Division of Securities
Utah Department of Commerce
160 East 300 South
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:	**ORDER TO SHOW CAUSE**
DYMUND CAPITAL, LLC, **JOSHUA EDWARD DYCHES,** **Respondents.**	**Docket No.** SD-12-0069 **Docket No.** SD-12-0070

It appears to the Director of the Utah Division of Securities (Director) that Dymund Capital, LLC, and Joshua Edward Dyches (Respondents) 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 and practices 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 Respondents 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. Dymund Capital, LLC (Dymund Capital) is a Utah limited liability company as of September 27, 2006. Josh Dyches is a manager and registered agent. Dymund Capital's status as a business entity expired as of January 5, 2010. Dymund Capital has never been licensed with the Division.

3. Joshua Edward Dyches (Dyches) was, at all times relevant to the matters asserted herein, a resident of Utah. Dyches has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

4. Between June and November 2007, Respondents offered and sold promissory notes to three investors in or from Utah, and collected a total of $174,500.

5. Promissory notes are securities under the Act.

6. Respondents made misstatements and omissions of material facts to the investors.

7. The investors lost $129,311 in principal alone.

INVESTOR K.M.

8. K.M. and Dyches had known each other since childhood. Mutual friends referred K.M. to Dyches for investment purposes.

9. In or about June 2007, K.M. met Dyches at a restaurant in Utah County, Utah to discuss an investment opportunity.

10. During the meeting, Dyches made the following statements about an investment with Dymund Capital:

    a. K.M.'s investment funds would be provided to Rick Koerber (Koerber) and his company Founders Capital;

    b. Dyches was on a first name basis with Koerber;

    c. Dyches had attended a few seminars with Koerber and had been reading about investing and the U.S. Constitution;

    d. Founders Capital was a strong and solid company;

    e. Investment funds would be used by Koerber to purchase properties at a 75% loan to value price;

    f. K.M. would make a profit when homes would be sold for 100% of the home's value;

    g. Dymund Capital would provide a promissory note offering 2.5% per month interest in return for investment funds;

    h. The minimum investment was $5,000;

    i. K.M. would be able to receive his principal back with six-months' notice;

    j. If K.M. referred other investors, Dyches would pay K.M. 0.5% per month based on the amount invested by the referral;

k. If K.M. had equity in his home, K.M. should consider "putting the equity to work;"

l. K.M. did not need to worry about his investment funds because K.M.'s money would be safe;

m. Dyches owned a couple of properties in Arizona that he would liquidate in order to pay his friends back first if anything were to go wrong with the investment; and

n. K.M. was one of the friends who would be paid back first.

11. Soon after the meeting, Dyches suggested a mortgage broker for K.M. to contact in order to get a home equity loan for the investment.

12. Based on Dyches statements, K.M. invested $34,500 with Dyches. On or about July 10, 2007, K.M. closed on a home equity loan. About this same time, K.M. wired the equity funds, $34,500, to Dyches.

13. In exchange for the investment funds, K.M. received a signed promissory note from Respondents.

14. From July 2007 to September 2008, K.M. received a total of $25,089 of his principal from Dymund Capital.

15. Dyches still owes K.M. $9,411 in principal alone.

INVESTOR J.A.

16. In 2007, J.A. and Dyches met at an investing seminar taught by Koerber.

17. In or about August 2007, J.A., J.A.'s brother, and Dyches met at Dyches' home in Utah

County, Utah to discuss an investment opportunity.

18. During the meeting, Dyches made the following statements about an investment with Dymund Capital:

    a. In exchange for investment funds, J.A. would receive a promissory note offering interest at a rate of 2.5% per month;

    b. J.A. would be able to receive his funds returned within forty-five to sixty days of providing notice to Dyches;

    c. Investment funds would be used for real estate investments – specifically for "equity milling;"

    d. "Equity milling" included buying real estate at a reduced cost and then either renting the property or reselling it for a profit;

    e. Interest payments would be made from the equity milling profits;

    f. Dyches had connections to Koerber and his companies;

    g. The investment had been going on for about five years without any missed payments;

    h. Dyches' parents were also involved;

    i. Dyches could have mortgage brokers help J.A. obtain a home equity loan so that he could invest; and

    j. The investment had minimal risk.

19. Soon after the meeting, Dyches suggested a mortgage broker for J.A. and made arrangements

for him to get a home equity loan for the investment.

20. Based on Dyches statements, J.A. invested $80,000 in Dymund Capital. On or about August 14, 2007, J.A. wired $80,000 to Dymund Capital's Wells Fargo Bank account.

21. In exchange for the investment funds, J.A. received a signed promissory note from Dymund Capital.

22. From August 2007 to August 2008, J.A. received a total of $15,000 of his principal from Dymund Capital.

23. On or about May 15, 2008, J.A. received a letter from Dyches explaining financial difficulties with Dymund Capital. A couple of months after receiving the letter, J.A. requested that his funds be returned.

24. Dyches still owes J.A. $65,000 in principal alone.

INVESTORS D.W. AND J.W. (HUSBAND AND WIFE)

25. In October 2007, a friend referred D.W. and J.W. to Dyches for investment purposes.

26. In or about October 2007, D.W., J.W., and Dyches met at Dyches' home in Utah County, Utah to discuss an investment opportunity.

