

Division of Securities
Utah Department of Commerce
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

THOMAS DEAN LAKEY,

Respondent.

ORDER TO SHOW CAUSE

Docket No. SD-13-0017

It appears to the Director of the Utah Division of Securities (Director) that Thomas Dean Lakey 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 he violated §§ 61-1-1 (securities fraud) and 61-1-7 (sale of unregistered securities) of the Act while engaged in the offer and sale of securities in or from Utah.

STATEMENT OF FACTS

THE RESPONDENT

2. Thomas Dean Lakey (Lakey) was, at all relevant times, a resident of the state of Utah. Lakey has never been licensed in the securities industry in any capacity.

GENERAL ALLEGATIONS

3. From August 2007 to August 2009, Respondent offered and sold promissory notes and interests in a limited liability company to investors, in or from Utah, and collected a total of at least \$1,295,000 from twenty-three investors, including \$194,000 from the six investors described below.
4. Promissory notes and interests in a limited liability company are securities under the Act.
5. Respondent made material misstatements and omissions in connection with the offer and sale of securities to the investors identified below.
6. The investors described below lost \$145,290 in principal alone.

INVESTOR V.G.

7. V.G. met Lakey through J.O., a loan officer who had also invested with Lakey.
8. J.O. told V.G. that Lakey needed more capital to do real estate investing, and because Lakey offered higher interest rates for larger investments, J.O. was looking for friends to invest with.
9. On August 24, 2007, V.G. and J.O. went to Lakey's office in Provo, Utah.
10. At that meeting, Lakey made the following statements:
 - a. Lakey did real estate investing; and

- b. Lakey offered higher interest rates for larger investments.
11. To acquire this higher interest rate, the three men agreed that V.G. and J.O. would be on the same promissory note, with J.O. paying V.G. interest out of the interest J.O. received from Lakey.
 12. On August 24, 2007, V.G. gave Lakey a \$40,000 check payable to Lakey at Lakey's office in Provo, Utah.
 13. In exchange for the \$40,000, Lakey promised V.G. \$1,600 per month in interest payments for a period of one year. At the end of the year, Lakey would return V.G.'s principal.
 14. At the time of investment, Lakey also purportedly added V.G. to J.O.'s promissory note; however, V.G. never received any documentation confirming that his name had been added to that document.
 15. After receiving interest payments for a few months, J.O. told V.G. that Lakey had stopped making interest payments, and V.G. should speak with Lakey.
 16. On March 25, 2008, V.G. went to Lakey's office, where he received his own promissory note for his \$40,000. The promissory note states the interest rate will be 48% per year, or \$1,600 a month, until April 8, 2009, and was signed and executed by Lakey.
 17. V.G. did not receive any disclosure documentation or other memorialization prior to his investment.
 18. V.G. has been repaid \$22,710 of his \$40,000 investment, for a total loss of \$17,290.

INVESTOR K.A.

19. K.A. met Lakey through his daughter-in-law, E.A., who had also invested with Lakey.
20. On November 30, 2007, K.A. and E.A. went to Lakey's office in Provo, Utah, where they discussed investment options. With respect thereto, Lakey made the following statements:
 - a. Lakey was experienced at flipping houses and made big profits, which he passed along to investors;
 - b. There were two different options for investors:
 - i. First, investors could put their money directly into the houses to be flipped; however, because this option was tied to real estate, the interest rate would be smaller than the rate provided in the second option; and
 - ii. Second, investors could give money directly to Lakey for use as operating expenses, including real estate investments. Lakey said he preferred this option, and the interest rate would be higher than the rate provided in the first option.
21. On November 30, 2007, K.A. gave Lakey \$25,000 in cash. In exchange for the \$25,000, K.A. received a promissory note. The terms of the note state the interest rate will be 60% per year for twelve months. The note was signed by Lakey.
22. K.A. did not receive any disclosure documentation or other memorialization prior to his investment.
23. Lakey made several payments to K.A. in accordance with their agreement, bringing the

balance down to \$18,000. At that time, K.A. assigned the \$18,000 balance to investor E.A., as detailed below. As a result, Lakey does not owe any additional amount to K.A. All outstanding balances on this note are transferred to E.A.

INVESTOR E.A.

