

February 7, 2018

Securities Section & Business Law Section CLE

Common Remedies in Securities Regulation Cases in Utah

Presentation by Dan Wadley & Keith Woodwell

- Review the process for cases investigated by the Utah Division of Securities and the SEC. Discuss origin of cases (investor complaints, whistle-blower claims, routine examinations of licensees), how those cases are investigated, and the types of actions that may result (letters of caution, administrative actions, civil actions, criminal referrals).
- Discuss how we coordinate investigations and enforcement with other state and federal partners. Review the quarterly deconfliction and coordination meetings of the Utah Securities Fraud Task Force.
- Review available remedies in administrative actions filed by the Division and the SEC, including disgorgement, restitution, rescission, fines, and licensing sanctions. Review factors for determining the amount of an administrative fine in Utah Code Ann. Section 61-1-31 and the Utah Supreme Court decision in Phillips v. Utah Department of Commerce. Review flexible approach to settling administrative cases with creative remedies. Review practice/industry bars (accountants, brokers, investment advisers, etc.).
- Review available remedies in civil actions filed by the Division and the SEC, including asset freezes, TROs and receiverships.
- Review role of the Division and the SEC in criminal referrals and typical state and federal criminal sentencing for securities fraud cases.
- Review Senate Bill 88 currently pending before Utah State Legislature. NASAA Model Legislation to Protect Vulnerable Adults from Financial Exploitation.
- Review federal 12(j) de-listing and trading suspensions
- Review federal 21(a) Commission reports addressing an industry issue.