

NEW APPLICATION
ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

2004 DEC 15 A 8:27

Arizona Corporation Commission

DOCKETED

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

AZ CORP COMMISSION
DOCUMENT CONTROL

DEC 15 2004

DOCKETED BY

In the matter of:

DOCKET NO. S-03550A-04-0000

ARTHUR B. COOPER
CRD #1856331
8025 E. Redwing
Scottsdale, Arizona 85250

NOTICE OF OPPORTUNITY FOR
HEARING REGARDING PROPOSED
ORDER TO CEASE AND DESIST,
ORDER FOR RESTITUTION, ORDER
FOR ADMINISTRATIVE PENALTIES,
ORDER OF REVOCATION AND FOR
OTHER AFFIRMATIVE ACTION

LINDA EBINGER-COOPER
CRD# 1353173
8025 E. Redwing
Scottsdale, Arizona 85250

Respondents.

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that RESPONDENTS ARTHUR B. COOPER and LINDA EBINGER-COOPER, have engaged in acts, practices and transactions, which constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

I.

JURISDICTION

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

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1 **II.**

2 **RESPONDENTS**

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4 2. ARTHUR B. COOPER ("A. COOPER") CRD #1856331, whose last known
5 address is 8025 E. Redwing, Scottsdale, Arizona 85250, was a registered securities salesperson
6 with Fox & Company Investments, Inc. ("Fox & Co."), in Arizona from about May of 1988 through
7 December of 2001 when A. COOPER became disqualified for membership under the National
8 Association of Securities Dealers ("NASD") by-laws due to a felony conviction and Fox & Co.
9 terminated A. COOPER. A. COOPER's registration was then in suspension until December 31,
10 2001 when it lapsed.

11 3. LINDA EBINGER-COOPER ("L. EBINGER-COOPER"), CRD #1353173, whose
12 last known address is 8025 E. Redwing, Scottsdale, Arizona 85250, was a registered securities
13 salesperson with Fox & Co. from March of 2001 through April 27, 2004 when she voluntarily
14 terminated her registration.

15 4. A. COOPER and L. EBINGER-COOPER are husband and wife. At all times
16 relevant, A. COOPER and L. EBINGER-COOPER were acting for their own benefit, and for the
17 benefit or in furtherance of their marital community.

18 5. A. COOPER and L. EBINGER-COOPER may be collectively referred to as
19 "RESPONDENTS."

20 **III.**

21 **FACTS**

22 6. From in or about January of 2001 through in or about April of 2003,
23 RESPONDENTS offered and sold at least two different investment programs.

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A.

INITIAL INVESTMENT IN WOLF PINES I, L.L.C.

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3 7. The initial investment involved the offer and sale of membership interests in Wolf
4 Pines I, L.L.C. ("Wolf Pines"), a manager managed Limited Liability Company. RESPONDENTS
5 offered and sold interests in Wolf Pines to approximately six individuals raising about \$175,000. In
6 addition, RESPONDENTS also invested approximately \$50,000 of their own funds in Wolf Pines.

7 8. Wolf Pines was an Arizona Limited Liability Company formed in January of 2001,
8 by RESPONDENTS, to invest in Silver Wolf Development L.L.C. ("Silver Wolf"). Silver Wolf was
9 also an Arizona Limited Liability Company formed by two individuals not named in this proceeding,
10 in March of 2000. Silver Wolf was to develop a manufactured housing community in Show Low,
11 Arizona.

12 9. L. EBINGER-COOPER was the managing member of Wolf Pines. In addition, L.
13 EBINGER-COOPER was the secretary for Silver Wolf. As part of the Wolf Pines offering
14 documents, L. EBINGER-COOPER was to receive a "6% interest in the Corporation. The purpose
15 of this special consideration is to compensate such manager for structuring the L.L.C. and for their
16 day to day operation of the corporation." The disclosure document indicates that L. EBINGER-
17 COOPER "hopes to earn 6% of the total profits through the completion of the project."

