

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:

**TYLER D. ARCHULETA and
DANIELLE L. ARCHULETA,
d.b.a. ARCHULETA TRUCKING, L.L.C.**

Respondents.

ORDER TO SHOW CAUSE

Docket No. ~~SD-12-0019~~
Docket No. ~~SD-12-0020~~

It appears to the Director of the Utah Division of Securities (Director) that Tyler D. Archuleta and Danielle L. Archuleta (Respondents), doing business as Archuleta Trucking, L.L.C. (Archuleta Trucking),¹ 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.

¹ Archuleta Trucking, L.L.C. was a Utah-based limited liability company that registered with the Division of Corporations on December 16, 2004. That registration expired on July 30, 2008 when the entity dissolved. During its existence, Tyler D. Archuleta served as manager, and Danielle L. Archuleta served as registered agent.

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. Tyler D. Archuleta (Tyler) was, at all relevant times, a resident of the State of Utah. Tyler has never been licensed in the securities industry in any capacity.
3. Danielle L. Archuleta (Danielle) was, at all relevant times, a resident of the State of Utah. Danielle has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

4. Between June 2007 to August 2007, Respondents offered and sold an investment contract to an investor, in or from Utah, and collected a total of \$300,000.
5. Investment contracts are securities under the Act.
6. Respondents made material misstatements and omissions in connection with the offer and sale of securities to the investor identified below.
7. The investor lost \$205,000 of her principal.

INVESTOR M.E.

8. During the relevant time period, Tyler and Danielle were neighbors with investor M.E.
9. On or around June 11, 2007, Tyler and M.E. travelled to Diamond Rental in Kearns, Utah to rent landscaping equipment for M.E.'s yard. During that trip, M.E. overheard Tyler discussing his trucking business on the telephone. When he finished his call, Tyler told M.E. that he no longer has to drive long-haul trucks. Instead, he owns 250 semi-trucks and has employees working for him.
10. Several days later, M.E. went to Tyler and Danielle's house to inquire about investing in the trucking business. At that time, Tyler and Danielle made the following statements to M.E.:
 - a. M.E. could purchase a semi-truck with two trailers for \$300,000 and hire a driver;
 - b. It would cost M.E. approximately \$2,000 per month to cover the cost of insurance and compensate Danielle for scheduling employees and coordinating shipments;
 - c. M.E. would be responsible for covering the cost of the driver; and
 - d. Each semi-truck makes around \$600 per day.
11. M.E. informed Tyler and Danielle that she was not interested in buying a semi-truck. As an alternative, Tyler and Danielle made the following statements:
 - a. M.E. could invest \$300,000 in Respondents' business, Archuleta Trucking; and
 - b. Respondents would pay M.E. \$30,000 per month for twelve months, thereby returning M.E.'s principal while providing a twenty percent profit. In total, M.E.

would receive \$360,000 over the stated time period.

12. On July 24, 2007, after having decided to invest in Respondents' company, M.E. entered into a contract with Tyler and Danielle. Specifically, all three individuals signed and notarized the one page document that memorialized their arrangement. M.E. then provided Respondents with a \$270,000 Bank of America cashier's check, dated July 23, 2007 and made payable to Archuleta Trucking.
13. Among other things, the contract between the parties included the following statements:
 - a. "If there should be a failure that causes Archuleta Trucking, L.L.C. not to be able to return the investment to [M.E.], then Archuleta Trucking, L.L.C. will proceed to liquidate company assets to satisfy Archuleta Trucking L.L.C.'s obligation to repay the investment monies owed to [M.E.]."
 - b. "The investor will remain a silent partner, but will be informed and updated on a quarterly basis with regard to the current status of the investment."
14. Two to three days later, Danielle called M.E. to remind her that she still owed Respondents \$30,000. M.E. then delivered to Respondents' home a \$2,000 First Utah Bank personal check and a \$28,000 Bank of America cashier's check, dated August 2, 2007 and made payable to Archuleta Trucking.
15. M.E. anticipated her first payment under the contract on August 24, 2007. When she did not receive that payment, she called the Respondents' house. When no one answered the

telephone, she went to the house, and Tyler told her that she would not receive a payment for sixty days.

