



BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

AUG 24 2004

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

DOCKETED BY NR

In the matter of
FOUNTAIN CAPITAL MANAGEMENT, LLC
c/o DAVID A. FAZIO
3616 West Cortez
Phoenix, Arizona 85029
INTEGROWTH FINANCIAL GROUP
C/O ROGER ALVIN SANDE
CDC # V06974
P.O. Box 2210
Susanville, California 96130
RICHARD A. FANDRICH
11424 North 25th Avenue
Phoenix, Arizona 85029
DAVID A. and DEBORAH FAZIO
3616 West Cortez
Phoenix, Arizona 85029
DONALD and HELEN ABERNATHY
2323 North Central Avenue, #803
Phoenix, Arizona, 85004
STEPHEN A. and JANE DOE HILTBRAND
2156 E. Estrella Circle
Mesa, Arizona 85202
ROGER ALVIN SANDE
CDC # V06974
P.O. Box 2210
Susanville, California 96130
Respondents.

DOCKET NO. S-03505A-04-0000

DECISION NO. 67217

ORDER TO CEASE AND DESIST,
ORDER OF RESTITUTION, ORDER
FOR ADMINISTRATIVE PENALTIES
AGAINST RESPONDENTS
INTEGROWTH FINANCIAL GROUP
AND ROGER ALVIN SANDE

On May 7, 2004, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order

1 to Cease and Desist, Order for Restitution, for Administrative Penalties and for Other Affirmative
2 Relief ("Notice") with respect to RESPONDENTS INTERGROWTH FINANCIAL GROUP
3 ("INTERGROWTH") and ROGER ALVIN SANDE ("SANDE"). The Division served the Notice on
4 INTERGROWTH and SANDE via personal service on June 2, 2004. The Notice specified that the
5 INTERGROWTH and SANDE would be afforded an opportunity for an administrative hearing
6 regarding this matter upon filing a written request with Docket Control of the Commission within
7 ten days of receipt of the Notice. INTERGROWTH and SANDE failed to request a hearing within
8 the required time.

9
10 **I.**

11 **FINDINGS OF FACT**

12 1. INTERGROWTH FINANCIAL GROUP ("INTERGROWTH") is an entity controlled
13 by Roger A. Sande, who currently resides at CDC # V06974, P.O. Box 2210, Susanville, California
14 96130.

15 2. ROGER ALVIN SANDE ("SANDE") currently resides at CDC # V06974, P.O. Box
16 2210, Susanville, California 96130.

17 3. Neither INTERGROWTH nor SANDE were registered with the Division as a broker
18 or a securities salesman.

19 4. In 1999, INTERGROWTH and SANDE recruited RESPONDENTS RICHARD A.
20 FANDRICH ("FANDRICH"), DONALD ABERNATHY ("ABERNATHY"), DAVID A. FAZIO
21 ("FAZIO") and STEPHEN A. HILTBRAND ("HILTBRAND") (collectively "the INDIVIDUAL
22 RESPONDENTS") to start a branch office of INTERGROWTH in Phoenix. SANDE told the
23 INDIVIDUAL RESPONDENTS that INTERGROWTH was his company. The purpose of the
24 company was to sell viatical and other investment opportunities to members of the public in
25 Arizona. SANDE told the INDIVIDUAL RESPONDENTS that INTERGROWTH marketed
26 viatical policies. SANDE agreed with the INDIVIDUAL RESPONDENTS that INTERGROWTH

1 would pay all expenses incurred in the sale of the viaticals and would pay the INDIVIDUAL
2 RESPONDENTS a 7% commission on each viatical policy they sold.

3 5. In June 1999, the INDIVIDUAL RESPONDENTS formed FOUNTAIN CAPITAL
4 MANAGEMENT, LLC ("FCM"), and continued their operations under its name. The
5 INDIVIDUAL RESPONDENTS and FCM (collectively the "FCM RESPONDENTS") continued
6 to sell viatical policies, just as they had with INTEGROWTH. INTEGROWTH or SANDE
7 continued to receive an override commission on all products sold by the FCM RESPONDENTS.