24. E.A. met Lakey in 2005 or 2006 at a court auction for foreclosed properties in either Salt Lake City or Provo, Utah. E.A. also saw Lakey at meetings for the Salt Lake Real Estate Investors Association (SLREA), where Lakey served as president.
25. E.A. said she recommended an investment with Lakey to her father-in-law, K.A., as described above.
26. After Lakey stopped making payments on the promissory note to K.A., E.A. confronted Lakey. E.A. said it was easier for her to speak with Lakey because she saw him at SLREA meetings and K.A. lived in St. George.
27. Lakey wrote K.A. a \$16,373.97 check, dated July 17, 2008, to pay off the balance on K.A.'s note.
28. When the check bounced, E.A. decided to pay K.A. back herself, and she went to Lakey to get the owed balance paid to her instead.
29. On August 20, 2008, E.A., her husband S.A., and Lakey signed a promissory note where Lakey promised to pay E.A. and S.A. \$18,000 by September 1, 2008.
30. E.A. has been repaid \$5,600, and is still owed \$12,400 under the terms of the note.

INVESTOR M.V.
FIRST INVESTMENT

31. M.V. first met Lakey through a friend, A.L., who had also invested with Lakey.
32. On December 18, 2007, M.V. and A.L. went to Lakey's office in Provo, Utah where they discussed investment options. With respect thereto, Lakey made the following statement:
 - a. Lakey bought and sold houses and paid investors a lot of money from the profits.
33. On December 18, 2007, M.V. gave Lakey \$25,000 in cash.
34. In exchange for the \$25,000, Lakey gave M.V. a promissory note. The terms of the note state the interest rate will be 32% per year for twelve months. The note was signed by Lakey.
35. M.V. did not receive any disclosure documentation or other memorialization prior to his investment.

SECOND INVESTMENT

36. When V.M.'s note expired, Lakey offered to roll it over into a new promissory note.
37. On March 28, 2008, V.M. went to Lakey's office in Provo where the new note was executed. The new note had identical terms as the first and was due June 28, 2008.

THIRD INVESTMENT

38. M.V. said when Lakey stopped making interest payments on the second promissory note, he began to look for another investment.
39. M.V. found an investment offering higher returns, so on October 1, 2008, M.V. went to Lakey's office and asked for his principal back.

40. Lakey told M.V. he was unable to give back his principal, so Lakey instead offered to make a new promissory note at a higher interest rate.
41. The terms of the note state the interest rate will be 72% per year, or \$1,500 per month, for three months. The note was signed and executed by Lakey at his Provo office.
42. M.V. did not receive any disclosure documentation or other memorialization prior to his investment.
43. M.V. has been repaid \$7,400 of his \$25,000 investment, for a total loss of \$17,600.

INVESTOR S.P.
FIRST INVESTMENT

44. S.P. met Lakey through membership in SLREIA in approximately July 2007. S.P. said Lakey would frequently discuss investment opportunities with those in attendance at SLREIA meetings. With respect thereto, Lakey made the following statements:
 - a. Lakey found “great real estate deals” in Utah and nationwide;
 - b. Investors’ principal and interest would be repaid timely, regardless of the particulars, such as the ability to sell individual properties;
 - c. Lakey had sufficient properties going in and coming out of his management that funds were always available to cash out any investor and make all repayments when due;
 - d. There were two different options for investors:
 - i. First, an investor could provide the entire amount needed for Lakey to flip one house, the investor would have a first lien position on the specific

- house to be flipped, and the term of the note would be around 90 days;
- ii. Second, an investor could provide a smaller amount and have their funds pooled with other investors and used by Lakey on many different housing projects to pay workers, purchase supplies, and other expenses. In this instance, the note term would be shorter than the first option, somewhere between 30 and 60 days;
 - e. Lakey was currently renovating homes in Indianapolis because Lakey was hoping tourists and athletes attending the upcoming Super Bowl in Indianapolis would see the city as a nice place to live and decide to either move or purchase income properties in Indianapolis; and
 - f. Lakey said there were many people in Indianapolis who wanted to buy houses, but the banks would not lend on houses that needed extensive repairs. Lakey would capitalize on the demand by repairing houses to bank standards.
45. S.P. also received brochures from Lakey about the different investment opportunities offered. S.P. received the same brochures multiple times, both before and after his investments. One brochure, called “Buying Bulk Foreclosure Properties,” described a 15-property LLC where a \$15,000 investment gave a person a 5% share of the LLC. The brochure made the following statements:
- a. “While the rest of the nation panics, a few savvy investors reap huge rewards by picking up these homes. Even an unskilled investor can significantly increase his or her net worth”;