18 10. RESPONDENTS and the Wolf Pines investors were to receive 100% of the profit
19 from the lot sales. Silver Wolf was to receive the profits from the sale of the manufactured homes.

20 11. Silver Wolf purchased the property with a down payment from Wolf Pines and a
21 carry-back mortgage from the original owners. The Property Owners then subordinated their note to
22 that of the subdivision loan. Eventually, Silver Wolf failed to make their payments to the subdivision
23 lender and the Property Owner and the subdivision lender foreclosed on the property.

1 the Property Owner a business card from Fox & Co. long after he had been terminated from the
2 dealer.

3 18. The Property Owner transferred the Deed of Trust Note to Wolf Pines in exchange
4 for fifty percent interest. RESPONDENTS never paid the \$10,000 as represented. Nor did the
5 RESPONDENTS bid at the foreclosure sale and the property was lost to the first lien holder.

6 19. This transaction was not recorded on the books and records of L. EBINGER-
7 COOPER'S dealer, Fox & Co., with whom she was registered at the time of the sale.

8 **IV.**

9 **VIOLATION OF A.R.S. § 44-1841**

10 **(Offer or Sale of Unregistered Securities)**

11 20. From on or about January of 2001 through April of 2003, RESPONDENTS offered
12 or sold securities in the form of investment contracts and/or notes, within or from Arizona.

13 21. The securities referred to above were not registered pursuant to the provisions of
14 Articles 6 or 7 of the Securities Act.

15 22. This conduct violates A.R.S. § 44-1841.

16 **V.**

17 **VIOLATION OF A.R.S. § 44-1842**

18 **(Transactions by Unregistered Dealers or Salesmen)**

19 23. From January of 2001 through March of 2001, L. EBINGER-COOPER offered or
20 sold securities in the form of investment contracts and/or notes within or from Arizona, while not
21 registered as a dealer or salesman pursuant to the provisions of Article 9 of the Securities Act.

22 24. This conduct violates A.R.S. § 44-1842.

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VI.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

25. From January of 2002 through April of 2003, A. COOPER offered or sold securities in the form of investment contracts and/or notes within or from Arizona, while not registered as a dealer or salesman pursuant to the provisions of Article 9 of the Securities Act.

26. This conduct violates A.R.S. § 44-1842.

VII.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

27. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; and (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited to, the following:

a) RESPONDENTS failed to disclose to offerees and investors after May 21, 2001 that A. COOPER pled guilty to one count of theft, a class six felony.

b) RESPONDENTS misrepresented to at least one investor that A. COOPER was still associated with a brokerage firm and provided a business card to the offeree to document his employment when in fact A. COOPER had been terminated and is disqualified from membership with the NASD in the future due to the felony conviction.

c) RESPONDENTS misrepresented to the investor in the second Wolf Pines investment that they had million dollar investor waiting to invest and that those funds would be used to purchase

1 the property out of foreclosure when if fact, RESPONDENTS failed to bid on the property or even
2 attend the foreclosure sale

3 28. This conduct violates A.R.S. § 44-1991.

4 29. RESPONDENTS made, participated in or induced the sale of a security within the
5 meaning of A.R.S. § 44-2003(A). Therefore, RESPONDENTS A. COOPER and L. EBINGER-
6 COOPER are jointly and severally liable for the above violations of A.R.S. §§ 44-1841 and 44-1991.

7 **VIII.**

8 **REMEDIES PURSUANT TO A.R.S. § 44-1962**

9 **(Denial, Revocation or Suspension of Registration of Salesman; Restitution, Penalties, or other**
10 **Affirmative Action)**

11 30. From March of 2001 through April of 2003, L. EBINGER-COOPER's conduct is
12 grounds to revoke L. EBINGER-COOPER's registration as a securities salesman with the
13 Commission pursuant to A.R.S. § 44-1962. Specifically, RESPONDENT has:

14 a) Offered and sold unregistered securities to at least three individuals.

