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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE, STATE OF UTAH**

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| <p>IN THE MATTER OF:</p> <p>MARK JAMES SAIN,</p> <p style="text-align: center;">Respondent.</p> | <p style="text-align: center;">RESPONSE TO ORDER TO SHOW CAUSE</p> <p style="text-align: center;">Docket No. SD-12-0076</p> <p style="text-align: center;">Judge: Jonnson</p> |
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Respondent, Mark James Sain, by and through his counsel of record, hereby files his Response to Order to Show Cause.

Statement of Jurisdiction

1. Jurisdiction over Respondent and the subject matter is appropriate because the Division alleges that Respondent violated § 61-1-1 (securities fraud) of the Act while engaged in the offer and sale of securities in or from Utah.

RESPONSE: The Respondent admits jurisdiction over the Respondent but denies each and every other allegation contained in paragraph 1 of the Order to Show Cause.

Statement of Facts

2. Sain is a resident of the State of Utah, with a last known address of 1385 Amesbury Circle, Salt Lake City, Utah 84121. Sain has never been licensed with the Division.

RESPONSE: Admit.

3. From approximately March 2012 to June 2012, Sain offered and sold an investment to K.E., a Utah resident, and collected a total of \$75,000.

RESPONSE: Deny.

4. The investment contract Sain sold to K.E. is a security under § 61-1-1 of the Act and applicable case law.

RESPONSE: Deny.

5. Sain made misstatements and omitted material facts in connection with the offer and sale of securities to K.E.

RESPONSE: Deny.

6. K.E. lost \$72,467 in principal alone.

RESPONSE: Deny.

7. K.E. became interested in investing in Alivamax Worldwide, LLC (Alivamax) when he was approached by Beau Dorius, who Sain had already approached about becoming an owner in Alivamax. K.E. viewed ownership in Alivamax as an investment.

RESPONSE: Deny.

8. On March 15, 2012, K.E. met with the proposed owners of the company in Salt Lake City, Utah. During the meeting, Sain said that K.E. would have a 25% ownership interest in the company with a \$50,000 investment. Sain told K.E. that there was no risk involved with the investment because expenses incurred in the business could not be paid without the consent of all five owners.

RESPONSE: Deny.

9. On March 22, 2012, K.E. met again with the owners at the Alivamax office in Salt Lake

County to sign an ownership contract. At that meeting, Sain told the owners that the only outstanding debt that Alivamax had was \$15,000.

RESPONSE: Deny.

10. Although he never saw any of the company's legal documents, K.E. was promised that not one penny would be disbursed by the company without the consent of all the owners.

RESPONSE: Deny.

11. Sain made the following statements about a potential \$50,000 investment with Alivamax by K.E.:

- a. The investment was safe;
- b. K.E. would have signatory authority on Alivamax's accounts and have access to accounting documents;
- c. That \$15,000 would be used to repay a prior investor, Patel Family Investments, LLC, and that Alivamax would be debt-free after that point;
- d. Sain would use the company's fund for the working capital of the business; and
- e. K.E.'s money would not be used without the consent of all the owners.

RESPONSE: Deny.

12. Based on Sain's statements, K.E. invested \$50,000, via five different cash payments to Alivamax's secretary Pamela Hunt, sometime between March 22 and March 26, 2012. The cash was deposited into Alivamax's bank account at Zions Bank by Sain.

RESPONSE: Deny.

13. In exchange for the \$50,000 investment, K.E. received an operating agreement dated March 22, 2012.

RESPONSE: Deny.

25. Using a source and use analysis, Sain used K.E.'s \$50,000 investment funds from March 22 to approximately June 7, 2012, in the following manner:

- a. \$15,737.40 used to repay previous investors (not Patel Family Investments, LLC.);
- b. \$723.00 paid to Beau Dorius;
- c. \$1,532.85 paid back to K.E.
- d. Two checks totaling \$3,66,71 [sic] written to Mark Sain;
- e. \$12,925 transferred to Sain's Chase credit card;
- f. \$5,157.96 spent on business expenses;
- g. \$1,828.64 transferred to Sain's American Express credit card; and
- h. \$8,434.44 spent on miscellaneous expenses.

RESPONSE: Deny.

25. To date, K.E. has received \$1,533 from his \$50,000 investment.

RESPONSE: Deny.