- b. “Our skilled management team (The Real Estate Success Coach, skilled rehabber, realtor, accountant) handles it all while you sit back and reap great benefits!”;
 - c. “These properties range in value from a guaranteed \$45,000 up to \$100,000+”;
 - d. “Your investment is diversified to bring you a solid return”; and
 - e. “Even though the properties need some work, someone will indeed want it, beg for it, and buy it under the right terms.”
46. On July 3, 2008, S.P. and Lakey went to a Wells Fargo Bank in Provo, Utah where S.P. made his first investment. S.P. transferred \$44,000 from his checking account at Wells Fargo Bank to Lakey’s account also at Wells Fargo Bank.
47. S.P. believed this investment was to be secured by a real property deed on a residential duplex, located at 322 and 324 Jefferson Avenue, Indianapolis, Indiana, the same property that Lakey was to flip.
48. S.P. said Lakey provided a copy of a recent real estate appraisal, dated June 23, 2008, valuing the property at \$65,000, and a promissory note. However, Lakey never provided S.P. with evidence of his position as a deed holder.
49. S.P. did not receive any other disclosure documentation or memorialization prior to his investment.

SECOND INVESTMENT

50. On July 3, 2008, at a Wells Fargo Bank in Provo, Utah, S.P. transferred \$20,000 from his checking account at Wells Fargo Bank to Lakey’s account also at Wells Fargo Bank.
51. This investment was to be used by Lakey for general operating expenses, under the

second investment type offered.

52. S.P. received a promissory note signed by Lakey.
53. S.P. did not receive any disclosure documentation or other memorialization prior to his investment.

THIRD INVESTMENT

54. On August 18, 2008, S.P. gave Lakey a \$5,000 check, payable to Lakey. The memo line read "42 day loan, exp 9.29.08."
55. This investment was to be used by Lakey for general operating expenses, under the second investment type offered.
56. S.P. received a promissory note signed by Lakey.
57. S.P. did not receive any disclosure documentation or other memorialization prior to his investment.

FOURTH INVESTMENT

58. On August 22, 2008, at a Wells Fargo Bank in Provo, Utah, S.P. transferred \$20,000 from his checking account at Wells Fargo Bank to Lakey's account also at Wells Fargo Bank.
59. This investment was to be used by Lakey for general operating expenses, under the second investment type offered.
60. S.P. received a promissory note signed by Lakey.
61. The terms of the note state the interest rate will be 60% per year for twelve months. The note was signed by Lakey.

62. S.P. did not receive any disclosure documentation or other memorialization prior to his investment.
63. S.P. has been repaid \$6,000 from his total investment of \$89,000, leaving a loss of \$83,000 in principal alone.

INVESTOR R.K.

64. R.K. met Lakey through attendance at SLREIA meetings sometime in 2008. Lakey would frequently discuss investment opportunities with those in attendance at SLREIA meetings. With respect thereto, Lakey made the following statements:
 - a. Lakey worked with banks to buy a bulk of properties for approximately \$10,000 each, then would hire people to clean, paint, replace carpet, and make other minor repairs;
 - b. The houses would then be sold, or, if a potential buyer did not have good enough credit, a lease option for a term of three to six months would be used;
 - c. It took on average two to three months to purchase, renovate, and sell the properties, or up to nine months if a lease option was used;
 - d. The first fifteen people to invest \$15,000 each would have the opportunity to be members of the investment limited liability company, Tom Lakey, LLC¹;
 - e. Lakey would pool all the investor money to flip houses in the Midwest. After each house sold, investors would receive 5% of the proceeds for each \$15,000

¹ Tom Lakey, LLC was a Utah-based limited liability company that initially registered with the Utah Division of Corporations on August 26, 2008. Its status changed to expired on December 08, 2009. While active, Lakey served as the manager and registered agent for the entity.

invested. Lakey would keep 25% for his efforts;

f. Lakey had been doing this for twenty years and that it was “routine” for him;

g. Lakey knew all the bankers and contractors, so investors could trust him;

65. October 29, 2008, R.K. met Lakey at Lakey’s Salt Lake City office. R.K. provided Lakey with a \$15,000 check.

66. In exchange for the \$15,000, R.K. received a document called “Agreement of the Tom Lakey, LLC-Series 1.” The Agreement names Lakey as the sole manager, and Lakey told R.K. that he was member number eleven.

67. R.K. never received any return on his investment.

CAUSES OF ACTION

Securities Fraud under § 61-1-1 of the Act (Investor V.G.)

