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:	**ORDER TO SHOW CAUSE**
BRIAN Y. HORNE, CRD#1830136	**Docket No.** SD-11-0017
KEVIN D. KUNZ, CRD#1274540	**Docket No.** SD-11-0018
INVESTMENT MANAGEMENT CORPORATION, CRD#37196	**Docket No.** SD-11-0019
DESERET FINANCIAL SERVICES, INC.	**Docket No.** SD-11-0020
HORNE FINANCIAL, INC.	**Docket No.** SD-11-0020
TWIN K INVESTMENTS, INC.	**Docket No.** SD-11-0021
MODENA HILLS, INC.	**Docket No.** SD-11-0022
Respondents.	

It appears to the Director ("Director") of the Utah Division of Securities ("Division") that Respondents 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. Investment Management Corporation ("IMC") is a defunct broker-dealer which was

licensed in Utah from 1994[1] until December 2007.

2. From 1994 through December 2007, Kevin Dee Kunz ("Kunz") was a licensed agent and principal of IMC. Kunz was one of the founders of IMC, its majority owner, and president. Prior to IMC, he was licensed in the securities industry from 1984 to 1994 with a number of other broker-dealer firms.

3. From December 1999 through December 2007, Brian Y. Horne ("Horne") was a licensed agent and principal of IMC. In addition, Horne was an owner of IMC and served as an officer of IMC in several capacities, most recently as president and chief executive officer. Prior to his association with IMC, Horne was licensed in the securities industry from 1988 through 1999 with a number of other broker-dealer firms.

4. In 2008, IMC was expelled from membership by the Financial Industry Regulatory Authority ("FINRA"). IMC principals Horne and Kunz were barred from associating with any FINRA member in any capacity.

5. Kunz and Horne are currently licensed as insurance agents in Utah.

6. Deseret Financial Services ("Deseret Financial") was a Utah DBA registered with the Utah Division of Corporations from 1996 until 2000. Horne was its registered agent. In 2000, Horne canceled the DBA and incorporated Deseret Financial. Horne was its secretary, director and president. In 2004, Horne changed the name to Horne Financial.

7. Neither Deseret Financial nor Horne Financial were licensed as broker-dealers at any time.

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[1]At the time of its formation in 1994, IMC was known as Kunz & Cline Investment Management, Inc. It was renamed in 1999.

8. Twin K Investments, Inc. ("Twin K") was a Utah corporation controlled by Kunz. It was voluntarily dissolved in July 2009.

9. Modena Hills Inc. ("Modena Hills") was a Utah corporation incorporated by Horne's wife, K. Tisha Horne. Claudia Kunz, Kunz's wife, was identified as the corporation's president and director, and K. Tisha Horne was identified as the secretary and director. Modena Hills was dissolved in September 2007.

10. Neither Twin K nor Modena Hills were licensed as broker-dealers at any time.

Vescor

11. IMC and its agents, including Horne and Kunz, sold securities investments in "Vescor", which as used herein collectively refers to a network of more than 115 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 Development, LLC, Siena Vista, LLC, Five Star Lending, LLC, SV Lending, LLC, One Mortgage, Ltd., VDC Commercial, VesCor Capital IV-M, LLC, and VesCor Capital IV-A, LLC .

12. Vescor raised significant capital from investors through the sale of securities. Investors were told their monies were being used to finance commercial and industrial real estate projects. However, in reality, Vescor was a Ponzi scheme in which new investor monies were used to pay interest owed to prior investors, to pay commissions for the sale of Vescor securities, or for personal use.

13. Many Vescor investors were unsophisticated senior citizens who invested substantial amounts of their net worth in Vescor, often consisting of retirement monies and equity

from investors' homes.

14. Vescor securities were issued as promissory notes which paid interest ranging from 8% to 24% annually, with terms ranging from 24 to 60 months. Investors were given an option of receiving monthly interest payments on the notes ("monthly notes"), or accruing the interest until the end of the term ("accrual notes"), at which time the investor was to be paid their principal plus accrued interest in a lump sum.

