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

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**IN THE MATTER OF:**

**JARED BRENT MUIR,**

**Respondent.**

**MOTION FOR ENTRY OF DEFAULT**

**Docket No. SD-13-0008**

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The State of Utah, Department of Commerce, Securities Division (Division), by and through its attorney Wade Farraway, respectfully requests that an order be entered finding the Respondent in default for failure to file an answer to the Division's Notice of Agency Action (Notice) and Order to Show Cause (OSC).

**I. BACKGROUND**

On January 3, 2013, the Division initiated a formal adjudicative proceeding against Respondent through the issuance of the OSC and Notice. Respondent was properly served with

the OSC and Notice, and he attended the initial hearing on March 18, 2013. However, he failed to file a written response with the Division, as required by Utah Code Ann. § 63G-4-204(1).

#### **RELEVANT FACTS**

1. On January 3, 2013, the Division commenced a formal adjudicative proceeding by issuing the OSC and Notice.
2. On January 8, 2013, the Division mailed, by certified and regular mail, a copy of the OSC to Respondent, along with the Notice, advising Respondent that a default order may be entered if he failed to file a written response to the OSC within thirty (30) days of the mailing date of the Notice. The OSC and Notice scheduled an initial hearing for February 6, 2013 at 9:00 a.m.
3. On January 23, 2013, the Administrative Law Judge assigned to the case, Jennie Jonsson, issued a Notice of Continuation of Prehearing Conference, continuing the initial hearing until March 6, 2013 at 9:00 a.m.
4. As a result of a conflict with a co-respondent's schedule, the Administrative Law Judge issued a Second Notice of Continuation of Prehearing Conference on February 12, 2013, continuing the initial hearing until March 18, 2013 at 9:00 a.m.
5. On March 18, 2013, Respondent attended the initial hearing held at the Division's office, 160 East 300 South, Second Floor, Salt Lake City, Utah. At that meeting, Respondent

notified the Administrative Law Judge that he had not yet seen the OSC or Notice. The Division provided Respondent with a second copy of those documents.

6. Additionally, at the initial hearing, the Administrative Law Judge provided Respondent with an extension of time for filing his response to the OSC and Notice. As discussed at that meeting, and confirmed by the Scheduling Order issued March 18, 2013, Respondent had until April 17, 2013 to file his response with the Division.
7. During the initial hearing, the Administrative Law Judge informed Respondent that he could contact her with any questions regarding the elements or format of the filings, or he could contact the Division with any additional questions regarding the action or a potential settlement. As of the date of this motion, Respondent has not taken the opportunity to avail himself of this offer.
8. On April 17, 2013, at 10:22 p.m., Respondent sent an email to the Administrative Law Judge stating that he and his attorney have not had an opportunity to review and respond to the OSC and Notice. Additionally, Respondent pleads the Fifth Amendment.
9. On April 19, 2013, Respondent's attorney, Jalyn Peterson, sent an email to the Administrative Law Judge requesting additional time to file a response to the OSC and Notice or, in the alternative, an explanation of the options available to her client.

## ARGUMENT

As required by the Utah Administrative Procedures Act (UAPA), the Notice mailed to Respondent on January 8, 2013, advised him that he must file a written response with the Division within thirty (30) days of the mailing date of the Notice. Utah Code Ann. § 63G-4-201(2)(a)(vi). Pursuant to the Scheduling Order issued March 18, 2013, Respondent then received an extension to the thirty (30) day time period provided by UAPA. As such, Respondent had until April 17, 2013 to file a response with the Division.

In accordance with Utah Code Ann. § 63G-4-204(1), the Notice provided to Respondent on several occasions clearly states that a response shall include, among other things, the relief the Respondent is requesting, a statement of the facts, and the reasons the requested relief should be granted. Respondent has failed to file the response required by UAPA and as set forth in the Notice. Instead, he provided the Administrative Law Judge with an email that claims he has not had sufficient time to prepare a response. Additionally, he inappropriately attempts to rely on the Fifth Amendment; however, no criminal action has been initiated, nor is one contemplated.

Pursuant to Utah Code Ann. § 63G-4-209(1)(c), “[t]he presiding officer may enter an order of default against a party if: . . . a respondent in a formal adjudicative proceeding fails to file a response under Section 63G-4-204.” Because Respondent has failed to file the required response to the Division’s OSC and Notice, the Division requests an order of default be entered against him.

Dated this 23<sup>rd</sup> day of April, 2013.

A handwritten signature in black ink, appearing to read "Wade Faraway", written over a horizontal line.

WADE FARRAWAY  
Assistant Attorney General  
Counsel for the Division

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I personally served a true and correct copy of the foregoing on this 23rd day of April, 2013 to the following:

<p>JARED BRENT MUIR c/o Jalyn Peterson 2225 E. Murray Holladay Road, Suite 111 Salt Lake City, UT 84117</p>	<p>Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input checked="" type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input type="checkbox"/> Other:</p>
<p>JARED BRENT MUIR</p>	<p>Sent via: <input type="checkbox"/> Hand-Delivery <input type="checkbox"/> Facsimile: <input type="checkbox"/> Mailed (U.S. Mail, postage prepaid) <input checked="" type="checkbox"/> Other: muir_j@hotmail.com</p>

Shayla Simpson