68. The Division incorporates and re-alleges paragraphs 1 through 67.

69. The promissory notes offered and sold by Respondent are securities under § 61-1-13 of the Act.

70. In connection with the offer and sale of a security to investor V.G., Lakey, directly or indirectly, made false statements, including, but not limited to, the following:

a. Lakey promised to pay V.G. 48% interest per year for just over twelve months. However, Lakey had no reasonable basis to promise such high interest rates when in 2005, Lakey went to the FBI and said he believed it was “impossible” for Franklin Squires, a company involved in real estate investing at the time, to pay

returns of 36% to 48% a year, regardless of how well the market was doing, and that he believed Franklin Squires's principal, Rick Koerber was operating a Ponzi scheme that was destined to collapse.

71. In connection with the offer and sale of a security to investor V.G., Lakey, 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. Lakey failed to disclose what specifically V.G.'s funds would be used for and how his investment would make money;
 - b. Lakey failed to disclose he had filed for Chapter 7 Bankruptcy in 1986 and 1994, and that he had filed for Chapter 13 bankruptcy in 1998;
 - c. Lakey failed to disclose he had six tax liens filed against him in 1996, totaling \$14,469.32, and additional tax liens filed against him for \$550.56 in 1998, \$623.43 in 2003, and \$863.20 in 2004;
 - d. Lakey failed to disclose he had three judgments ordered against him in 1998, totaling \$13,190.20; and
 - e. Some or all of the information typically provided in an offering circular or prospectus regarding Lakey, 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 Respondent was licensed to sell securities.

**Securities Fraud under § 61-1-1 of the Act
(Investor K.A.)**

- 72. The Division incorporates and re-alleges paragraphs 1 through 67.
- 73. The promissory note offered and sold by Respondent is a security under § 61-1-13 of the Act.
- 74. In connection with the offer and sale of a security to investor K.A., Lakey, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. Lakey promised to pay K.A. 60% interest per year for six months. However, Lakey had no reasonable basis to promise such high interest rates when in 2005, Lakey went to the FBI and said he believed it was “impossible” for Franklin Squires, a company involved in real estate investing at the time, to pay returns of 36% to 48% a year, regardless of how well the market was doing, and that he believed Franklin Squires’s principal, Rick Koerber was operating a Ponzi scheme that was destined to collapse.
- 75. In connection with the offer and sale of a security to investor K.A., Lakey, 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. Lakey failed to disclose the location of the houses he planned to flip;

- b. Lakey failed to disclose the fact that he filed for Chapter 7 Bankruptcy in 1986 and 1994, and that he filed for Chapter 13 bankruptcy in 1998;
- c. Lakey failed to disclose he had six tax liens filed against him in 1996, totaling \$14,469.32, and additional tax liens filed against him for \$550.56 in 1998, \$623.43 in 2003, and \$863.20 in 2004;
- d. Lakey failed to disclose he had three judgments ordered against him in 1998, totaling \$13,190.20; and
- e. Some or all of the information typically provided in an offering circular or prospectus regarding Lakey, 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 Respondent was licensed to sell securities.

**Securities Fraud under § 61-1-1 of the Act
(Investor E.A.)**

- 76. The Division incorporates and re-alleges paragraphs 1 through 67.
- 77. The promissory note offered and sold by Respondent is a security under § 61-1-13 of the Act.

78. In connection with the offer and sale of a security to investor E.A., Lakey, 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. Lakey failed to disclose how he would be able to repay E.A. when he was unable to make payments to K.A.;
 - b. Lakey failed to disclose he had defaulted on a promissory note to another investor, M.V.;
 - c. Lakey failed to disclose he had filed for Chapter 7 Bankruptcy in 1986 and 1994, and that he had filed for Chapter 13 bankruptcy in 1998;
 - d. Lakey failed to disclose he had six tax liens filed against him in 1996, totaling \$14,469.32, and additional tax liens filed against him for \$550.56 in 1998, \$623.43 in 2003, and \$863.20 in 2004;
 - e. Lakey failed to disclose he had three judgments ordered against him in 1998, totaling \$13,190.20; and
 - f. Some or all of the information typically provided in an offering circular or prospectus regarding Lakey, 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 Respondent was licensed to sell securities.