15. Investors who chose the accrual notes received a higher interest rate. As the principal amounts for monthly notes and accrual notes became due, investors were encouraged by Horne, Kunz and IMC agents to "renew" or "roll over" their investments into new Vescor notes, and to move from monthly interest payments to accrual interest notes.

16. The Vescor Ponzi scheme collapsed in May 2006 when Vescor ceased making payments to most investors.

17. More than $44 million in Vescor sales were made through IMC and its agents, from which more than $4 million in commissions was paid to Horne, Kunz, and IMC agents.

18. Horne and Kunz also offered and sold Vescor securities to investors. In addition, Horne and Kunz received override compensation based on Vescor sales by other IMC agents.

19. 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.

Background

Kunz and IMC History with Southwick and Vescor

20. Southwick began Vescor operations in approximately 1990. In 1992, a Division

investigation revealed that Vescor offered unregistered, non-exempt securities to Utah residents. Vescor, through Southwick, entered into a Stipulation and Consent Order ("1992 Vescor Order") in which it agreed to: a) withdraw the offering; b) pay a $5,000 fine; and c) not engage in future violations of the registration provisions of the Act.

21. Kunz met Southwick in 1987 through a mutual acquaintance. At that time, Southwick offered Kunz the opportunity to sell Vescor notes, but Kunz initially declined because he believed the notes were securities and that his participation in the program violated NASD's "selling away"[2] prohibition as Kunz was then an agent of a broker-dealer firm.

22. In August 1994, Kunz became an employee of Vescor for a short time. He expected to take over managing Vescor within five years, as Southwick intended to retire.

23. Instead, in September 1994, Kunz left Vescor to form Kunz & Cline Investment Management, Inc. (later renamed IMC). Southwick agreed to provide all of the funds necessary to establish the broker-dealer firm, approximately $250,000, with the understanding that Vescor would control the firm as a "captive broker." It was anticipated the firm would act as a selling agent or underwriter for Vescor securities offerings.

24. During the firm's application process, Kunz worked as a consultant for Vescor, where he advised on putting together a Private Placement Memorandum ("PPM") for a Vescor securities offering and assisted in preparing certain language for the PPMs.

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[2]Engaging in private securities transactions away from an employing agent's broker-dealer, commonly referred to as "selling away" is prohibited by industry regulations, *see NASD Conduct Rule 3040*, and is deemed in Utah to be an act, practice, or course of business operating as a fraud, in violation of Section 61-1-1(3) of the Act.

25. After the firm was approved, it offered and sold Vescor securities to the public, which led to a 1996 NASD (now FINRA) enforcement action against Kunz and the firm. Following an evidentiary hearing, NASD imposed a fine and sanctions[3], finding a) material misrepresentations and omissions in the offer and sale of the Vescor securities[4]; b) that the securities were unregistered; and c) that Kunz knowingly paid commissions to an unlicensed agent who sold Vescor securities.

26. NASD found that despite numerous red flags, Kunz and the firm failed to reasonably investigate Vescor's false representations[5] and suspended the firm from participating as primary placement or sales agent in securities offerings such as Vescor until it complied with certain remedial actions, including the retention of an independent consultant to review the firm's policies and procedures relating to securities offerings. Kunz was suspended as a securities agent for 30 calendar days, and from acting as a securities principal for one year.

27. Following numerous appeals by Kunz[6], the sanctions were affirmed by the Tenth Circuit

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[3]For additional information, see: http://www.finra.org/web/groups/industry/@ip/@enf/@adj/documents/nacdecisions/p007219.pdf

[4]NASD found that the PPMs for the offering falsely portrayed a positive net worth by including real property on the Vescor balance sheet that the company did not own; the PPMs failed to disclose that Kunz received compensation from Vescor for consulting purposes and that such payments and advances had financed the establishment of the firm; and the PPMs materially misrepresented Vescor's financial condition and failed to disclose Southwick's litigation history.

[5]In a later appellate review, the United States Securities & Exchange Commission "SEC", concluded the failure to respond to red flags amounted to "willful blindness". http://www.sec.gov/litigation/opinions/34-45290.htm

[6]Kunz unsuccessfully appealed the original November 1997 NASD District Business Conduct Committee for District 3 disciplinary decision to NASD's National Adjudicatory

Court of Appeals on March 28, 2003, at which time the sanctions described in paragraph 26 became effective.