16. In approximately mid-April, 2012, while in Salt Lake County, Sain told K.E. he needed additional money for a new compensation matrix.

RESPONSE: Deny.

17. On April 16, 2012, K.E. wired an additional \$25,000 to Sain's Zions Bank account with the promise from Sain that K.E. would receive an additional 10% ownership interest in the company.

RESPONSE: Deny.

18. After Sain received K.E.'s additional \$25,000, he decided instead to divide the remaining 10% ownership interest between himself, Dorious and K.E.

RESPONSE: Deny.

19. Sain told K.E. that his additional \$25,000 would be treated as an investment in the company, and that Sain would repay K.E. \$1,000 per month for one year, with a balloon payment after one year for the remaining balance.

RESPONSE: Deny.

20. K.E. and Sain agreed that K.E.'s additional \$25,000 investment would be used to upgrade the matrix compensation model of the company.

RESPONSE: Deny.

21. To date, K.E. has only received \$1,000 from his \$25,000 additional investment.

RESPONSE: Deny.

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

- a. That the company had no debt outside of Patel Family Investments, LLC, when in fact Alivamax did have other debt;
- b. That Sain was going to repay Patel Family Investments, LLC's prior investment, when in fact the check written to Dinesh-Patel on March 20, 2012 in the amount of \$13,988.67 was voided and never sent;
- c. That K.E. would have access to the financial documents of the company, but he was actually denied access to the financial statements of Alivamax;
- d. That K.E. would receive signatory authority on the company's bank accounts, which he never received;
- e. That the incurred expenses of the business would not be paid without the consent of all owners, when in fact Sain made multiple withdrawals and expenditures without the consent of the other owners;

- f. That K.E.'s money would be used only as working capital for the company, when in fact Sain used K.E.'s investment funds for personal and other purposes; and
- g. That K.E.'s investment was guaranteed to be safe.

RESPONSE: Deny.

23. In connection with the offer and sale of a security, Respondent, directly or indirectly, failed to disclose material information which was necessary to make the statements not misleading, including, but not limited to, the following:

- a. The business and operating history for Alivamax, and Sain;
- b. Financial statements regarding the company;
- c. Risk factors pertaining to K.E.'s investment;
- d. That Alivamax had founding partners who were supposed to be receiving 3% of the company's sales;
- e. Whether the investment was a registered security or exempt from registration;
- f. Whether or not Sain was licensed to sell securities; and
- g. What Sain did with K.E.'s initial \$50,000 investment.

RESPONSE: Deny.

24. The investment opportunities offered and sold by Respondent are securities under § 61-1-13 of the Act.

RESPONSE: Deny.

25. Respondent violated § 61-1-1 of the Act by making misstatements of material facts and by omitting material facts in connection with the offer and sale of a security.

RESPONSE: Deny.

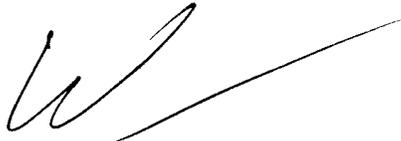
FIRST AFFIRMATIVE DEFENSE

Respondent hereby denies each and every allegation contained in the Division's Order to Show Cause specially admitted herein.

WHEREFORE, Respondent prays that the Order to Show Cause be dismissed with findings that the Respondent did not violate the Utah Uniform Securities Act in any manner.

DATED this 6th day of February, 2013.

BLACK & ARGYLE, P.C.



David O. Black, Attorney for Respondent

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of February, 2013, I caused a true and correct copy of the foregoing **RESPONSE TO ORDER TO SHOW CAUSE** to be hand-delivered to the following:

Keith M. Woodwell
Division of Securities
Utah Department of Commerce
160 East 300 South
Box 146760
Salt Lake City, UT 84114-6760

D. Scott Davis
Assistant Attorney General
Utah Division of Securities
160 East 300 South, 5th Floor
Salt Lake City, UT 84114-0872



CERTIFICATE OF MAILING

I, Julie Price, hereby certify that on the 30th day of January 2013, I mailed, by first class mail, a true and correct copy of the forgoing **Order on Request for Continuation of**

Prehearing Conference to:

Mark James Sain
1065 East 3300 South
Salt Lake City, UT 84106-2142



Julie Price
Administrative Secretary