

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**

**IN THE MATTER OF:**

**CARLOS GREGORY GAYTAN,  
PACIFIC INVESTORS, INC.,**

**Respondents.**

**ORDER TO SHOW CAUSE**

Docket No. 11-12-0034  
Docket No. 11-12-0035

It appears to the Director of the Utah Division of Securities (Director) that Carlos Gregory Gaytan and Pacific Investors, Inc. 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. Carlos Gregory Gaytan (Gaytan) was, at all relevant times, a resident of the state of Utah. Gaytan has never been licensed in the securities industry in any capacity.
3. Pacific Investors, Inc. (Pacific) is a Utah corporation that registered with the Division of Corporations on January 29, 1993. Gaytan currently serves as Pacific's Treasurer, Secretary, President, and Director. Pacific has never been licensed with the Division.

### **GENERAL ALLEGATIONS**

4. From July 23, 2009 to October 2, 2009, Respondents offered and sold securities to an investor, in or from Utah, and collected a total of \$20,000.
5. Respondents made material misstatements and omissions in connection with the offer and sale of securities to the investor identified below.
6. The investor lost \$19,950 of his investment funds.

### **INVESTOR T.P.**

7. T.P. initially met Gaytan through his work as a self-employed handyman in Utah County, Utah.
8. In July 2009, a friend asked T.P. to help him repair a swamp cooler at Gaytan's house. Upon completing the job, Gaytan approached T.P. to present a business deal separate and distinct from the repair work. With respect thereto, Gaytan made the following statements:
  - a. In 2001, Gaytan sold a house to a couple (hereinafter referred to as "Homeowners")

for \$150,000. As a part of that transaction, Gaytan loaned the Homeowners \$30,000 to help cover the purchase price. In return, Gaytan received a secondary interest on the property's deed of trust.

- b. The Homeowners had since fallen behind on their mortgage payments, and Gaytan needed an additional \$30,000 to help them with their payments.
  - c. Gaytan asked T.P. to loan him the money. He requested a total of \$30,000, but said that for every \$10,000 invested, T.P. would receive a \$1,600 profit and the return of his principal within six months.
  - d. Gaytan then stated that he would secure the loan by making T.P. the secondary interest holder on the deed of trust for the Homeowners' property. As a result, if Gaytan failed to pay T.P. in accordance with their agreement, T.P. could foreclose on the property.
9. On July 23, 2009, after deciding to invest, T.P. returned to Gaytan's residence. At that time, he delivered a \$10,000 Zions Bank cashier's check made payable to Pacific.
10. T.P. and Gaytan, on Pacific's behalf, also executed a promissory note, dated July 23, 2009, which memorialized their arrangement. The terms of the note included the following:
- a. For value received, Pacific promises to pay T.P. \$10,000 together with interest;
  - b. "In lieu of an interest rate this loan to bear a fee of \$1,600.00 dollars at the conclusion of the first six month period of its existence. No monthly payments. No deficiency;"

- c. "This loan is all due and payable six months after July 23, 2009;"
  - d. Gaytan, on Pacific's behalf, could extend the terms of the arrangement for additional six-month periods in accordance with the following payment schedule: "Borrower to pay an additional \$1,500.00 dollar fee to Lender at the conclusion of each subsequent six month period. Said payments to begin at the end of the second six month period and to continue to be due at the end of each subsequent six month period until the loan is paid in full...;" and
  - e. "In case of default in the payment of any amount of principal or interest as herein stipulated, then it shall be optional with the legal holder of this loan to declare the entire principal sum hereof due and payable..."
11. Additionally, on the same date, the parties executed a "Partial Assignment for Security Only" that assigned to T.P. a \$10,000 beneficial interest in the note secured by the deed of trust for the Homeowners' property.
  12. Pursuant to that agreement, Gaytan, on Pacific's behalf, granted the assignment to T.P. as a method to secure their note, dated July 23, 2009, and such assignment should not be construed as "an out right sale of, or permanent transfer of that certain, Note and Deed of Trust," as defined therein.
  13. On September 3, 2009, after having decided to invest an additional sum with Gaytan, T.P. returned to Gaytan's residence and delivered a \$5,000 Zions Bank cashier's check made payable to Pacific.