2001 NASD Action

28. A 2001 NASD enforcement action against Kunz and IMC led to additional sanctions, including fines, a bar against Kunz from acting as a Financial and Operations Principal[7] for any NASD member firm, and an additional suspension from acting in any other principal capacity for six months. Kunz also unsuccessfully appealed that decision, which was affirmed by NASD's National Adjudicatory Council ("NAC") on December 15, 2003[8].

29. Among the violations found by NASD in that matter following an evidentiary hearing were that once again Kunz permitted the sales of securities and commissions being paid to an unlicensed agent. In so doing, NAC found that Kunz and IMC "showed a willingness to ignore or evade established NASD rules."[9]

Council ("NAC"), n.3. Thereafter, Kunz unsuccessfully appealed the NAC decision to the SEC, and unsuccessfully appealed the SEC decision to the 10th Circuit Court of Appeals.

[7]A Financial and Operations Principal oversees a firm's back office operations, including the maintenance of books and records and the firm's compliance with financial responsibility rules.

[8]http://www.finra.org/web/groups/industry/@ip/@enf/@adj/documents/nacdecisions/p006957.pdf

[9]The NASD Hearing Panel also found that IMC, acting through Kunz, violated net capital rules; maintained inaccurate books and records; filed inaccurate FOCUS reports; submitted an incomplete and materially inaccurate notice of a possible net capital deficiency; failed to file required information concerning an NASD arbitration award and a settlement; and failed to establish adequate written supervisory procedures with respect to the reporting of arbitration awards and settlements. For additional information, see n.8.

Vescor 2002 Order

30. In September 2002, Southwick and Vescor were sanctioned by the Division for selling unregistered, nonexempt securities in Utah in violation of the 1992 Vescor Order. The 2002 Order prohibited Vescor and Southwick from offering or selling unregistered securities in Utah, imposed a fine of $75,000, and required Vescor to make rescission offers to investors who had purchased the unregistered securities. Some of the transactions at issue were effected by IMC and its agents.

October 2004 Vescor Letters to Division

31. In October 2004, Vescor, through Southwick and Vescor employees Shawn Moore and Christopher Layton, sent letters to the Division representing it had ceased the offer and sale of Vescor securities in Utah, including the renewal of any existing notes, and agreed to make full and final payment of principal and accrued interest at the maturity date of each Vescor note or at an earlier date. In addition, Vescor promised not to give effect to automatic "rollover" renewal provisions contained in the notes absent investor consent and prior notice to the Division.

32. Despite such representations, Vescor, through IMC, Horne, Kunz, and IMC agents continued to offer and sell Vescor securities in Utah and elsewhere.

Unlicensed Activity in Connecticut

33. In 2005, the State of Connecticut filed an administrative Order to Cease and Desist against IMC for selling Vescor securities in Connecticut while the firm and its selling agent were not licensed in Connecticut. In the resolution of that action, IMC paid a fine, and Kunz was prohibited from supervising any agents doing business in Connecticut.

Disregard of NASD Suspension and Requirements

34. Under the NASD Order affirmed by the Tenth Circuit Court of Appeals, IMC was prohibited from participating as primary placement or sales agent in securities offerings such as Vescor until it retained an independent consultant to a) review the firm policies and procedures relating to such offerings, and b) provide a report with recommendations, after which IMC was required to demonstrate to NASD that it had implemented the consultant's recommendations prior to participating in any offering.

35. IMC never complied with those requirements. Nonetheless, it continued to sell Vescor, acting as the primary placement and sales agent in connection with four private placements from April 2003 through August 2004, selling more than $16.5 million in Vescor notes in that period.

36. Despite Kunz's principal suspension from May 5, 2003 until August 16, 2004, he continued to function in a principal capacity during that period through his active involvement in the supervision and management of IMC activities relating to Vescor private placements. Horne permitted Kunz's activities despite being the firm's designated principal during that time period.

