recommended, via email,¹ that G.P. use the equity in her home to establish a \$100,000.00 “line of credit” so he could invest that money for her and develop an “income stream” for her.
12. In May 2007, G.P. obtained a home equity loan for \$108,000.00.
13. On Beal’s advice and instruction, G.P. invested \$100,000.00 through two promissory notes with a Utah entity called Alden View Funding.
14. In late November 2007, G.P. was repaid her principal and was also paid interest totaling \$6,000 as provided for in the notes.
15. In an email dated November 27, 2007, Beal solicited G.P. to re-invest her \$100,000.00 directly with him and that he would invest it with “private placement[s]” that require investors to be “accredited,” that the return/interest on her investment would be paid to Beal, and he would pay it to her on a monthly basis.
16. Beal and G.P. executed a promissory note in December 2007, where G.P. “invested” her \$100,000.00 with Beal, who promised to pay her 2.25% monthly (27% per annum).
17. On December 7, 2007, G.P. wired \$100,000.00 to an account exclusively controlled by Beal under the name of Executive Home Financial at Granite Federal Credit Union, as instructed by Beal.
18. G.P. received 3 interest payments totaling \$6,750.00.
19. In May 2008, Beal informed G.P. that her money had been invested with a private

¹Beal and G.P. have never met in person.

investment group in Italy and that her money was then “missing.”

20. In September 2008, the Massachusetts Securities Division contacted Beal, on G.P.’s behalf, requesting information regarding the investment.
21. Beal responded in writing in October 2008, claiming that G.P.’s money had been invested with an Italian lending company by the name of Euro Financial, and that the company absconded with the money.
22. Beal has never provided any documentation regarding the investment of G.P.’s funds with any company.
23. Beal’s bank records reveal that he converted G.P.’s funds for personal use.

FIRST CAUSE OF ACTION
Unregistered Security Under § 61-1-7 of the Act

24. Beal offered and sold a promissory note to G.P. The promissory note is a security under the Act and was not registered or exempt from registration, in violation of Section 61-1-7 of the Act.

SECOND CAUSE OF ACTION
Securities Fraud Under § 61-1-1(2)

24. Beal misrepresented material facts in connection with the promissory note including but not limited to telling G.P. her monies would be invested in private placements he would choose for her, which were limited to accredited investors and which yielded monthly interest of 2.25%. Beal’s representations were false.
25. Beal omitted material facts in connection with the promissory note including but not limited to failing to disclose that instead of investing G.P.’s funds, Beal would convert her monies for personal use.

THIRD CAUSE OF ACTION
Securities Fraud Under § 61-1-1(3)

26. Beal engaged in an act, practice or course of business which operated as a fraud by converting G.P.'s money for personal use while causing her to believe it would be properly invested and earn the interest he promised.

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. §§ 63-46b-4 and 63-46b-6 through -11, 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 March 16, 2011 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. §§ 63-46b-8 or -11.

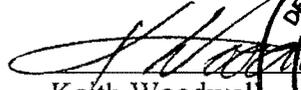
At the Order to Show Cause hearing, Respondent may show cause, if any he has:

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 barred from associating with a licensed broker-

dealer or investment adviser in this state;

4. Why Respondent should not pay a fine to the Division in the amount of \$100,000.00.

Dated this 9th day of February, 2011


Keith 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:

DARIN FLOYD BEAL, CRD#4366066

Respondent.

NOTICE OF AGENCY ACTION

Docket No.

SD-11-0012

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 March 16, 2011 at the Division of Securities, 2nd Floor, 160 East 300 South, Salt Lake City, Utah, at 9 a.m.

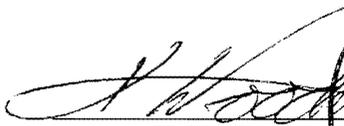
If you fail to file a response, as described above, or fail to appear at any hearing that is set,

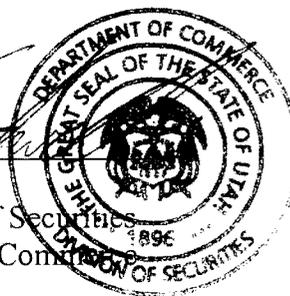
the presiding officer may enter a default order against you without any further notice. Utah Code Ann. § 63G-4-209; Utah Admin. Code R151-46b-10(11). After issuing the default order, the presiding officer may grant the relief sought against you in the Order to Show Cause, and will conduct any further 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 Angela Hendricks, Utah Department of Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6035. This adjudicative proceeding will be heard by Ms. Hendricks 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 9th day of February, 2011.


Keith Woodwell
Director, Division of Securities
Utah Department of Commerce

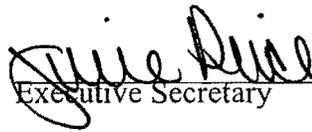


Certificate of Mailing

I certify that on the 10th day of February, 2011, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Darin Floyd Beal
14296 South Maple Run Circle
Herriman, Utah 84065

Certified Mail # 7008 140 0007 1042 1100


Executive Secretary