

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:

**PROFITABLE SOLUTIONS, LLC,
EXCLUSIVE CAPITAL FUNDING, LLC,
PS1 GROUP, LLC,
TIMOTHY V. PROVOST, CRD # 4934264 d.b.a.
LH SOLUTIONS,
DANIEL G. MAYNARD**

Respondents.

ORDER TO SHOW CAUSE

Docket No. ~~00-11-0093~~
Docket No. ~~00-11-0094~~
Docket No. ~~00-11-0095~~
Docket No. ~~00-11-0096~~
Docket No. 00-11-0097

It appears to the Director of the Utah Division of Securities (Director) that Profitable Solutions, LLC, Exclusive Capital Funding, LLC, PS1 Group, LLC, Timothy V. Provost and Daniel G. Maynard have 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 Respondents and the subject matter is appropriate because the Division alleges that they violated § 61-1-1 (securities fraud), § 61-1-3 (unlicensed activity) and § 61-1-7 (sale of an unregistered security) of the Act while engaged in the offer and sale of securities in or from Utah.

STATEMENT OF FACTS

THE RESPONDENTS

2. Profitable Solutions, LLC, (PSL) is a Utah Limited Liability Company registered on May 10, 2007. Timothy Vernon Provost is the registered agent. PSL has never been licensed with the Division.
3. Exclusive Capital Funding, LLC, (ECF) is a Utah Limited Liability Company registered on April 15, 2008. PSL is the registered agent. ECF has never been licensed with the Division.
4. PS1 Group, LLC, (PS1) is a Utah Limited Liability Company registered on August 4, 2008. Timothy Vernon Provost is the registered agent. PS1 has never been licensed with the Division.
5. Timothy Vernon Provost (Provost) was, at all relevant times, a resident of the State of Utah. In 2005, Provost passed the Series 6 and the Series 63 exams. Provost has not been associated with a firm or licensed as an agent or investment adviser representative since August 2006. On April 4, 2010, Provost was charged with thirteen counts of securities fraud,

thirteen counts of unregistered securities agent, one count of money laundering, and one count of pattern of unlawful activity for conduct related herein.¹

6. Daniel G. Maynard (Maynard) was, at all relevant times, a resident of the State of Utah. Maynard has never been licensed in the securities industry in any capacity. On April 4, 2010, Maynard was charged with thirteen counts of securities fraud, thirteen counts of unregistered securities agent, one count of money laundering, and one count of pattern of unlawful activity for conduct related herein.²

GENERAL ALLEGATIONS

7. From November 2007 to October 2008, Respondents offered and sold investment contracts to investors, in or from Utah, and collected at least \$12.3 million from forty investors. Some of those investments are listed below.
8. Investment contracts are securities under the Act.
9. Respondents made material misstatements and omissions in connection with the offer of securities to the investors below.

INVESTOR W.W.

10. In or about February 2008, W.W. was invited to a friend's house in Utah County, Utah to

¹ *State v. Timothy V. Provost*, Case No. 101401298 in Fourth Judicial District Court of Utah. (2010)

² *State v. Daniel G. Maynard*, Case No. 101401298 in Fourth Judicial District Court of Utah. (2010)

attend a presentation on an investment opportunity in Money & More, Inc. (M&M)³ Two other potential investors attended as well.

11. During the meeting, Provost and Maynard made the following statements about an investment in M&M:

- a. Investor money would be loaned out every month;
- b. Investors would receive 7% per month after thirty days;
- c. Investors could receive their principal back after one year;
- d. If investors withdrew their investment funds before the one year term was up, there would be a penalty;
- e. M&M had been in business for seven years and was a reliable company;
- f. The only way investors could lose their money was if Gale Robinson (Robinson), the owner of M&M, “ran off” with their money⁴;
- g. The investment was covered by the State of California through a UCC-1 lien;
- h. There were a few ways to get investor funds returned if the investment went bad;

³ Money & More, Inc. is a Nevada corporation registered on December 18, 2002. Gale P. Robinson is the director and president. Money & More, Inc. operated as a deferred deposit transaction company (payday loan company), as defined by California Department of Corporations. Gale Robinson used “factor agreements” as a way of raising capital, which was then used to loan out to customers. Those who raised capital received a percentage based on how much money they raised.