**Securities Fraud under § 61-1-1 of the Act
(Investor M.V.)**

- 79. The Division incorporates and re-alleges paragraphs 1 through 67.
- 80. The promissory notes offered and sold by Respondent are securities under § 61-1-13 of the Act.
- 81. In connection with the offer and sale of a security to investor M.V., Lakey, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. Lakey initially promised to pay M.V. 48% interest per year for three months and later promised to pay M.V. 72% interest per year for three months. However, Lakey had no reasonable basis to promise such high interest rates when in 2005, Lakey went to the FBI and said he believed it was “impossible” for Franklin Squires, a company involved in real estate investing at the time, to pay returns of 36% to 48% a year, regardless of how well the market was doing, and that he believed Franklin Squires’s principal, Rick Koerber was operating a Ponzi scheme that was destined to collapse.
- 82. In connection with the offer and sale of a security to investor M.V., Lakey, 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. Lakey failed to disclose where the houses were he planned to flip;

- b. With respect to M.V.'s second and third promissory notes:
 - i. Lakey failed to disclose that two interest checks Lakey wrote to K.A., for \$1,273.97 and \$1,191.78, were returned for insufficient funds;
 - ii. With respect to M.V.'s second and third promissory notes, Lakey failed to disclose that he had defaulted on K.A.'s promissory note;
- c. With respect to M.V.'s third promissory note:
 - i. Lakey failed to disclose how he would be able to pay M.V. under this promissory note when he was unable to make payments at the lower interest rate of the second promissory note;
 - ii. Lakey failed to disclose he wrote E.A. a \$26,373.97 check she was unable to cash, and that another check he wrote E.A., for \$16,373.97, was returned for insufficient funds;
 - iii. Lakey failed to disclose that another investor, S.P., was unable to cash two checks from Lakey, for \$800 and \$880, because of insufficient funds; and
 - iv. Lakey failed to disclose a debt collection law suit² had been filed against him, which would eventually result in a \$58,619.50 judgment against Lakey on August 11, 2009;
- d. Lakey failed to disclose he had filed for Chapter 7 Bankruptcy in 1986 and 1994, and that he had filed for Chapter 13 bankruptcy in 1998;
- e. Lakey failed to disclose he had six tax liens filed against him in 1996, totaling

² Justin Mankowski v. Aspen Home Loans LLC, Third District Court—Salt Lake County #080918347

- \$14,469.32, and additional tax liens filed against him for \$550.56 in 1998, \$623.43 in 2003, and \$863.20 in 2004;
- f. Lakey failed to disclose he had three judgments ordered against him in 1998, totaling \$13,190.20; and
 - g. Some or all of the information typically provided in an offering circular or prospectus regarding Lakey, 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 Respondent was licensed to sell securities.

**Securities Fraud under § 61-1-1 of the Act
(Investor S.P.)**

- 83. The Division incorporates and re-alleges paragraphs 1 through 67.
- 84. The promissory notes offered and sold by Respondent are securities under § 61-1-13 of the Act.
- 85. In connection with the offer and sale of a security to investor S.P., Lakey, directly or indirectly, made false statements, including, but not limited to, the following:
 - a. Investors' principal and interest would be repaid timely, regardless of the

particulars, such as ability to sell individual properties, when in fact, Lakey knew this to be false, as he had already bounced checks and defaulted on notes with other investors;

- b. Lakey had sufficient properties going in and coming out of his management that funds were always available to cash out any investor and make all repayments when due, when in fact, Lakey knew this to be false, as he had already bounced checks and defaulted on notes with other investors;
 - c. Lakey promised to pay S.P. between 2% and 4% interest per month. However, Lakey had no reasonable basis to promise such high interest rates when in 2005, Lakey went to the FBI and said he believed it was “impossible” for Franklin Squires, a company involved in real estate investing at the time, to pay returns of 36% to 48% a year, regardless of how well the market was doing, and that he believed Franklin Squires’s principal, Rick Koerber was operating a Ponzi scheme that was destined to collapse; and
 - d. In connection with S.P.’s first investment, S.P. was promised a first lien on a piece of real property, when in fact, S.P. was not given a lien holder position at all.
86. In connection with the offer and sale of a security to investor S.P., Lakey, 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. Lakey failed to disclose that three interest checks he wrote to K.A., for \$1,273.97,

\$1,191.78, and \$1,337.67 were returned for insufficient funds;

- b. Lakey failed to disclose that he had defaulted on his promissory note to K.A.;
- c. Lakey failed to disclose that he defaulted on M.V.'s second promissory note;
- d. Lakey failed to disclose he wrote E.A. a \$26,373.97 check she was unable to cash, and that another check he wrote E.A., for \$16,373.97, was returned for insufficient funds;
- e. Lakey failed to disclose he had filed for Chapter 7 Bankruptcy in 1986 and 1994, and that he had filed for Chapter 13 bankruptcy in 1998;
- f. Lakey failed to disclose he had six tax liens filed against him in 1996, totaling \$14,469.32, and additional tax liens filed against him for \$550.56 in 1998, \$623.43 in 2003, and \$863.20 in 2004;
- g. Lakey failed to disclose he had three judgments ordered against him in 1998, totaling \$13,190.20; and
- h. Some or all of the information typically provided in an offering circular or prospectus regarding Lakey, 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 Respondent was licensed to sell securities.