Selling Away through Non-Broker-Dealer Entities

37. After the NASD suspension, to conceal IMC's activities from regulators, Vescor transactions were not recorded on the books and records of IMC as required by law, and Horne and Kunz facilitated the payment of commissions from Vescor through their outside business entities

38. Vescor paid securities commissions to Horne's entity, Deseret Financial (and later Horne

Financial) instead of IMC. IMC agents were then paid their share of sales commissions by Deseret Financial and Horne Financial rather than IMC as the agents' employing broker-dealer.

39. In total, at least $1,825,890 in Vescor commissions were paid through Deseret Financial, and $116,964 through Horne Financial.

40. In addition, at least $145,500 in commissions was paid to Kunz's entity Twin K and $199,415 in commissions to Modena Hills.

41. In 2003, Horne and Kunz each received more than $178,000 in "override" commission payments from these amounts.

Misrepresentations and Omissions of Material Fact

42. IMC, Horne, Kunz, and IMC agents misrepresented material facts in connection with the offer and sale of Vescor securities, including but not limited to the following:

    a. an investment in Vescor was "safe" and carried little to no risk;

    b. Vescor was a highly successful company in good financial condition and its operations were profitable;

    c. Southwick had a successful 20-year history;

    d. a Vescor investment was guaranteed because it was backed by real estate; and

    e. investors would be protected by an ownership interest in real estate purchased with their monies.

    These representations were false.

43. In connection with the offer and sale of Vescor securities, IMC, Horne, Kunz and IMC agents omitted numerous material facts, including but not limited to:

a. risk factors of the investment;

b. relevant disclosures about Vescor's true financial condition, significant liabilities, history of operating losses and substantial negative net equity;

c. failing to disclose to investors material misrepresentations in prior Vescor securities offerings, including the use of a fraudulent balance sheet based upon a sham land transaction to reflect a positive net value;

d. Southwick's extensive prior litigation history and outstanding judgments, including prior 1992 and 2002 Consent Orders with the Utah Securities Division relating to the offer or sale of unregistered securities;

e. Vescor was a Ponzi scheme in which new investor monies were used to pay interest owed to prior investors, to pay commissions for the sale of Vescor securities, or for personal use;

f. investors who extended or renewed their investments in 2005 or 2006 were not told that Vescor had operated with substantial negative equity in 2003 and 2004;

g. that Vescor and its principal employees had agreed they would not solicit or accept any funds from Utah residents after October 2004;

h. significant commissions paid to IMC agents and "overrides" to Horne and Kunz as well as other special incentive payments;

i. IMC's and Kunz's NASD disciplinary history and sanctions with respect to Vescor sales and offerings;

j. that after March 2003, IMC was prohibited by NASD from selling Vescor securities or any other private offering;

k. that all post-March 2003 sales of Vescor by IMC were in violation of an express NASD Order;

l. that IMC was "selling away" from itself and violating the securities laws by not recording Vescor transactions on the books and records of the firm so IMC could evade detection by regulators of its continued violations of the securities laws and the NASD order;

m. that by paying its agents through non-broker-dealer entities such as Deseret Financial and Horne Financial, IMC caused its selling agents to violate the securities laws;

n. that IMC permitted several agents whom Kunz and Horne knew did not have the required license to sell Vescor securities and receive commissions; and

o. that in addition to sales commissions and overrides for Horne and Kunz, Respondents also received undisclosed bonus incentives to encourage Vescor sales and to minimize any investors taking their money out of Vescor pursuant to a rescission offer or at the end of a note's duration. Those incentives included cash payments and the purchase of a luxury automobile for Kunz.

Other Fraudulent Acts

Sales by Unlicensed Agents

44. IMC, Horne and Kunz permitted the sale of Vescor securities by agents whose Series 6 licenses limited their securities activities to selling mutual funds and variable insurance products through IMC. Despite the lack of appropriate licensure, Respondents paid compensation to such agents, and shared in such compensation.

45. When two agents later left IMC and wanted to maintain a direct relationship with Vescor in order to continue to receive payments from the investments of their clients, Kunz objected, acknowledging to Vescor in an email that the agents had not been properly licensed to sell Vescor. Kunz further indicated that "if a former representative tries to make a separate deal with [Vescor], we will turn them over to the NASD." Kunz also noted "[w]e also have power to write an amendment to their license that will keep them from ever being securities licensed again anywhere."