8 6. Both INTEGROWTH and FCM ran advertisements in Phoenix newspapers,
9 offering investments with returns as high as 40%. Once investors called, INTEGROWTH,
10 SANDE and the FCM RESPONDENTS (collectively "RESPONDENTS") attempted to sell them
11 the investments.

12 The Viatical Policies

13 7. From at least January 1999 through at least June 2000, RESPONDENTS offered and
14 sold securities in the form of viatical settlement contracts and investment contracts to Arizona
15 investors. A viatical settlement contract involves the purchase of an interest in the proceeds from a
16 life insurance policy of a terminally ill individual. Various viatical companies purchase the
17 policies at a discount and re-sell the benefits to investors at less than the full face value. When the
18 policy matures, that is when the insured dies, the investor receives the full face value as return of
19 investment plus profit.
20

21 8. All viatical policies sold by RESPONDENTS were on behalf of Future First
22 Financial Group ("Future First") of Pointe Verda Beach, Florida. RESPONDENTS told investors
23 that the only risk involved with the purchase of viatical policies was the risk that the insured would
24 die at a later date, thereby reducing the expected return. They informed investors that returns could
25 be as high as 100%, with the investment being safe and guaranteed.
26

1 9. Investors did not receive medical information on the insured whose policy they
2 purchased. Rather, they received a short summary from a medical doctor, simply describing the
3 life expectancy of the insured. RESPONDENTS never checked and thus did not inform investors
4 that the doctor who wrote the medical summary was a Florida cosmetic doctor. Investors were
5 told that Future First viatical policies were 100% correct in their medical assessments with no
6 insured living past their expected date of death.

7 10. Investors were also informed that they would never have to pay any fees or other
8 payments after they purchased the viatical policy.

9 11. On or about February 4, 2000, Future First and its vice-president were indicted by
10 the state of Florida for 81 counts of grand theft and one count of organized fraud in connection
11 with the marketing of fraudulently obtained policies valued at \$6,900,000. After Future First
12 defaulted on its management responsibilities with respect to the viatical policies, investors were left
13 with the choice of making additional payments to keep the policies in effect or allowing policies to
14 lapse due to nonpayment of premiums. Some Future First viatical policies were found not to have
15 actual underlying insurance policies.

16 17 12. RESPONDENTS failed to provide full disclosure regarding the investment
18 including risk, disclosure statements, prospectuses, financial statements or RESPONDENTS' own
19 lack of due diligence in investigating the investment. RESPONDENTS failed to provide certain
20 material information to investors about Future First, including but not limited to past operations,
21 balance sheets, statements of income, retained earnings, and cash flows that would reflect the
22 financial position of these entities. RESPONDENTS distributed literature that misrepresented the
23 investment as a "no risk" opportunity. RESPONDENTS failed to provide investors with certain
24 material information about the use of investor proceeds, such as the cost to purchase the policy, the
25 fees and commissions payable to them, medical advisors, or any other participants in the program.
26

1 accounts. It also alleged that Chemical Trust represented to investors that their funds would be
2 used to purchase U.S. Treasury notes and distressed properties, and the investment was 100 percent
3 guaranteed through the security bond with U.S. Guarantee. According to the SEC's complaint,
4 Chemical had not purchased any U.S. Treasury notes or distressed properties, and investor funds
5 were not secured. The complaint alleges that, in a classic Ponzi scheme fashion, Chemical Trust
6 used new investor funds to pay interest to existing investors, in a Ponzi scheme. Subsequently, a
7 preliminary injunction and final judgment was issued against the defendants and a receiver
8 appointed to attempt to collect assets.

9
10 18. On June 30, 2000, the ACC entered an Order against Chemical Trust and others,
11 finding that they violated the Arizona Securities Act. *See In re Alliance Trust, at al.*, DOCKET
12 NO. S-03363A-99-0000.