**Securities Fraud under § 61-1-1 of the Act
(Investor R.K.)**

- 87. The Division incorporates and re-alleges paragraphs 1 through 67.
- 88. The interest in a limited liability company offered and sold by Respondent is a security under § 61-1-13 of the Act.
- 89. In connection with the offer and sale of a security to investor R.K., Lakey, 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. Lakey failed to disclose who the other members of the LLC were, or what would happen if the LLC was not fully participated;
 - b. Lakey failed to disclose that three interest checks he wrote to K.A., for \$1,273.97, \$1,191.78, and \$1,337.67 were returned for insufficient funds;
 - c. Lakey failed to disclose that he had defaulted on his promissory note to K.A.;
 - d. Lakey failed to disclose that he defaulted on M.V.'s second promissory note;
 - e. Lakey failed to disclose he wrote E.A. a \$26,373.97 check she was unable to cash, and that another check he wrote E.A., for \$16,373.97, was returned for insufficient funds;

- f. Lakey failed to disclose that another investor, S.P. was unable to cash two checks from Lakey, for \$800 and \$880, because of insufficient funds;
- g. Lakey failed to disclose he had filed for Chapter 7 Bankruptcy in 1986 and 1994, and that he had filed for Chapter 13 bankruptcy in 1998;
- h. Lakey failed to disclose he had six tax liens filed against him in 1996, totaling \$14,469.32, and additional tax liens filed against him for \$550.56 in 1998, \$623.43 in 2003, and \$863.20 in 2004;
- i. Lakey failed to disclose he had three judgments ordered against him in 1998, totaling \$13,190.20; and
- j. Some or all of the information typically provided in an offering circular or prospectus regarding Lakey and Tom Lakey, LLC, 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 Respondent was licensed to sell securities.

Sale of Unregistered Securities under § 61-1-7 of the Act

90. The Division incorporates and re-alleges paragraphs 1 through 67.

91. The promissory notes and interest in a limited liability company offered and sold by Respondent are securities under § 61-1-13 of the Act.
92. The securities were offered and sold in this state.
93. The securities were not registered or notice filed under the Act, and Respondent did not file any claim of exemption relating to the securities.
94. Based upon the foregoing, Respondent violated § 61-1-7 of the Act.

ORDER

The Director, pursuant to § 61-1-20 of the Act, hereby orders Respondent 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, April 3, 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 Respondent fails to file an answer and appear at the hearing, the Division of Securities may hold Respondent 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, Respondent may show cause, if any he has:

- a. Why Respondent should not be found to have engaged in the violations alleged by the Division in this Order to Show Cause;
- b. Why Respondent 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 Respondent 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 25th day of February, 2013.


KEITH WOODWELL
Director, Utah Division of Securities



Approved:


D. SCOTT DAVIS
Assistant Attorney General
N.B.

Division of Securities
Utah Department of Commerce
160 East 300 South, 2nd 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**

<p>IN THE MATTER OF:</p> <p>THOMAS DEAN LAKEY,</p> <p>Respondent.</p>	<p>NOTICE OF AGENCY ACTION</p> <p>Docket No. <u>JD-17-0017</u></p>
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THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT:

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 **Wednesday, April 3, 2013** at the Division of

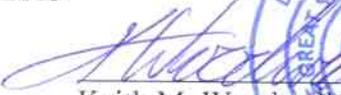
Securities, 2nd Floor, 160 E. 300 S., Salt Lake City, Utah, at **9:00 A.M.** The purpose of the initial hearing is to enter a scheduling order addressing discovery, disclosure, and other deadlines, including pre-hearing motions, and to set a hearing date to adjudicate the matter alleged in the Order 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) 530-6706. 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 25th day of February, 2013


Keith M. Woodwell
Director, Division of Securities



Certificate of Mailing

I certify that on the 15 day of February, 2013, I mailed, by regular and certified mail, a true and correct copy of the Notice of Agency Action and Order to Show Cause to:

THOMAS LAKEY
1104 NORTH 1220 WEST
PROVO, UT 84604

Certified Mail # 7007 0220 0001 0004 8656


Executive Secretary