Undisclosed Special Incentive Agreements

Minimizing Acceptance of Rescission

46. On April 29, 2003, Kunz executed a handwritten contract with Southwick ("FX-35 Agreement"), in which Kunz agreed to contact Utah investors to convince them to decline the rescission offering. In exchange for a "successful" rescission offer to Utah clients – with less than $100,000 in rescission monies paid – Kunz would receive an Infinity FX-35 luxury SUV automobile with an maximum price of "$45,000 out the door." An additional term of the agreement provided that Kunz was to offset any rescinding transactions with the addition of new investor monies.

47. Kunz later received a bonus payment of $45,000 on June 12, 2003. This special incentive agreement was not disclosed to investors.

Other Undisclosed Incentive Compensation

48. On other occasions, IMC, Kunz, Horne and IMC agents received additional undisclosed incentive compensation based upon achieving fund-raising goals set by IMC principals and Southwick.

49. Renewal investments were closely tracked for maturity dates. Agents were notified of clients who were due to renew. Special undisclosed incentives were offered and paid to some IMC agents as a bonus for successfully convincing clients to "renew" their investments and keep their money with Vescor rather than cashing out.

"Cleaning" Files to Avoid Discovery During Audit

50. In a 2004 e-mail from Kunz to Southwick, Kunz referred to having previously "cleaned" IMC files during the NASD audit to conceal information from regulators and also discussed attempts to "distract" a securities examiner's attention regarding sales of Vescor by IMC. Kunz discussed the questions being asked by the Utah Securities Division and noted that "we know there is nothing we can do to stop the flood if it comes."

51. Kunz also asked a Vescor employee to refrain from communicating by email during the time of the audit.

Preferential Payments and Discouraging Cooperation with Division Investigation

52. After the Vescor Ponzi scheme began to unravel in May 2006, Respondents helped prolong the fraud by working with Southwick to make preferential transfers of remaining Vescor monies to investors who had made significant investments and to complaining investors deemed likely to contact regulators.

53. Horne and Kunz also actively discouraged investors from cooperating with the Division's investigation of Vescor.

FIRST CAUSE OF ACTION
(IMC, Horne, Kunz)
Securities Fraud Under Section 61-1-1(2) of the Act

54. IMC, Horne and Kunz violated Section 61-1-1(2) of the Act by misrepresenting or omitting material facts in connection with the offer or sale of securities, including but not limited to those set forth in paragraphs 42-43 above.

SECOND CAUSE OF ACTION
(IMC, Horne, Kunz)
Securities Fraud Under Section 61-1-1(3) of the Act

55. In connection with the offer or sale of securities, IMC, Horne, and Kunz engaged in acts, practices, and a course of business which operated as a fraud, including but not limited to:

a. failing to comply with the NASD Order disqualifying Respondents from participating in the offer or sale of any private offering;

b. continuing to offer and sell Vescor securities despite the NASD Order and Vescor's own October 2004 representations to the Division;

c. Respondents did not record Vescor securities transactions on the books and records of IMC and instead sold away from IMC, running commissions for securities transactions through non-broker-dealer entities Deseret Financial, Horne Financial, Twin K and Modena Hills;

d. by failing to tell IMC agents that IMC was disqualified from selling private placement securities. Respondents caused IMC agents to sell away, exposing the agents to civil liability and regulatory actions;

e. permitting the offer and sale of Vescor securities by agents who did not have the securities licenses required in order to sell an individual security such as a private

offering, and paying commissions to such agents;

f. accepting undisclosed sales incentives to encourage Vescor sales and to minimize any investors taking their money out of Vescor pursuant to a rescission offer or at the end of a note's duration;

g. attempting to deceive regulators by "cleaning" files pertaining to Vescor;

h. perpetuating the Vescor fraud by making preferential payments to certain investors; and

i. discouraging investors from cooperating with the Division's investigation.

