

SECURITIES COMMISSION MEETING
MINUTES
April 28, 2010

Securities Staff

Keith Woodwell, Division Director
Dave Hermansen, Director of Compliance
Benjamin Johnson, Director of Corporate Finance
Michael Hines, Director of Enforcement
Nadene Adams, Administrative Assistant
Thomas Brady, Analyst
Chip Lyons, Analyst
Michele Black, Administrative Assistant
Gary Bowen, Licensing Examiner
Kenneth Barton, Auditor
Julie Price, Board Secretary
Jennifer Bolton, Commerce Public Information Officer

Commission Staff

Laura Polacheck, AARP
Jane Cameron, Zions Bank
Erik Christiansen, Parsons Behle & Latimer
Michael O'Brien, VanCott Bagley Cornwall & McCarthy
Tim Bangerter, Bangerter Financial Group

Public

Cathy Ives
Frank Ives
Gary Teran
Brent R. Baker
Amy McDonald
Alana Burman
Ross Papish
Barbara Peck
John Green

Minutes: A motion was made and seconded to approve the February 25, 2010 minutes. The motion passed unanimously.

Director's Report: Keith Woodwell gave an update on the status of the Division's base budget for fiscal year 2010 and the current balance of the Securities Investor Education and Training Fund. Keith explained that the Division was close to breaking even on its base budget for fiscal year 2010. He stated that there was a correction to the Education and Training Fund. There was a \$780,000.00 fine that came in and that there would be another \$220,000.00 from the Credit Suisse Stipulation today if the Stipulation and Consent Order was approved. Most of the money will go back into the state's general fund at the end of the fiscal year on June 30th. Keith also reported that the division expected at least \$2 million to come into the Education and Training Fund in the next fiscal year.

Keith discussed the many presentations he made over the past several months. Keith was on a panel for the securities section of the Utah State Bar. The topic discussed was arbitration in securities actions and what can and can't be done in arbitration. He also attended the Utah State Bar Spring Convention and gave a general securities update. Keith visited Desert Hills Middle School and discussed the Stock Market Game with students. He was amazed at the level of excitement of the game and commented on how effective the game is at achieving its desired results. Keith attended the NASAA Spring Conference in Washington D.C. and participated in a panel discussion on reigning in risk on Wall Street. The panel discussed causes of the economic downturn and what we can do to fix it as well as legislation currently pending in congress.

Keith provided insight on the Division's staffing levels. He explained that when he started with the Division two years ago, that there were 24 people in the Division and after this July there will only be 18. The Division is at critical mass and Keith is working on trying to get some of these positions filled. He plans to go to the Legislature to ask for additional funding. There was some discussion between the Commission and the Division over staffing issues and what was needed in order to be staffed with enough people.

Compliance Section Report: Dave Hermansen reported that Joseph Gatton would be leaving at the end of July to attend law school and that he was doing a clean up of his caseload before he left. Dave also explained that one of the responsibilities of the Division is to do audits on all the brokerages and that hasn't been done due to staffing issues. He stated that there were 24 cases outstanding and that there are three outstanding orders to show cause that will hopefully work into stipulations. His staff is ready to file two more orders to show cause and in the process of drafting five more.

Corporate Finance Section Report: Benjamin Johnson reported on upcoming legislation with Senator Dodd's bill. Benjamin gave a brief summary of the bill which deals with 506 offerings and private placements.

Enforcement Section Report: Michael Hines reported on recent cases handled by the Enforcement Section. There were three administrative actions and four criminal filings. He remarked that they are settling them as quickly as they are being filed. There were two individuals that were incarcerated at the Utah State Prison; Brett Cobb and Tali Haleua. Michael applauded the efforts of the Utah County Attorney's Office for the work they have done over the last year. They have taken some large cases for the Division. He also discussed that there were eight cases that needed to be investigated and the timeframe it would take to work these cases.

Licensing Section Report: Gary Bowen reported that there is an Investment Advisor review backlog. Part of this backlog is due to Richard Jaramillo's other job responsibilities which include developing the Division's new website and the upgrade of the Division's computer system. Both of these jobs take a great deal of time. Gary also indicated the licensing section is current on processing new applications and disclosures. He stated that there is one pending broker dealer application.

Gary reported on the survey conducted by NASAA. The Division received the highest ranking of the survey. Keith Woodwell gave a brief explanation of the NASAA survey and what the Division had done over the recent years to receive this ranking.

Education Fund Expenditure Report: Benjamin Johnson reviewed the updated expenditure report for the Education and Training Fund and discussed the line items that were being requested by the Division for Commission approval. These items included enforcement database maintenance, employees, and remodel.