⁴ On April 20, 2010, Gale Robinson, Larry O. Bosh, Shawn David Benson, and Michael John Smith were charged with ten counts of securities fraud, a second degree felony, ten counts of unregistered securities agent, a third degree felony, one count of pattern of unlawful activity, a second degree felony, and one count of money laundering, a second degree felony. *State of Utah v. Gale Robinson*, Case No. 101401277 in Fourth Judicial District Court of Utah. (2010)

- i. They had researched the payday loan industry and M&M was a “safe deal;” and
 - j. When the investors became full partners in the investment, they would be able to see all the paperwork and financial statements concerning the investment.
12. Provost and Maynard were initially investors in M&M, but later Larry O. Bosh (Bosh), Shawn David Benson, and Michael John Smith set them up to solicit investors for M&M. Provost and Maynard created their own companies to do so: PSL, ECF, PS1, and LH Solutions.
 13. Based on the statements of Provost and Maynard, W.W. invested a total of \$300,000 in M&M through Provost and Maynard. With Provost and Maynard’s knowledge, W.W. used a home equity loan to raise the \$300,000 that he invested.
 14. In exchange for the investment funds, W.W. received a New Member Agreement signed by Provost and a Preliminary Investor Suitability Questionnaire.
 15. W.W. contacted Provost and told him that he did not make enough money to be an accredited investor. Provost responded by telling W.W. to add all of his company’s profits to “make it work.”

INVESTORS J.W. AND T.W.

16. J.W. and T.W. learned about M&M from a family member.
17. In or about April 2008, J.W. and T.W. met with Provost and Maynard in Utah County, Utah to discuss an investment opportunity in M&M.

18. During the meeting, Provost, in the presence of Maynard, made the following statements about an investment in M&M:
 - a. The investment amount would determine the return;
 - b. The beginning payout was 5% per month for a \$100,000 investment and would go up to 7.5% for a \$200,000 investment;
 - c. There were no guarantees, however, there were many “reassurances” about the investment;
 - d. Financial statements would be available at any time;
 - e. There was some risk in any investment;
 - f. People borrow more money in an unsure economy; and
 - g. Provost and Maynard would receive a commission for investors they brought in.
19. Based on the statements of Provost and Maynard, J. W. and T. W. invested a total of \$100,000 in M&M through PS1.

INVESTORS R.P., J.P., M.A., L.H., AND S.P.

20. In or about February 2008, R.P., J.P., M.A., L.H., and S.P. met with Provost and Maynard in Utah County, Utah to attend a presentation on an investment opportunity in M&M.
21. Provost and Maynard described the investment and explained the tiered percentages based on the investment amount.
22. During the meeting, Provost and Maynard made the following statements about an

investment in M&M:

- a. The loans would be backed or guaranteed by UCC-1 filings in California;
 - b. The loans were legal because they were done through Provost and Maynard and through a private placement memorandum (PPM), so they were safe⁵;
 - c. Provost and Maynard need not be licensed because the investment was structured through a PPM;
 - d. There was no need for licensing so long as the investors went through Provost and Maynard's company⁶;
23. Based on the statements of Provost and Maynard, R.P. invested \$37,500 in M&M through PSL. J.P. invested \$37,500 and M.A. invested \$75,000.
24. A short time later, two more investors invested \$50,000 with PSL by pooling the money with R.P., J.P., and M.A.
25. L.H. and S.P. were offered, but did not invest. However, Provost and Maynard paid S.P. and L.H. a finder's fee of 1% for referring investors.

INVESTORS T.S. AND K.A.