THIRD CAUSE OF ACTION
(All Respondents)
Unlicensed Agents and Broker-Dealers Under Section 61-1-3(1) of the Act

56. The only entity through which Horne and Kunz and other IMC agents were licensed to sell securities was IMC.

57. As described above, Horne and Kunz oversaw and conducted securities transactions through and were paid compensation by Deseret Financial, Horne Financial, Twin K, and Modena Hills. They were not licensed agents of any of those entities, and their conduct violates Section 61-1-3(1) of the Act.

58. Accordingly, each offer or sale of Vescor securities by Horne, Kunz and other IMC agents for which they were paid by these non-broker-dealer entities violated Section 61-1-3(1) of the Act.

59. In effecting such transactions, Deseret Financial, Horne Financial, Twin K, and Modena Hills acted as unlicensed broker-dealers in violation of Section 61-1-3(1) of the Act.

FOURTH CAUSE OF ACTION
(Horne and Kunz)
False Statements to Division Under Section 61-1-16 of the Act

60. Horne's and Kunz's Form U4 documents, filed with the Division through the CRD, were false and misleading at the time they were filed because they failed to disclose each agent's outside business activities with Deseret Financial, Horne Financial, Twin K and Modena Hills, and significantly, did not disclose that Horne and Kunz were receiving substantial investment-related securities compensation from these entities, rather than IMC, the broker-dealer with which they were licensed.

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 April 19, 2011 at 9am. 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 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 -208.

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. § 61-1-1, -3, -16 or any other section of the Act;

3. Why Respondents should not be ordered to pay fines to the Division as follows:

   a. Horne: $500,000.00

   b. Kunz: $1,000,000.00

   c. IMC: $500,000.00

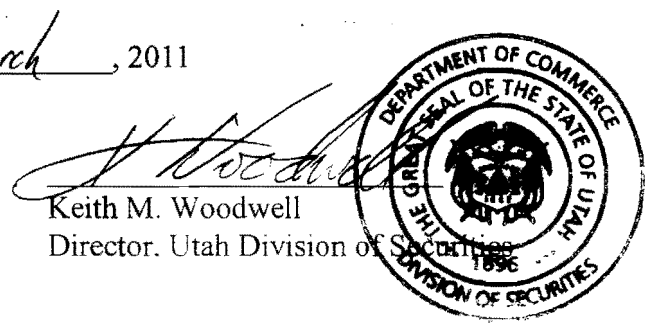
   d. Deseret Financial / Horne Financial: $250,000.00

   e. Twin K: $50,000.00

   f. Modena Hills: $50,000.00

4. Why Respondents 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 9th day of March, 2011



Keith M. Woodwell
Director, Utah Division of Securities

Approved:

D. Scott Davis
Assistant Attorney General

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

IN THE MATTER OF:	**NOTICE OF AGENCY ACTION**
BRIAN Y. HORNE, CRD#1830136 **KEVIN D. KUNZ, CRD#1274540** **INVESTMENT MANAGEMENT CORPORATION, CRD#37196** **DESERET FINANCIAL SERVICES, INC.** **HORNE FINANCIAL, INC.** **TWIN K INVESTMENTS, INC.** **MODENA HILLS, INC.** **Respondent.**	**Docket No.** SD-11-0017 **Docket No.** SD-11-0018 **Docket No.** SD-11-0019 **Docket No.** SD-11-0020 **Docket No.** SD-11-0020 **Docket No.** SD-11-0021 **Docket No.** SD-11-0022

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. § [illegible]-1-20[illegible]. 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 April 19, 2011 at the Division of Securities,

2nd Floor, 160 East 300 South, Salt Lake City, Utah, at 9am.

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 9th day of March, 2011

Keith M. Woodwell
Director, Division of Securities

Certificate of Mailing

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

Brian Y. Horne
1382 Pheasant Ridge Circle
Bountiful, UT 84010-1370

Certified Mail # 7008 1140 0004 1042 2224

Kevin D. Kunz
907 E Old Farm Rd.
Fruit Heights, UT 84037

Certified Mail # 7008 1140 0004 1042 2231

Investment Management Corp.
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Twin K Investments, Inc.
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