15 b) While registered as a salesman, effecting securities transactions, in two different
16 securities transactions, which have not been recorded on the records of the dealer with who such
17 salesman is registered at the time of the transaction.

18 c) Employed, in connection with the purchase or sale of a security, a manipulative or
19 deceptive device or contrivance.

20 31. L. EBINGER-COOPER's conduct is grounds to assess restitution, penalties, and/or
21 take appropriate affirmative action pursuant to A.R.S. § 44-1962. Specifically, L. EBINGER-
22 COOPER has:

23 a) Engaged in dishonest or unethical practices in the securities industry by:

24 i) transacting private securities transactions;

25 ii) selling products not on the books and records of Fox & Co.;

1 X.

2 HEARING OPPORTUNITY

3 RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-
4 306. **If any RESPONDENT requests a hearing, the RESPONDENT must also answer this**
5 **Notice.** A request for hearing must be in writing and received by the Commission within 10 business
6 days after service of this Notice of Opportunity for Hearing. Each RESPONDENT must deliver or
7 mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington,
8 Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet
9 form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
10 Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

11 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin
12 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the
13 parties, or ordered by the Commission. If a request for a hearing is not timely made, the Commission
14 may, without a hearing, enter an order against each RESPONDENT granting the relief requested by
15 the Division in this Notice of Opportunity for Hearing.

16 Persons with a disability may request a reasonable accommodation such as a sign language
17 interpreter, as well as request this document in an alternative format, by contacting Yvonne L.
18 McFarlin, Executive Assistant to the Executive Secretary, voice phone number 602/542-3931, e-
19 mail ymcfarlin@cc.state.az.us. Requests should be made as early as possible to allow time to
20 arrange the accommodation.

21 XI.

22 ANSWER REQUIREMENT

23 Pursuant to A.A.C. R14-4-305, if any RESPONDENT requests a hearing, RESPONDENT
24 must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control,
25 Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30
26

1 calendar days after the date of service of this Notice of Opportunity for Hearing. A Docket Control
2 cover sheet must accompany the Answer. A cover sheet form and instructions may be obtained
3 from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
4 www.cc.state.az.us/utility/forms/index.htm.

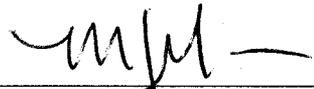
5 Additionally, RESPONDENT must serve the Answer upon the Division. Pursuant to
6 A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
7 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
8 addressed to Wendy Coy.

9 The Answer shall contain an admission or denial of each allegation in this Notice and the
10 original signature of each RESPONDENT or RESPONDENT's attorney. A statement of a lack of
11 sufficient knowledge or information shall be considered a denial of an allegation. An allegation
12 not denied shall be considered admitted.

13 When RESPONDENT intends in good faith to deny only a part or a qualification of an
14 allegation, RESPONDENT shall specify that part or qualification of the allegation and shall admit
15 the remainder. RESPONDENT waives any affirmative defense not raised in the answer.

16 The officer presiding over the hearing may grant relief from the requirement to file an
17 Answer for good cause shown.

18 Dated this 15 day of December, 2004.

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21 _____
22 Matthew Neubert
23 Director of Securities
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NEW APPLICATION

ORIGINAL

RECEIVED

Memorandum

2004 DEC 15 A 8:27

DATE: December 15, 2004

TO: Nancy Cole
Docket Control

FROM: Wendy Coy
Securities Division

RE: Arthur B. Cooper and Linda Ebinger-Cooper
Docket No. S-003550A-04-0000
Assigned Staff

CC: Emie R. Bridges

AZ CORP COMMISSION
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Arizona Corporation Commission

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DEC 15 2004

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This is to notify you that the following individuals have been assigned to the above-mentioned case.

- Matthew Neubert
- LeRoy Johnson

Wendy Coy (Staff Attorney)

Lisa Busse (Staff Investigator)

Mark Dinell