26. On February 27, 2008 in Utah County, Utah, approximately thirty potential investors

⁵ While Respondents claimed the investment was structured through a PPM, this never happened. Provost and Maynard waited for a PPM to be provided to them from Bosh, but this never happened either.

⁶ On April 9, 2008, Provost and Maynard met with examiners from the Division to discuss the M&M investments. The examiners explained that Provost and Maynard were not in compliance with Utah securities laws and were not properly licensed.

attended a presentation on an investment opportunity in M&M. Provost, Maynard, and Bosh were the presenters.

27. During the meeting, Provost, in the presence of Maynard, made the following statements about an investment in M&M:
 - a. Risk in the investment was minimal because M&M was audited by the U.S. Securities and Exchange Commission and the California Division of Securities every month;
 - b. Also, the risk was minimal because there was a UCC-1 against M&M's accounts receivables; and
 - c. There was an insurance policy on the investment.
28. Bosh told the investors how well M&M was doing and that the future of the investment was bright. Bosh went on to explain the progress of the company, how the investments were performing, trends of the market, and how successful M&M was.
29. Bosh told investors he had a working knowledge of M&M and that he had a desire to purchase the company.
30. Based on the statements of Provost, Bosh, and Maynard, T.S. invested a total of \$490,000 in M&M through PS1. K.A. invested a total of \$1 million.
31. In exchange for the investment funds, T.S. and K.A. received a New Member Agreement and a Preliminary Investor Suitability Questionnaire.

CAUSES OF ACTION

Securities Fraud under § 61-1-1 of the Act

32. The Division incorporates and re-alleges paragraphs 1 through 31.
33. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.
34. In connection with the offer and sale of a security to the investors, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. The investment was safe, when in fact, Respondents had no reasonable basis for making such a statement;
 - b. The investment was legal, when in fact, examiners from the Division had already informed Respondents that the investments were not in compliance with Utah securities laws; and
 - c. Respondents need not be licensed because the investment was structured through a PPM, when in fact, examiners from the Division informed Respondents that they needed to be licensed.
35. In connection with the offer and sale of a security to the investors, Respondents, 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. Complete information concerning the investment;

- b. On April 3, 2000, Bosh pleaded guilty to two counts of securities fraud;⁷
- c. Provost and Maynard had spoken with examiners from the Division who explained that the investment was not in compliance and they needed to be licensed; and
- d. Some or all of the information typically provided in an offering circular or prospectus regarding Respondents and M&M, such as:
 - i. Financial statements;
 - ii. Risk factors;
 - iii. The involvement of Respondents and their principals in legal proceedings;
 - iv. The number of investors;
 - v. Suitability factors for the investment;
 - vi. Nature of competition; and
 - vii. Whether the investment was a registered security or exempt from registration.

Employing an Unlicensed Agent under § 61-1-3(2)(a) of the Act

- 36. The Division incorporates and re-alleges paragraphs 1 through 31.
- 37. S.P. and L.H. have not been licensed in the securities industry in any capacity.
- 38. Provost and Maynard employed and compensated S.P. and L.H. as agents in the offering and/or sale of a security in Utah.
- 39. Based on the above information, Respondents violated §61-1-3(2)(a).

⁷ *State of Utah v. Larry Bosh*, Case No. 001401021 in Fourth Judicial District Court of Utah. (2000)

Sale of a Security by Unlicensed Agent under § 61-1-3(1) of the Act

40. The Division incorporates and re-alleges paragraphs 1 through 31.
41. Provost and Maynard offered or sold securities in Utah.
42. When offering these securities on behalf of PSL, ECF, and PS1, Provost and Maynard were acting as agents of an issuer.
43. Provost and Maynard were not licensed to sell securities in Utah as an agent of the issuer.
44. Based on the above information, Provost and Maynard violated §61-1-3(1).

