

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:**

**MARK JAMES SAIN,**

**Respondent.**

**AMENDED ORDER TO SHOW  
CAUSE**

**Docket No. SD-12-0076**

---

**NOTE: This Amended Order to Show Cause amends and supersedes the Order to Show Cause filed in this matter on or about December 12, 2012.**

It appears to the Director of the Utah Division of Securities (Director) that Mark James Sain (Sain or Respondent) has 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 Respondent 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 RESPONDENT**

2. Sain is a resident of the State of Utah. Sain has never been licensed in the securities industry in any capacity.

### **GENERAL ALLEGATIONS**

3. From approximately March 2012 to June 2012, Sain offered and sold interests in a limited liability company to K.E., a Utah resident, and collected a total of \$75,000.
4. Interests in a limited liability company are securities under § 61-1-13 of the Act.
5. Sain made misstatements and omitted material facts in connection with the offer and sale of securities to K.E.
6. K.E. lost \$72,467 in principal alone.

### First Investment

7. K.E. became interested in investing in Alivamax Worldwide, LLC<sup>1</sup> (Alivamax) when he was approached by Beau Dorius, who Sain had already approached about becoming an

---

<sup>1</sup> Alivamax Worldwide, LLC is a Utah limited liability company as of December 24, 2008. Select Connection, Inc. is listed as Alivamax' Manager. Alivamax' status is active as of January 30, 2012.

owner in Alivamax. K.E. viewed ownership in Alivamax as an investment opportunity.

8. On March 15, 2012, K.E. met with the proposed owners of the company in Salt Lake County, 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.
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.
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.
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 funds for the working capital of the business; and

- e. K.E.'s money would not be used without the consent of all the owners.
12. Based on Sain's statements, K.E. invested \$50,000, via five different cash payments to Avilamax'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.
  13. In exchange for the \$50,000 investment, K.E. received an operating agreement dated March 22, 2012.
  14. 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 \$3,660.71 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.
  15. To date, K.E. has received \$1,533 from his \$50,000 investment.

#### Second Investment

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

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.
18. After Sain received K.E.'s additional \$25,000, Sain decided instead to divide the remaining 10% ownership interest between himself, Dorious and K.E.
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.
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.<sup>2</sup>
21. To date, K.E. has only received \$1,000 from his \$25,000 additional investment.

**CAUSES OF ACTION**  
**Securities Fraud under § 61-1-1 of the Act**

22. The Division incorporates and re-alleges paragraphs 1 through 21.
23. The investment opportunities offered and sold by Respondent are securities under § 61-1-13 of the Act.
24. In connection with the offer and sale of securities, 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

---

<sup>2</sup> On April 20, 2012, Sain transferred \$27,000 to a company called "By Design" who was contracted to upgrade the matrix compensation model of the company.

- fact Alivamax did have other debt;
- b. That the incurred expenses of the business would not be paid without the consent of all the owners, when in fact Sain made multiple withdrawals and expenditures without the consent of the other owners;
  - c. 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
  - d. That K.E.'s investment was guaranteed to be safe.
25. In connection with the offer and sale of securities, 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.

**ORDER**

The Director hereby adopts and incorporates by reference the Order set forth in the Order to Show Cause filed December 12, 2012. Because the Respondent has fully complied with the requirement to appear at a formal hearing on March 6, 2013, conducted in accordance with Utah Code Ann. §§ 63G-4-202, -204 through -208, and held before the Utah Division of Securities, as well as the requirement to file an answer to the original Order to Show Cause within thirty days of the mailing date of the Notice of Agency Action, issued January 11, 2013, the Respondent is not required to file an answer to the Amended Order to Show Cause. However, he may amend his answer, received February 6, 2013, to address the changes in the Amended Order to Show Cause, if desired.

Additionally, Respondents shall comply with the Scheduling Order issued by Administrative Law Judge Jennie Jonsson on or about March 6, 2013, as amended. According thereto, this matter is set for a hearing before the Utah Securities Commission on July 25, 2013, if not otherwise settled with the Division prior to that date.

DATED this 21<sup>st</sup> day of May, 2013.

  
\_\_\_\_\_  
KEITH WOODWELL  
Director, Utah Division of Securities



Approved:



\_\_\_\_\_  
PAUL G. AMANN  
Assistant Attorney General  
K.W.



\_\_\_\_\_  
D.H.

I hereby certify that on the 22<sup>nd</sup> day of May, 2013. The undersigned served a true and correct copy of the foregoing document by email to:

Mark James Sain  
c/o David O. Black  
doblaw@comcast.net

and caused a copy to be hand delivered to:

Paul G. Amann  
[pamann@utah.gov](mailto:pamann@utah.gov)

Ann Skaggs  
[askaggs@utah.gov](mailto:askaggs@utah.gov)

A handwritten signature in blue ink, appearing to read "Mark Sain", is written over a horizontal line.

Executive Secretary