16. M.E. later received the following payments from Respondents for her investment:
 - a. September 5, 2007: \$15,000 check signed by Danielle
 - b. October 4, 2007: \$15,000 deposit from Archuleta Trucking
 - c. October 11, 2007: \$15,000 deposit from Archuleta Trucking
 - d. November 8, 2007: \$15,000 deposit from Archuleta Trucking
 - e. November 21, 2007: \$15,000 deposit from Archuleta Trucking
 - f. December 6, 2007: \$15,000 deposit from Archuleta Trucking
 - g. March 28, 2008: \$5,000 deposit from Archuleta Trucking
17. In total, the check and deposits equaled \$95,000, leaving \$205,000 of her principal unpaid.
18. As noted above, M.E. received the final payment from Respondents on March 28, 2008. After that time, Respondents provided a number of reasons explaining why they were delayed in making payments to M.E.; however, they did promise to make additional payments on certain dates in the future. Those promises were never fulfilled.

CAUSES OF ACTION

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

19. The Division incorporates and re-alleges paragraphs 1 through 18.
20. The investment opportunity offered and sold by Respondents is a security under § 61-1-13 of

the Act.

21. In connection with the offer and sale of the security to the investors, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. Tyler owned 250 semi-trucks, when in fact Tyler owned twenty-five trucks and trailer units;

22. In connection with the offer and sale of the security to the investor, 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. Wallwork Financial Corp. had an interest in the assets of Archuleta Trucking, and a UCC-1 Filing was in effect from April 6, 2006 until April 6, 2011;
 - b. From 1990 to 1999, Tyler had several civil judgments against him, totaling \$6087.33;
 - c. In 1995, Tyler filed for Chapter 7 bankruptcy relief in the United States Bankruptcy Court for the District of Utah²; and
 - d. Some or all of the information typically provided in an offering circular or prospectus regarding Archuleta Trucking, Tyler, and Danielle such as:
 - i. Financial statements;
 - ii. Risk factors;
 - iii. The number of investors;

² *In re Archuleta*, Case No. 95-21654 (Bankr. D. Utah 1995).

- iv. Suitability factors for the investment;
- v. Whether the investment was a registered security or exempt from registration;
and
- vi. Whether Respondents were licensed to sell securities.

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, May 2, 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;

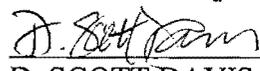
- c. Why Respondents should not be ordered to pay to the Division a fine amount to be determined by stipulation or by the presiding officer after a hearing in accordance with the provisions of Utah Admin. Rule R164-31-1, which may be reduced by restitution paid to the investor.

DATED this 22nd day of March, 2012.


KEITH WOODWARD
Director, Utah Division of Securities



Approved:


D. SCOTT DAVIS
Assistant Attorney General
A.S.

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:

**TYLER D. ARCHULETA and
DANIELLE L. ARCHULETA,
d.b.a. ARCHULETA TRUCKING, L.L.C.**

Respondents.

NOTICE OF AGENCY ACTION

Docket No. SD-12-0019
Docket No. SD-12-0020

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 **May 2, 2012** at the Division of Securities, 2nd Floor,

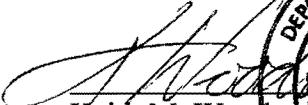
160 E. 300 S., Salt Lake City, Utah, at **9:00 A.M.** The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing motions, and to set a hearing date to adjudicate the matter alleged in the Order to Show Cause.

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 22nd day of March, 2012


Keith M. Woodward
Director, Division of Securities



Certificate of Mailing

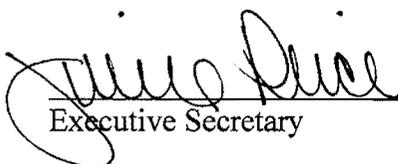
I certify that on the 29th day of March, 2012, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Tyler D. Archuleta
Utah Dept. of Corrections
OFN: 197621
P.O. Box 250
Draper, UT 84020

Certified Mail # 7007 0220 0001 00029 7001

Danielle Lyn Archuleta
4949 San Pedro Dr. NE Apt. 92
Albuquerque, NM 87109

Certified Mail # 7007 0220 0001 00029 7018


Executive Secretary