

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

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

<b>IN THE MATTER OF:</b>	<b>ORDER TO SHOW CAUSE</b>
<b>ENRIQUE DAVID SOSA d.b.a. SUN HAVEN METALS,</b>	<b>Docket No. <u>00-11-1159</u></b>
<b>Respondent.</b>	

It appears to the Director of the Utah Division of Securities (Director) that Enrique David Sosa d.b.a. Sun Haven Metals has engaged in acts and practices that violate the Utah Uniform Securities Act, Utah Code Ann. § 61-1-1, et seq. (the Act). Those acts are more fully described herein. Based upon information discovered in the course of the Utah Division of Securities= (Division) investigation of 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 JURISDICTION**

1. Jurisdiction over Respondent and the subject matter is appropriate because the Division alleges that he violated § 61-1-1 (securities fraud) of the Act while engaged in the offer and sale of securities in or from Utah.

## **STATEMENT OF FACTS**

### **THE RESPONDENT**

2. Enrique David Sosa (Sosa) was, at all relevant times, a resident of the State of Utah. Sosa has never been licensed in the securities industry in any capacity. Sosa also operated under the name Sun Haven Metals, which is not a registered entity.

### **GENERAL ALLEGATIONS**

3. In June 2011, Respondent offered securities to an undercover investigator, in or from Utah.
4. Respondent made material misstatements and omissions in connection with the offer of securities to the investigator below.

### **UNDERCOVER INVESTIGATOR**

5. On June 8, 2011, an investigator with the Division posed as an investor and met with Sosa in Salt Lake County, Utah to discuss an investment opportunity.
6. During the meeting, Sosa said that he worked for Sun Haven Foundation for Arts, Education and Humanity (the Foundation). He further stated that he was the sole principal of Sun Haven Metals, which he claimed to be a d.b.a. of the Foundation.
7. During the meeting Sosa made the following statements about an investment in Sun Haven Metals:
  - a. Seven tons of unrefined ore had been donated to the Foundation;
  - b. Sun Haven Metals was seeking investor funds to pay Calvin Smith & Associates and

Rio Tinto to extract valuable metals from the unrefined mineral ore;

- c. All gains on the investment would be tax-free;
- d. Investment funds would be considered a charitable donation to the Foundation;
- e. Calvin Smith & Associates had been on the Fortune 500 list for about fifty years;
- f. Calvin Smith & Associates developed a liquid form of tungsten to successfully treat cancer, diabetes, and prostate infections;
- g. An Ohio law firm called Farnsworth & Associates, along with other law firms and individuals owned approximately 500 tons of additional ore, which Sosa could obtain if he had a large enough order;
- h. The refining process took between two weeks and two months for each kilogram of gold extracted;
- i. Investor funds were secured by an assignment to the investor of the unrefined mineral ore during the extraction process;
- j. Sun Haven Metals had already processed about a one-half ton of the unrefined ore;
- k. He could sell any gold, tungsten, radium, silver, and platinum extracted from the ore;
- l. He could provide a return to the investor in the form of gold dust, gold bars, jewelry, coins, cash, or any combination desired by the investor;
- m. He had a French buyer to purchase the gold and a military contract to sell other metals;

- n. The minimum investment was \$29,100, which would pay for the extraction of 1.1 kilograms of gold;
  - o. Investors would realize a gain of \$24,000 after two weeks to two months;
  - p. Investors would realize gains of no less than 35-55% because assays had been performed on the ore and had been approved and verified by two law firms and an engineering firm;
  - q. No previous investor had received less than a 35-55% gain;
  - r. The projected returns were based on conservative estimates of the assay reports;
  - s. "We take our collateral to guarantee you're not going to lose your money;"
  - t. Calvin Smith & Associates had never been sued;
  - u. Sun Haven Metals had never had any problems paying investors;
  - v. An individual invested \$9 million in Sun Haven Metals the week before;
  - w. Sun Haven had not been involved in any legal proceedings;
  - x. Sosa had not been involved in any legal proceedings; and
  - y. The investment could not become illiquid because the refining process had already started.
8. Sosa showed the investigator several examples of the results of the refining process such as iron pyrite, gold-colored liberty \$1 coins, a stainless steel men's bracelet, dirt, and rocks. Sosa also showed pictures of an individual's hand holding a piece of gold, which he claimed

to be of himself.

9. Sosa provided five documents: (1) a letter to investors; (2) a “Letter Assignment Agreement;” (3) an “Assignment Agreement;” (4) a “Sun Haven Foundation Donation Form;” and (5) a “Gold/Silver Soft Request Order Form.”
10. Following the meeting, Sosa provided the investigator with several documents which claimed the following:
  - a. “Sun Haven Metals” currently holds and has in safekeeping 5,480+ tons of the ore;”
  - b. Sun Haven Metals had three principals: (1) Prof. Dr. Peter K. Schmidt; (2) Dr. E. David Shapiro Sosa; and (3) Calvin Smith & Associates;
  - c. The investor will invest \$29,900 and realize a gain of \$24,599 over a period of twenty-one banking days; and
  - d. Sun Haven Metals would provide to the investor a monetary return of 45%.
11. On June 9, 2011, Sosa called the investigator and stated the following about the investment opportunity:
  - a. Sun Haven Metals would go public in two to six months;
  - b. Investment funds were kept in segregated accounts used only to pay for the refining process;
  - c. Sosa had a doctorate degree in economics from the University of Hidalgo in Mexico; and

- d. “One of the actual drums [was] going to be separated as a guarantee for the 21-day return...[t]hat’s how we secure an investor so they feel comfortable that they’re not going to lose their money.”