27. During the meeting, Dyches made the following statements about an investment with Dymund Capital:

    a. Dyches' brothers were involved in Dymund capital as well;

    b. Dymund Capital was raising money for a real estate investment;

c. The money raised by Dymund Capital would be provided to another company, which would then provide the money to Koerber for "equity milling;"

d. "Equity milling" involved utilizing home equity to purchase additional homes;

e. Koerber had previously been investigated by the government and had assets frozen, but was "clean;"

f. There was a minimum amount required to invest;

g. In exchange for investment funds, D.W. and J.W. would receive a promissory note offering interest at a rate of 36% per annum;

h. The funds would be used for one year, but D.W. and J.W. would be able to receive their funds returned within sixty days of providing notice to Dyches; and

i. Dyches would receive a percentage of interest based on investments made by D.W. and J.W.

28. When asked about risk in the investment, Dyches said that Dymund was required to have enough assets to cover the investments made by D.W. and the other investors and he would have enough assets to do so.

29. Based on Dyches statements, D.W. and J.W. invested $60,000 in Dymund Capital. On or about November 1, 2007, D.W. and J.W. gave Dyches a $60,000 cashier's check made payable to Dymund Capital. Upon delivering the check, D.W. informed Dyches that the funds came from D.W. and J.W.'s home equity.

30. At the time of the transaction, Dyches informed D.W. and J.W. that there had been a change in investment plans and the funds would no longer be used for the real estate investments as discussed, but would be used for something else.

31. In exchange for the investment funds, D.W. and J.W. received a signed promissory note from Dymund.

32. From November 2007 to May 2008, D.W. and J.W. received a total of $5,100 of their principal from Dymund Capital .

33. In May, 2008, D.W. and J.W. received a letter from Dyches explaining that they would no longer receive payments from Dymund Capital. In response to the letter, D.W. and J.W. requested that their funds be returned.

34. Dyches still owes J.A. $54,900 in principal alone.

CAUSE OF ACTION

Securities Fraud under § 61-1-1(2) of the Act

35. In connection with the offer and sale of a security, Respondents, directly or indirectly, made false statements, including, but not limited to, the following:

    a. That investment funds would be safe, when in fact, Respondents had no reasonable basis for making such a statement;

    b. That the investment carried minimal risk; and

    c. That Dyches had assets to cover investments, when in fact, investors did not receive

their principal investment back.

36. In connection with the offer and sale of a security, 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 Dyches would be compensated for the investments;

b. In 2007, Koerber filed for Chapter 7 bankruptcy;

c. Whose name would appear on the titles of the investment properties;

d. Details regarding the property that Dyches claimed to own in Arizona that would secure the investments such as:

i. The specific location of the property;

ii. The value of the property;

iii. Whether there was equity in the property; and

iv. Whether there were any liens or encumbrances on the property.

e. Some or all of the information typically provided in an offering circular or prospectus regarding Dyches, Dymund, and Koerber, such as:

i. Financial statements;

ii. The market for Dymund's service(s);

iii. The nature of the competition for the service(s);

iv. The track record of Dymund and Koerber to other investors;

v. The number of other investors;

vi. The risk factors for investors;

vii. Discussion of relevant suitability factors for the investment;

viii. Any conflicts of interest the issuer, the principals, or the agents may have with regard to the investment;

ix. Agent commissions or compensation for selling the investment;

x. Any involvement of Dyches, Koerber, Dymund or its principals in certain legal proceedings, including bankruptcy or prior violations of state or federal securities laws;

xi. Whether the investment was a registered security or exempt from registration; and

xii. Whether the person selling the investment was licensed.

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, February 6, 2013**, 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:

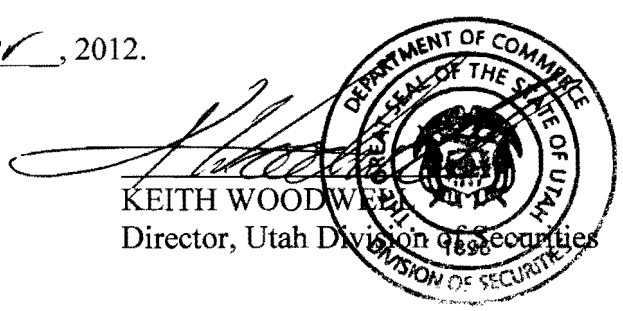
a. Why Respondents should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;

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 and 61-1-3, or any other section of the Act;

c. Why respondents should not be barred from being licensed in any capacity in the securities industry in the State of Utah; and

d. 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 investors.

DATED this 4th day of December, 2012.



KEITH WOODWELL
Director, Utah Division of Securities

Approved:

D. Scott Davis

D. SCOTT DAVIS
Assistant Attorney General
J.N.

Certificate of Mailing

I certify that on the 14th day of December, 2012, I mailed, by certified mail, a true and correct copy of the Stipulation and Consent Order to:

Dymund Capital, LLC
Joshua Edward Dyches
1524 W. 1970 N.
Provo, UT 84604

Certified Mailing # 7007 0220 0001 0004 8151

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd Floor
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF: **DYMUND CAPITAL, LLC,** **JOSHUA EDWARD DYCHES,** **Respondents.**	**NOTICE OF AGENCY ACTION** **Docket No.** SD-12-0069 **Docket No.** SD-12-0070

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 **February 6, 2013** 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 Jennie Jonsson, 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. Jonsson 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 4th day of December, 2012

Keith M. Woodwell
Director, Division of Securities

DEPARTMENT OF COMMERCE
SEAL OF THE STATE OF UTAH
1896
DIVISION OF SECURITIES