

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**

<p>IN THE MATTER OF:</p> <p>EARN AS YOU LEARN, INC., ROGER DAVID DAVIS,</p> <p>Respondents.</p>	<p>ORDER TO SHOW CAUSE</p> <p>Docket No. <u>10-12-0015</u> Docket No. <u>10-12-0010</u></p>
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It appears to the Director of the Utah Division of Securities (Director) that Earn As You Learn, Inc. and Roger David Davis 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) of the Act while engaged in the offer and sale of securities in or from Utah.

STATEMENT OF FACTS

THE RESPONDENTS

2. Earn As You Learn, Inc., (EAYL) is a Utah corporation registered on December 22, 2008. Roger Davis is the registered agent, director, and officer. EAYL has never been licensed with the Division.
3. Roger David Davis (Davis) was, at all relevant times, a resident of the State of Utah. Davis has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

4. From April 2008 to September 2008, Respondents offered and sold stock to investors, in or from Utah, and collected at least \$48,000.
5. Shares of stock are securities under the Act.
6. Respondents made material misstatements and omissions in connection with the offer and sale of securities to the investors below.
7. Investors lost all \$48,000 of their principal.

INVESTORS R.R. AND N.C.

8. R.R. met Davis through a mutual friend, Joseph Wyatt¹ (Wyatt).

¹ Wyatt inherited stock in EAYL from his late father. After Wyatt's father died, Davis contacted Wyatt to transfer

9. In June 2008, Davis met with R.R. and N.C. in Salt Lake County, Utah to discuss an investment opportunity in EAYL. Davis met with R.R. and N.C. three or four times after the initial meeting.
10. During the meetings, Davis made the following statements about an investment in EAYL:
 - a. Parents and /or grandparents would pay around \$20 to become “members” of EAYL;
 - b. Many organizations had expressed interest in becoming part of EAYL, including University of Utah, Westminster College, Salt Lake Community College, and University of Notre Dame;
 - c. Members would deposit money into a “MyBux” account and be issued a MyBux card, which was to be serviced by a large credit card servicing company called First Data Corp.;
 - d. MyBux cards would be redeemable at a number of retailers;
 - e. Target, Wal-Mart, J.C. Penney’s, Barnes and Noble, and others had expressed interest in participating;
 - f. MyBux was already making money;
 - g. Davis was now ceasing operations of MyBux to focus on EAYL;
 - h. EAYL was successfully doing business in Florida, where Davis had a second home;
 - i. EAYL would make money from “rebates,” which are the small percentage fee

ownership of the stock. Davis explained the investment to Wyatt and encouraged him to refer the investment to friends. Wyatt never received any compensation from Davis for referring friends.

charged when a card is run;

- j. EAYL was appraised at over \$100 million²;
- k. EAYL had been successful for many years, running on a local and/or regional level, with yearly profits of approximately \$250,000 per year;
- l. EAYL owned many assets and other properties;
- m. EAYL had ceased operations shortly before June 2008 in order to expand to a national level;
- n. Davis did not take a salary from EAYL and his only motive was to promote reading;
- o. Davis had a successful mortgage company for many years, which is where he would earn his living;
- p. The purpose of the stock offering was to build and maintain a website and get the stock publicly traded;
- q. Money would also be used to develop EAYL and pay legal and accounting fees;
- r. Davis needed to raise enough money for the upcoming initial public offering (IPO);
- s. He wanted to get EAYL on NASDAQ, but if that couldn't happen, EAYL stock would at least trade over the counter;
- t. The company would be publicly traded no later than January 2009;
- u. EAYL could buy back outstanding stock after the first year if investors wanted out;

² Davis did not indicate who did the appraisal.

- v. Davis was not licensed to sell securities;
 - w. Davis was working on eventually getting the stocks registered;
 - x. The current issuance of stock did not need to be registered because Davis did not sell in less than \$10,000 blocks.
11. Based on Davis' statements, R.R. and N.C. combined their funds and invested \$15,000 in EAYL. On June 11, 2008, R.R. gave Davis a check for \$15,000³ made payable to EAYL while in Salt Lake County, Utah.
 12. In exchange for the investment funds, R.R. and N.C. each received an EAYL stock certificate from Davis.
 13. R.R. and N.C. did not receive any returns on their investment.
 14. Davis denied future requests by R.R. and N.C. to see more documentation on the investment, such as the IPO. R.R. requested his investment funds returned, but was denied.
 15. Davis later told R.R. and N.C. that the cost of the website was over \$800,000.
 16. Bank records show R.R. and N.C.'s funds were used by Respondents in the following manner:
 - a. \$6,869 used for wires and transfers;
 - b. \$2,789 paid to legal fees;
 - c. \$400 cashed;

³ \$10,000 of the investment funds were from R.R. and \$5,000 were from N.C.

- d. \$309 paid for web hosting;
- e. \$175 paid to mailing expenses;
- f. \$26 paid to fees and charges;
- g. \$4,432 paid for food, dining, transportation, utilities, entertainment, shopping, fitness, and other miscellaneous personal expenses.

