

NEW APPLICATION
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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

FEB 17 2005

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

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY

<p>In the matter of:</p> <p>JOHN S. MENDIBLES 1451 West Ajo Way #3204 Tucson, Arizona 85713</p> <p>MGN ENTERPRISES, LTD. a defunct Arizona corporation 1451 West Ajo Way #3204 Tucson, Arizona 85713</p> <p>Respondents.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. S-03591A-05-0000</p> <p>TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING</p>
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NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
EACH RESPONDENT HAS 20 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 RESPONDENT JOHN S. MENDIBLES and RESPONDENT MGN ENTERPRISES, LTD. ("RESPONDENTS") engaged in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act") and that the public welfare requires immediate action.

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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II.

RESPONDENTS

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3 2. MGN Enterprises, Ltd. ("MGN") was an Arizona corporation duly organized on
4 February 26, 1997, but administratively dissolved by the Commission on June 6, 2002 for failure to
5 file an annual report. The last known business address of MGN is 1451 West Ajo Way #3204,
6 Tucson, Arizona 85713.

7 3. JOHN S. MENDIBLES ("Mendibles"), whose last known address is 1451 West Ajo
8 Way #3204, Tucson, Arizona 85713, was the Chief Executive Officer of MGN and is currently
9 doing business as MGN.

10 4. JANE DOE MENDIBLES was, at all relevant times, the spouse of Mendibles, and is
11 joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of
12 the marital community.

13 5. At all relevant times, Mendibles and JANE DOE MENDIBLES were acting for their
14 own benefit, and for the benefit or in furtherance of the marital community.

15 6. RESPONDENTS, other than JANE DOE MENDIBLES, may be collectively
16 referred to as "RESPONDENTS." JANE DOE MENDIBLES may be referred to as
17 "RESPONDENT SPOUSE."

III.

FACTS

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20 7. RESPONDENTS are offering securities in the form of investment contracts in
21 gaming operations and water rights of certain Indian Tribes located in Arizona.

22 8. RESPONDENTS inform offerees that the San Juan Southern Paiute Tribe, located
23 in Tuba City, Arizona, has vested rights to participation in a gaming compact with the State of
24 Arizona.

25 9. RESPONDENTS inform offerees that, pursuant to a resolution (and amendment
26 thereof) approved by the Tribal Council (the "Tribal Resolution"), they have an agreement with

1 the San Juan Southern Paiute Tribe granting unto MGN and/or Mendibles full authority to
2 negotiate any all agreements necessary for the development of a gaming facility on Tribal lands
3 (the "Casino"), to secure funding for the Casino, and to oversee the construction, development,
4 staffing, and management of the Casino. That claim is false. There is no agreement between
5 Respondents and the San Juan Southern Paiute Tribe.

6 10. RESPONDENTS inform offerees that, pursuant to the Tribal Resolution, MGN is
7 to be paid thirty-five (35%) of the net revenues derived from Casino operations ("Management
8 Fee") for a period of ten (10) years beginning on the opening date of the Casino to be paid on a
9 semi-annual basis. RESPONDENTS further state that the total annual Management Fee is
10 estimated to be approximately \$13.3 million.

11 11. RESPONDENTS inform offerees, that it is estimated that construction of the
12 Casino will begin in May of 2005 and be completed not later than June 1, 2006, such estimation
13 being based on construction timetables (i.e., nine months to one year) for similar facilities
14 previously constructed in Arizona.

15 12. RESPONDENTS are currently offering to sell ten percent (10%) of their
16 Management Fee for the first three (3) years of Casino operations. Each percent is to be divided
17 into four points, for a total of forty (40) points, each having a value of \$99,750.00. Each point
18 will be entitled to .25% (one quarter of one percent) of the Management Fee ("Point"). All
19 Points shall be paid to investors in the first year of operations of the Casino, projected to be
20 January 2007. Each Point is being offered to investors for the purchase price of \$3,000.00.
21 There is no limitation on the amount of Points which may be purchased by an investor.

22 13. RESPONDENTS inform the offerees that Mendibles will personally guarantee the
23 repayment of the principal amount invested for each Point for a period of five (5) years from the
24 date of investment. RESPONDENTS further represent to offerees that the guarantee is to be
25 secured by revenues to be earned from a joint venture agreement between MGN and the Hualapai
26 and Havasupai Tribes, approved by both tribal councils on July 29, 2004, authorizing MGN

1 and/or Mendibles to negotiate the sale of water rights owned by said Tribes. No such joint
2 venture agreement exists.

3 14. Upon information and belief, RESPONDENTS have raised at least \$136,000 from
4 the sale of Points to investors.