Sale of an Unregistered Security under § 61-1-7 of the Act

45. The Division incorporates and re-alleges paragraphs 1 through 31.
46. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.
47. The securities were offered and sold to investors in or from the State of Utah.
48. The securities offered and sold by Respondents were not registered under the Act.
49. Respondents did not file any claims of exemption relating to the securities nor do they qualify for a self-executing exemption pursuant to § 61-1-14.
50. Respondents have not made a notice filing pursuant to § 61-1-15.5.
51. Based on the above information, Respondents violated § 61-1-7 of the Act.

ORDER

The Director, pursuant to § 61-1-20 of the Act, hereby orders Respondents 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 Wednesday, January 4, 2012, at 9:00 a.m., at the office of the Utah Division of Securities, located in the Heber Wells Building, 160 East 300 South, 2nd Floor, Salt Lake City, Utah. The purpose of the hearing is to establish a scheduling order and address any preliminary matters. If Respondents fail to file an answer and appear at the hearing, the Division of Securities may hold Respondents 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, Respondents may show cause, if any he has:

- a. Why Respondents should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;
- b. Why Respondents 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 Respondents 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

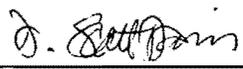
- d. Why Respondents should not be ordered to pay to the Division a fine amount to be determined by stipulation or by the presiding officer after a hearing in accordance with the provisions of Utah Admin. Rule R164-31-1, which may be reduced by restitution paid to the investors.

DATED this 12th day of December, 2011.


KEITH WOODWELL
Director, Utah Division of Securities



Approved:



D. SCOTT DAVIS
Assistant Attorney General
T.B.

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
Box 146760
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OF THE DEPARTMENT OF COMMERCE
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IN THE MATTER OF:

**PROFITABLE SOLUTIONS, LLC,
EXCLUSIVE CAPITAL FUNDING, LLC,
PS1 GROUP, LLC,
TIMOTHY V. PROVOST, CRD # 4934264
d.b.a. LH SOLUTIONS,
DANIEL G. MAYNARD**

Respondents.

NOTICE OF AGENCY ACTION

Docket No. SD-11-0093
Docket No. SD-11-0094
Docket No. SD-11-0095

Docket No. SD-11-0096
Docket No. SD-11-0097

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 R151-4-101, *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
- (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

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

Salt Lake City, UT 84114-6760
(801) 530-6600

(801) 366-0358

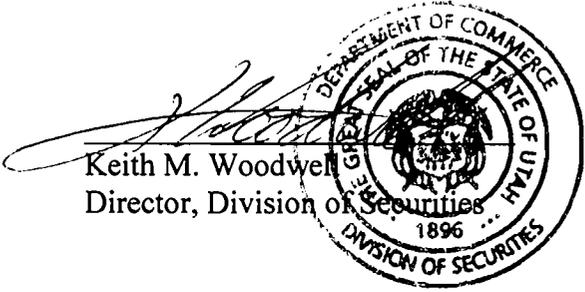
An initial hearing in this matter is set for **February 1, 2012** at the Division of Securities, 2nd Floor, 160 E. 300 S., Salt Lake City, Utah, at **9:00 A.M.** The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing 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 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) 366-0358.

Dated this 12th day of December, 2011



Keith M. Woodwell
Director, Division of Securities

Certificate of Mailing

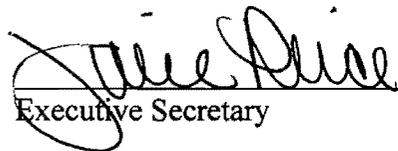
I certify that on the 17th day of December, 2011, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Profitable Solutions, LLC et. al.
Timothy V. Provost
566 Quail Hollow Lane
Alpine, UT 84004

Certified Mail # 7007 0220 0001 0003 5427

Daniel G. Maynard
8536 S. 100 E.
Sandy, UT 84094

Certified Mail # 7007 0220 0001 0003 5410


Executive Secretary