INVESTOR P.K.

- 17. P.K. met Davis through Wyatt.
- 18. In April 2008, Davis met with P.K. in Salt Lake County, Utah to discuss an investment opportunity in EAYL.
- 19. During the meeting, Davis made the following statements about an investment in EAYL:
 - a. There would be a 5-1 forward split and then Davis would buy back P.K.'s original investment;
 - b. A few years after the split, there would be an IPO for EAYL stock;
 - c. Wal-Mart and local soccer clubs were already involved with EAYL;
 - d. EAYL had several prominent investors, including the Garffs, University of Utah professors, and business people from around the Salt Lake Valley;
 - e. EAYL stockholders would get reduced rates on mortgages because of a deal with Davis' mortgage connections;
 - f. EAYL already existed in Florida and some of the money from stock offering might

- go there for housing properties;
- g. The majority of the raised funds would be used to get EAYL “off the ground;”
 - h. Davis would not take a salary from EAYL until it was profitable;
 - i. Davis needed to raise \$1 million;
 - j. All investments are risky; and
 - k. EAYL’s stocks were registered.
20. Davis gave P.K. spreadsheet projections, a business plan, and documents with generic information, but no financial statements.
21. Based on Davis’ statements, P.K. invested \$20,000 in EAYL. On May 28, 2008, P.K. gave Davis a check for \$15,000 made payable to EAYL while in Salt Lake County, Utah. On September 18, 2008, P.K gave Davis a check for \$5,000 made payable to EAYL.
22. In exchange for the investment funds, P.K. received two EAYL stock certificates from Davis.
23. P.K. did not receive any returns on his investment.
24. Bank records show \$19,200 of P.K.’s funds were used by Respondents in the following manner:
- a. \$9,132 paid to legal fees;
 - b. \$6,817 used for wires and transfers;
 - c. \$270 paid for web hosting;
 - d. \$221 paid for consulting;

- e. \$85 paid to mailing expenses;
- f. \$18 paid to fees and charges;
- g. \$2,657 paid for food, dining, transportation, utilities, sporting goods, shopping, fitness, and other miscellaneous personal expenses.

INVESTOR R.W.

- 25. R.W. met Davis through Wyatt.
- 26. In the spring of 2008, Davis met with R.W. in Utah County, Utah to discuss an investment opportunity in EAYL.
- 27. During the meeting, Davis made the following statements about an investment in EAYL:
 - a. Microsoft was thinking of offering stock in EAYL as an employee bonus and Davis was working with them to accomplish that;
 - b. Wal-Mart and First Data Corp. were interested in becoming involved with EAYL;
 - c. Davis needed 2000 subscribers before he could go public;
 - d. If the 2000 subscriptions were not met and the stock was not public in four to six months, Davis would buy the stock back from investors of EAYL;
 - e. The stocks were not registered because they had fewer than 32-34 investors;
 - f. All the money raised was to be put back into EAYL to grow it; and
 - g. Davis would not take a salary.
- 28. Based on Davis' statements, R.W. invested \$10,000 in EAYL. On September 19, 2008,

- R.W. gave Davis a check for \$10,000 made payable to EAYL.
29. In exchange for the investment funds, R.W. received an EAYL stock certificate from Davis.
 30. R.W. did not receive any returns on his investment.
 31. Bank records show R.W.'s funds were used by Respondents in the following manner:
 - a. \$5,881 paid towards Davis' mortgage;
 - b. \$2,100 used for wires and transfers;
 - c. \$114 paid to legal fees;
 - d. \$58 paid for computer software;
 - e. \$30 paid to mailing expenses;
 - f. \$1,817 paid for food, dining, transportation, utilities, home improvement, fitness, and other miscellaneous personal expenses.

INVESTOR K.D.

32. K.D. met Davis through Wyatt.
33. In May 2008, Davis met with K.D. in Salt Lake County, Utah to discuss an investment opportunity in EAYL.
34. During the meeting, Davis made the following statements about an investment in EAYL:
 - a. EAYL started when Davis wanted his grandchild to read more;
 - b. The idea was so popular that his friends wanted to get involved, then the local schools wanted to get involved;

- c. There was now a national demand for EAYL;
 - d. Organizations such as AT&T, Weber State, and the University of Utah were going to “come on board” as soon as the deal with First Data Corp. was finalized;
 - e. First Data Corp. liked EAYL so much that they would likely buy it in the future;
 - f. K.D. needed to invest soon;
 - g. There would quickly be a stock split, so K.D. would be “buying on the ground floor;”
 - h. The stocks were going to become publicly traded and because EAYL was raising so much cash they did not need to register the investment;
 - i. Davis only needed to raise an additional \$200,000 to \$300,000 to get EAYL going;
 - j. The money from the investment was to get other companies on board with EAYL;
and
 - k. Davis would not take a salary.
35. Based on Davis’ statements, K.D. invested \$3,000 in EAYL. On September 10, 2008, K.D. gave Davis a check for \$10,000⁴ made payable to EAYL.
36. In exchange for the investment funds, K.D. received an EAYL stock certificate from Davis.
37. K.D. did not receive any returns on his investment.
38. Bank records show that K.D.’s funds were used by Respondents to pay towards Davis’ mortgage.