5 15. RESPONDENTS admit that their projections of the net revenues to be derived
6 from Casino operations are their simply good faith estimates and expectations and specifically
7 exclude any guarantees regarding said projections, but inform investors that that cost, time-table
8 and revenue projections are based upon the best and most reliable information derived from the
9 operation of Indian casinos of similar size and comparable locations currently operating in
10 Arizona.

11 **IV.**

12 **VIOLATION OF A.R.S. § 44-1841**

13 **(Offer and Sale of Unregistered Securities)**

14 16. The securities referred to above were not registered pursuant to Articles 6 or 7 of the
15 Securities Act.

16 17. This conduct violates A.R.S. § 44-1841.

17 **V.**

18 **VIOLATION OF A.R.S. § 44-1842**

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

20 18. RESPONDENTS offered or sold securities within or from Arizona while not
21 registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

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

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VI.

VIOLATION OF A.R.S. § 44-1991

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

20. 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; or (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 have falsely represented to investors that they have an agreement with the San Juan Southern Paiute Tribe granting unto MGN and/or Mendibles full authority to negotiate any all agreements necessary for the development of a gaming facility on Tribal lands, to secure funding for such a facility, and to oversee the construction, development, staffing, and management of the gaming facility;

b) Respondents have falsely represented to investors that a joint venture agreement exists between MGN and the Hualapai and Havasupai Tribes, approved by both tribal councils on July 29, 2004, which authorizes MGN and/or Mendibles to negotiate the sale of water rights owned by said Tribes.

c) Respondents have falsely represented to investors that construction of the Casino will begin in May of 2005 and be completed not later than June 1, 2006; and

d) Respondents have falsely represented to each investor that each investment unit (i.e., Point) has a value of \$99,750.00, and shall be paid to investors in the first year of operations of the Casino, projected to be January 2007.

21. This conduct violates A.R.S. § 44-1991.

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VII.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

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4 THEREFORE, based on the above allegations, and because the Division has determined that
5 the public welfare requires immediate action,

6 IT IS ORDERED, pursuant to A.R.S. §§ 44-2032 and A.A.C. R14-4-307, that the
7 RESPONDENTS, their agents, servants, employees, successors, assigns, and those persons in active
8 concert or participation with them CEASE AND DESIST from any violations of the Securities Act.

9 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
10 effect for 180 days unless sooner vacated, modified or made permanent by the Commission.

11 IT IS FURTHER ORDERED that this Order shall be effective immediately.

VIII.

REQUESTED RELIEF

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14 The Division will request that the Commission grant the following relief against
15 RESPONDENTS:

16 1. Order RESPONDENTS to permanently cease and desist from violating the
17 Securities Act pursuant to A.R.S. § 44-2032;

18 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting
19 from their acts, practices or transactions, including a requirement to make restitution pursuant to
20 A.R.S. § 44-2032;

21 3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to
22 five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

23 4. Order that the marital community of RESPONDENT MENDIBLES and JANE DOE
24 MENDIBLES be subject to any order of restitution, rescission, administrative penalties, or other
25 appropriate affirmative action pursuant to A.R.S. § 25-215; and

26 5. Order any other relief that the Commission deems appropriate.

IX.

HEARING OPPORTUNITY

RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If any respondent or respondent spouse requests a hearing, the respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order to Cease and Desist. Each RESPONDENT must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must also be filed with the request for hearing. A cover sheet form and instructions may be obtained from Docket Control at (602) 542-3477 or on the Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties or other action.

If a request for hearing is not timely made, the Division will request that the Commission make permanent this Temporary Order, with written findings of fact and conclusions of law, which may include ordering restitution, assessing administrative penalties or other relief.

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

X.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if any RESPONDENT or RESPONDENT SPOUSE requests a hearing, the RESPONDENT or RESPONDENT SPOUSE must deliver or mail an Answer to this Temporary Order and Notice to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Temporary Order to Cease and Desist and Notice of Opportunity for Hearing,. A Docket Control cover sheet must accompany the Answer. A cover sheet form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

Additionally, the RESPONDENT OR RESPONDENT SPOUSE, must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix Arizona, addressed to Julie Coleman.

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

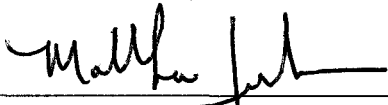
When a RESPONDENT or RESPONDENT SPOUSE intends in good faith to deny only a part or a qualification of an allegation, the RESPONDENT or RESPONDENT SPOUSE shall specify that part or qualification of the allegation and shall admit the remainder. The RESPONDENT or RESPONDENT SPOUSE waives any affirmative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

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

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BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 17 day of
February, 2005.



Matthew J. Neubert
Director of Securities