14. At that time, the parties also executed a “Memorandum/Acknowledgement” document to memorialize the additional investment.
15. Pursuant to that document, the additional investment would be subject to the same terms and conditions as the July 23, 2009 investment, with the exceptions that the “fee” for the loan would be \$800, rather than \$1,600, and the loan would be due and payable six months after September 3, 2009.
16. On October 2, 2009, T.P. made a third and final investment with Gaytan. He met with Gaytan at Gaytan’s residence and delivered an additional \$5,000 Zions Bank cashier’s check made payable to Pacific.
17. Again, the parties executed a “Memorandum/Acknowledgement” document to memorialize the investment. In accordance with the terms provided therein, the investment would be subject to the same terms and conditions as the July 23, 2009 investment, with the exceptions that the “fee” would be for \$800, and the loan would be due and payable six months after October 2, 2009.
18. In November 2009, T.P. saw a notice of foreclosure on the Homeowners’ door. T.P. took the notice to Gaytan and inquired about his investments.
19. Gaytan responded that he did not know anything about the foreclosure and that he had used T.P.’s money for something else, despite the fact that Gaytan had originally told T.P. that the investment would be used to help make the Homeowners’ mortgage current.
20. In a conversation with the Homeowners, the Division learned that the family moved out of

their house in September 2009 after Gaytan initiated foreclosure proceedings.

21. Gaytan later contacted T.P. and instructed him to go by Gaytan's house and pick up a check left under the mat at the front door. The check that T.P. received came from Pacific, was dated March 24, 2010, and provided a total payment of \$50.
22. Pursuant to the agreements by and between T.P. and Pacific, Respondents still owe T.P. \$19,950 in principal and \$3,200 in "fees."

#### **CAUSES OF ACTION**

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

23. The Division incorporates and re-alleges paragraphs 1 through 22.
24. The investment opportunities offered and sold by Respondents are securities under § 61-1-13 of the Act.
25. In connection with the offer and sale of securities to the investor, Gaytan, directly or indirectly, made false statements, including, but not limited to, the following:
  - a. If Gaytan failed to pay T.P. in accordance with their agreement, T.P. could foreclose on the Homeowners' property, when in fact, Gaytan never made T.P. an interest holder on the deed of trust, thereby failing to provide T.P. with a legal right of foreclosure.
  - b. If T.P. loaned Gaytan money, he would use the funds to help the Homeowners with their mortgage payments, when in fact, Gaytan admitted to using the funds for other purposes unrelated to the mortgage payments.

26. In connection with the offer and sale of a security to the investor, Gaytan, 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. Some or all of the information typically provided in an offering circular or prospectus regarding Gaytan and Pacific, such as:
    - i. Financial statements;
    - ii. Risk factors;
    - iii. Suitability factors for the investment;
    - iv. Business experience and operating history;
    - v. Whether the investment is a registered security or exempt from registration;
    - and
    - vi. Whether Respondents were licensed to sell securities.

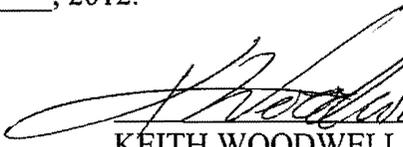
### **ORDER**

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, June 6, 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, 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 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; and
- c. Why Respondents should not be ordered to pay to the Division a fine amount to be determined by the Utah Securities Commission 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 19<sup>th</sup> day of April, 2012.

  
KEITH WOODWELL  
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, 2<sup>nd</sup> Floor  
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**CARLOS GREGORY GAYTAN  
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**Respondents.**

**NOTICE OF AGENCY ACTION**

Docket No. 10-12-1024  
Docket No. 11-12-1025

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, 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 **Wednesday, June 6, 2012** at the Division of

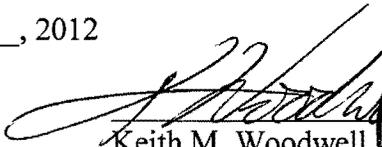
Securities, 2<sup>nd</sup> Floor, 160 E. 300 S., Salt Lake City, Utah, at 9:00 A.M. The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing motions, and to set a hearing date to adjudicate the matter alleged in the 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 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 19<sup>th</sup> day of April, 2012

  
Keith M. Woodwell  
Director, Division of Securities



Certificate of Mailing

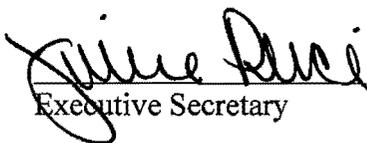
I certify that on the 22<sup>nd</sup> day of April, 2012, I mailed, by certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

Carlos Gregory Gaytan  
426 W. 800 N.  
Provo, UT 84601

Certified Mail # 70070220 00010010271209

Pacific Investors, Inc.  
P.O. Box 2182  
Provo, UT 84603

Certified Mail # 70070220 00010010271193

  
Executive Secretary