Keith Woodwell provided additional insight on all of these items. He discussed the Division's database STRES and the \$45,000.00 needed to maintain it. Keith talked about the need for new furniture within the Division. The furniture that the Division currently has is old and in need of repair. He estimates that it will cost about \$65,000.00. This would be done in two phases. Part of the remodel would be paid this fiscal year and the rest the following fiscal year. Keith felt that he could justify the furniture remodel under section 61-1-18.7 which discusses the services the Division provides and any or all expenses in providing these services.

Action: Erik Christiansen made a motion to approve the Education Fund Expenditure Report. The motion was seconded and carried.

Consideration of Grant Requests

Utah Public Radio: Cathy Ives presented the grant which is in partnership with KRCL 90.9 FM, KUER 90.1, and Utah State University Utah Public radio. Cathy gave a brief background of each radio station and their audience. They plan to have Community Summits, live radio call-in programs, pod casting, promote and have prominent links on the stations' sites to the Division's new website. The grant amount would be for \$82,500.00. Keith Woodwell stated that the Executive Director, Francine Giani has

some reservations about this amount but requested that the Commission grant up to the amount of \$82,500.00.

Action: Erik Christiansen recused himself. Tim Bangerter made a motion to approve the grant up to the \$82,500.00. The motion was seconded and carried.

Mountain West Capital: Keith Woodwell presented this grant. He stated that they originally wanted \$2,500.00 but the Executive Director, Francine Giani, asked that it be lowered to \$2,000.00. This amount was approved with Mountain West Capital. Mountain West Capital annually puts out the Deal Flow Report and holds the Deal Flow Conference. These are both great resources for the venture capitalist, angel community, and entrepreneurs.

Action: Michael O'Brien made a motion to approve the grant for \$2,000.00. The motion was seconded and carried.

Utah Council on Economic Education (The Stock Market Game): Keith Woodwell reported that the Utah Council on Economic Education sponsors The Stock Market Game. They are requesting \$40,000.00 but the Executive Director, Francine Giani, asked that it be lowered to \$20,000.00. Keith has spoken with the Council and they are fine with the amount. They have a reserve amount that will cover the additional funding needed for this game. The Utah Council on Economic Education holds teacher summits twice a year to give instruction on how to play The Stock Market Game. They are also creating a website financeintheclassroom.org which will provide teachers with additional ways that they can incorporate financial literacy into their lesson plans.

Action: Laura Polacheck made a motion to approve the grant for \$20,000.00. The motion was seconded and carried.

Utah Securities Association/Fraud College: Brent Baker and Gary Teran presented this grant. They requested \$23,000.00 which would be used to hold a regional investor anti-fraud awareness event. The mission of the Fraud College is to create community anti-fraud awareness through webinars and community forums and provide the latest prevention and detection approaches from the top experts available.

Action: Erik Christiansen recused himself. Michael O'Brien made a motion to approve the grant for \$23,000.00. The motion was seconded and carried.

Approval of Stipulation and Consent Orders

Credit Suisse Securities (USA) LLC.: Dave Hermansen reported that Credit Suisse was an underwriter of a limited number of offerings of auction rate securities. Credit Suisse also acted as a manager for certain issues of auction rate securities. Credit Suisse received revenue in connection with auction rate securities, including underwriting fees representing a percentage of total issuance and a fee for managing the auctions. Credit Suisse consented to pay the sum of \$226,748.43 to the State of Utah and comply with all other requirements set forth by the Stipulation and Consent Order.

Action: Erik Christiansen made a motion to approve the Stipulation and Consent Order. The motion was seconded and carried.

SGS Capital: Tom Brady reported that SGS Capital made misrepresentations of material fact and omitted to state material facts in connection with the offer and sale of a security. SGS Capital consented to pay the sum of \$250,000.00 to the State of Utah and comply with all other requirements set forth by the Stipulation and Consent Order.

Action: Laura Polacheck made a motion to approve the Stipulation and Consent Order. The motion was seconded and carried.

Process for Scheduling Hearings Before the Commission: Keith Woodwell discussed the process for scheduling hearings. An administrative action is prepared. At that time the administrative law judge schedules an initial scheduling conference. In order to streamline this process, the Division is drafting their own scheduling orders for the administrative law judge to sign. In the Division's new rules, an

administrative action must be scheduled before the Commission within six months. The Commission and Division discussed future dates in which to hold commission meetings in order to accommodate future hearings before the Commission. It was determined that every other fourth Thursday of the month would serve this purpose. The Division and Commission came up with these dates for future Commission meetings: June 24, August 26, and October 28.

Next Meeting – Thursday, June 24, 2010 at 2:00 p.m.

Tim Bangerter made a motion to adjourn the meeting. The motion was seconded and carried.

Approved: _____

Laura Polacheck
Chairman

Date: _____