⁴ \$3,000 of the investment funds were from K.D. while the remaining \$7,000 was from K.D.’s co-worker who did

OFFEREE A.T.

39. A.T. met Davis through Wyatt.
40. In the summer of 2008, Davis met with A.T. in Salt Lake County, Utah to discuss an investment opportunity in EAYL.
41. During the meeting, Davis made the following statements about an investment in EAYL:
 - a. EAYL was a program for encouraging children to read;
 - b. Wal-Mart and another company were already “on board” and would pay EAYL 1.5%;
 - c. EAYL was already a functioning company;
 - d. A.T. would make more money if he invested before the upcoming IPO;
 - e. Davis already had several investors; and
 - f. The stock was not registered yet, but would be registered once EAYL had sufficient revenue. At that point EAYL would be “big” enough to become a “real” stock.
42. A.T. asked Davis if he could speak with anyone other than Davis to verify these statements. Davis indicated that this was not possible and said it would violate confidentiality.
43. A.T. was suspicious of Davis and decided not to invest in the offer.

CAUSES OF ACTION

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

not wish to cooperate with the Division’s investigation.

44. The Division incorporates and re-alleges paragraphs 1 through 43.
45. The stock offered and sold by Respondents are securities under § 61-1-13 of the Act.
46. 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. Davis would not take a salary from the investment funds, when in fact, the vast majority of the funds went to Davis;
 - b. EAYL stock did not need to be registered because so much capital was being raised, when in fact, Davis had no reasonable basis for making such a statement; and
 - c. Investor funds would be used to develop EAYL, which in fact, most of the funds were used for Davis' personal expenses.
47. 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. Whether Davis was drawing a salary or other compensation from investor funds;
 - b. Davis had filed for Ch. 13 bankruptcy in April 2008⁵;
 - c. Davis had filed for Ch. 7 bankruptcy in 1992⁶;
 - d. Davis had filed for Ch. 7 bankruptcy in 1985⁷;

⁵ *In re Davis*, Case No. 08-22159 (Bankr. D. Utah 2008).

⁶ *In re Davis*, Case No. 92-28036 (Bankr. D. Utah 1992).

⁷ *In re Davis*, Case No. 85-23114 (Bankr. D. Utah 1985).

- e. From 2000 to 2004, Davis had several civil judgments against him, including tax liens, totaling \$26,279;
- f. The cost of building the EAYL website;
- g. Contacts for First Data Corp., Wal-Mart, Target, J.C. Penney's, Barnes & Noble, Weber State University, University of Utah, Westminster College, Salt Lake Community College, and the University of Notre Dame and why Davis believed they were "interested" in EAYL; and
- h. Some or all of the information typically provided in an offering circular or prospectus regarding EAYL and Davis, such as:
 - i. Financial statements;
 - ii. Risk factors;
 - iii. The involvement of Davis and EAYL's principals in legal proceedings;
 - iv. The number of investors;
 - v. Suitability factors for the investment; and
 - vi. Nature of competition.

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, April 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 they have:

- 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

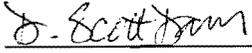
restitution paid to the investors.

DATED this 9th day of February, 2012.


KEITH WOOD
Director, Utah Division of Securities



Approved:



D. SCOTT DAVIS
Assistant Attorney General
N.M.

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
Box 146760
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Telephone: (801) 530-6600
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**EARN AS YOU LEARN, INC.,
ROGER DAVID DAVIS,**

Respondents.

NOTICE OF AGENCY ACTION

Docket No. ~~SD-12-0015~~
Docket No. ~~SD-12-0010~~

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
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) 366-0358

An initial hearing in this matter is set for **April 4, 2012** at the Division of Securities, 2nd

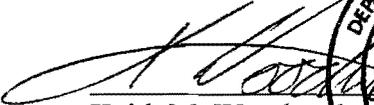
Floor, 160 E. 300 S., Salt Lake City, Utah, at **9:00 A.M.** The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing motions, and to set a hearing date to adjudicate the matter alleged in the Order to Show Cause.

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 9th day of February, 2012


Keith M. Woodwell
Director, Division of Securities

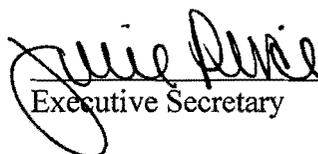


Certificate of Mailing

I certify that on the 9th day of February, 2012, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Earn As You Learn, Inc.
Roger David Davis
1552 E. 1300 S.
Salt Lake City, UT 84105

Certified Mail # 7007 0220 0001 0002 5/68



Executive Secretary