13 19. RESPONDENTS sold at least \$856,042 of investments in Chemical Trust to
14 at least 20 investors.

15 The Other Securities Orders

16 20. In 1996, the Missouri Commissioner of Securities issued an order against
17 ABERNATHY for violation of its securities laws.

18 21. On September 28, 1999, the Iowa Securities Bureau issued an order against
19 INTEGROWTH and ABERNATHY for violation of its securities laws for their sale of the
20 Chemical Trust products.

21 22. On August 24, 1999, the North Dakota Commissioner of Securities issued an
22 order against INTEGROWTH and HILTBRAND for violations of its securities laws.

23 23. On October 29, 2001, SANDE was arrested on 38 felony counts of theft and
24 unlicensed sales of viaticals, allegedly defrauding investors of over \$2.7 million. On November
25
26

1 19, 2003, SANDE was sentenced to seven years and four months in prison, in addition to paying
2 \$1,453,929.56 in restitution.

3 24. On November 11, 2003, the Wisconsin Department issued an order for fraud in
4 the sale of securities against FCM, ABERNATHY, FAZIO and FANDRICH.

5 25. RESPONDENTS did not inform any investors of any of the Orders against them,
6 nor of any of the Orders against the companies whose investments they sold.

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8 **II.**

9 **CONCLUSIONS OF LAW**

10 1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona
11 Constitution and the Securities Act.

12 2. INTEGROWTH and SANDE offered or sold securities within or from Arizona, within
13 the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

14 3. INTEGROWTH and SANDE violated A.R.S. § 44-1841 by offering or selling
15 securities that were neither registered nor exempt from registration.

16 4. INTEGROWTH and SANDE violated A.R.S. § 44-1842 by offering or selling
17 securities while neither registered as dealers or salesmen nor exempt from registration.

18 5. INTEGROWTH and SANDE violated A.R.S. § 44-1991 by offering or selling
19 securities within or from Arizona by (a) employing a device, scheme or artifice to defraud, (b)
20 making untrue statements or misleading omissions of material facts, and (c) engaging in
21 transactions, practices or courses of business which operate or would operate as a fraud or deceit.

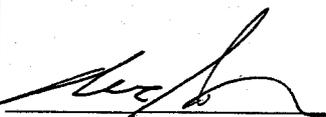
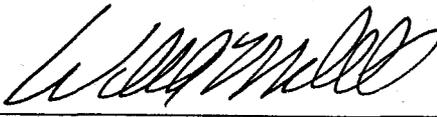
22 6. SANDE directly or indirectly controlled INTEGROWTH within the meaning of A.R.S. §
23 44-1999. Therefore, he is liable to the same extent as INTEGROWTH for its violations of A.R.S. §
24 44-1991.

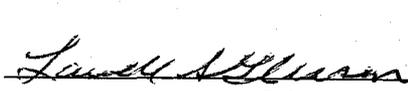
25 7. INTEGROWTH and SANDE's conduct is grounds for a cease and desist order
26 pursuant to A.R.S. § 44-2032.

1 order on the date of this Order. If INTEGROWTH and SANDE do not comply with this order for
2 administrative penalties,
3 any outstanding balance may be deemed in default and shall be immediately due and payable
4 without notice or demand.

5 IT IS FURTHER ORDERED that this Order shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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8   
9 CHAIRMAN COMMISSIONER COMMISSIONER

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11  
12 COMMISSIONER COMMISSIONER

13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
14 Executive Secretary of the Arizona Corporation
15 Commission, have hereunto set my hand and caused the
16 official seal of the Commission to be affixed at the
17 Capitol, in the City of Phoenix, this 24th day of
18 August, 2004

19
20 
21 BRIAN C. McNEIL
22 Executive Secretary

23 _____
24 DISSENT

25 _____
26 DISSENT

27 This document is available in alternative formats by contacting Yvonne L. McFarlin, Executive
28 Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail
29 ymcfarlin@cc.state.az.us.

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