#### CAUSES OF ACTION

##### **Securities Fraud under ' 61-1-1 of the Act**

12. The Division incorporates and re-alleges paragraphs 1 through 11.
13. The investment opportunities offered and sold by Respondent are securities under § 61-1-13 of the Act.
14. In connection with the offer and sale of a security to the investors, Respondent, directly or indirectly, made false statements, including, but not limited to, the following:
- a. Sosa had not been involved in any legal proceedings, when in fact, Sosa had been charged three separate times with felonies for issuing a bad check<sup>1</sup> and had outstanding civil judgments and tax liens totaling over \$140,000;
  - b. Sosa was the sole principal of Sun Haven Metals, when in fact, Sosa provided documentation stating there were two other principals of Sun Haven Metals;
  - c. Sun Haven Metals owned seven tons of ore, when in fact, Sosa provided documentation stating Sun Haven Metals holds over 5,480 tons of ore:

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<sup>1</sup> *State v. Enrique Sosa*, Case No. 081401493 in Fourth Judicial District Court (Utah 2008); *State v. Enrique Sosa*, Case No. 091600113 in Sixth Judicial District Court (Utah 2009); *State v. Enrique David Sosa*, Case No. 091402307 in Fourth Judicial District Court (Utah 2009).

- d. Calvin Smith & Associates had appeared in Fortune 500 for fifty years, when in fact, Calvin Smith & Associates registered as an entity in Wyoming in 2000 and has never appeared in Fortune 500 from 1955 to 2010.
15. In connection with the offer and sale of a security to the investors, Respondent, directly or indirectly, failed to disclose material information, including, but not limited to, the following, which was necessary in order to make statements made not misleading:
- a. Sosa had been charged three separate times with felonies for issuing a bad check;
  - b. Sosa had outstanding civil judgments and tax liens totaling over \$140,000;
  - c. Some or all of the information typically provided in an offering circular or prospectus regarding Sosa and Sun Haven Metals, such as:
    - i. Financial statements;
    - ii. Risk factors;
    - iii. Suitability factors for the investment;
    - iv. Nature of competition;
    - v. Whether the investment was a registered security or exempt from registration;  
and
    - vi. Whether Respondent was licensed to sell securities.

**ORDER**

The Director, pursuant to § 61-1-20 of the Act, hereby orders Respondent to appear at a

formal hearing to be conducted in accordance with Utah Code Ann. § 63G-4-202, -204 through -208, and held before the Utah Division of Securities. The hearing will occur on Tuesday, September 6, 2011, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2<sup>nd</sup> Floor, Salt Lake City, Utah. The purpose of the hearing is to establish a scheduling order and address any preliminary matters. If Respondent fails to file an answer and appear at the hearing, the Division of Securities may hold Respondent in default, and a fine may be imposed in accordance with Utah Code Ann. § 63G-4-209. In lieu of default, the Division may decide to proceed with the hearing under § 63G-4-208. At the hearing, Respondent may show cause, if any he has:

- a. Why Respondent should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;
- b. Why Respondent should not be ordered to cease and desist from engaging in any further conduct in violation of Utah Code Ann. § 61-1-1, or any other section of the Act;
- c. Why Respondent should not be barred from (i) associating with any broker-dealer or investment adviser licensed in Utah; (ii) acting as an agent for any issuer soliciting investor funds in Utah, and (iii) from being licensed in any capacity in the securities industry in Utah; and
- d. Why Respondent should not be ordered to pay to the Division a fine amount to be

determined by stipulation or by the presiding officer after a hearing in accordance with the provisions of Utah Admin. Rule R164-31-1, which may be reduced by restitution paid to the investors.

DATED this 1<sup>st</sup> day of August, 2011.



*Keith Woodwell*  
KEITH WOODWELL  
Director, Utah Division of Securities

Approved:

*Scott Davis*

SCOTT DAVIS  
Assistant Attorney General  
J.G.

Division of Securities  
Utah Department of Commerce  
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**IN THE MATTER OF:**

**ENRIQUE DAVID SOSA d.b.a. SUN  
HAVEN METALS,**

**Respondent.**

**NOTICE OF AGENCY ACTION**

Docket No. SD-11-0059

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 R151-4-101, *et seq.* The facts on which this action is based are set forth in the accompanying Order to Show Cause. 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 R151-4-110.

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
- 8 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) 366-0358

An initial hearing in this matter is set for **September 6, 2011** at the Division of Securities, 2<sup>nd</sup>

Floor, 160 E. 300 S., Salt Lake City, Utah, at **9:00 A.M.** The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing motions, and to set a hearing date to adjudicate the matter alleged in the Order to Show Cause.

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 R151-4-710(2). 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). 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) 366-0358.

Dated this 1<sup>st</sup> day of August, 2011



  
M. Woodwell  
Director, Division of Securities

**Certificate of Mailing**

I certify that on the 2nd day of AUGUST, 2011, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Enrique David Sosa  
4048 N. Edgewood Dr.  
Provo, UT 84604

Certified Mail # 70070220 00010003 U202

  
Executive Secretary