

NEW APPLICATION  
ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

APR 15 2005

DOCKETED BY

In the matter of:

MARK J. SHEEHY, CRD#2224709, and  
Jane Doe Sheehy, husband and wife,  
28432 N. 112<sup>th</sup> Way  
Scottsdale, AZ 85262

Respondents.

DOCKET NO. S-03593A-05-0000

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

**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 respondent MARK J. SHEEHY ("SHEEHY") has engaged in or is about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act").

**I.**

**JURISDICTION**

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

**II.**

**RESPONDENTS**

2. SHEEHY is and was at all pertinent times a registered securities salesman in Arizona, since February 3, 1992, CRD# 2224709, and operated as a registered securities salesman and "financial advisor." SHEEHY's last known address is 28432 N. 112<sup>TH</sup> Way, Scottsdale, AZ

1 85262. At all times pertinent to this action, SHEEHY was registered in Arizona in association with  
2 UBS Financial Services, Inc. f/k/a PaineWebber Inc. ("UBS"), from October 1999 through April  
3 2004; Morgan Stanley from April 2004 through December 2004; and Southwest Securities Inc.  
4 d/b/a First Financial Equity Corporation ("First Financial") from January 2005 to February 4, 2005,  
5 when he was terminated. SHEEHY is currently not affiliated with any securities dealer.

6 3. JANE DOE SHEEHY was at all relevant times the spouse of Respondent SHEEHY.  
7 JANE DOE SHEEHY is joined in this action under A.R.S. § 44-2031(C) solely for purposes of  
8 determining the liability of the marital community.

9 4. At all relevant times, SHEEHY and JANE DOE SHEEHY ("RESPONDENTS")  
10 were acting for their own benefit and for the benefit or in furtherance of the marital community.

### 11 III.

### 12 FACTS

13 5. From in or around January 2003 through January 2005, SHEEHY solicited  
14 approximately \$100,000.00 from an unsophisticated retired nurse and homemaker for stock of a  
15 real estate development company.

16 6. SHEEHY had provided investment advice to the client's elderly parents for  
17 approximately 12 years.

18 7. SHEEHY advised the client to invest her inheritance through him in a brokerage  
19 account, and assured her that he would assist her in purchasing conservative stocks to provide for  
20 her future needs. SHEEHY had his client sign account documents, including a margin agreement.

21 8. Beginning in or around January 2003, SHEEHY solicited his client to invest in  
22 stock in a real estate development company, representing the investment as a "sure thing," which  
23 would start paying dividends immediately.

24 9. SHEEHY told his client that he was also investing his own money in the stock and  
25 was making the investment available to a select few of his clients.

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V.

**VIOLATION OF A.R.S. § 44-1991**

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

18. In connection with the offer or sale of securities within or from Arizona, SHEEHY 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. SHEEHY's conduct includes, but is not limited to, the following:

- a) Misrepresenting and/or failing to disclose the use of investment funds;
- b) Misrepresenting and/or failing to disclose background or financial information about the purported development company or its principals;
- c) Misrepresenting the source of "returns" from the purported investment;
- d) Failing to adequately disclose the risks of the purported investment; and
- e) Engaging in unauthorized transactions in a client's account.

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

VI.

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

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

20. SHEEHY's conduct is grounds to revoke SHEEHY's registration as a securities salesman with the Commission pursuant to A.R.S. § 44-1962. Specifically, SHEEHY has:

- a) Violated §§ 44-1841 and 44-1991 of the Securities Act within the meaning of A.R.S. § 44-1962(A)(2), by offering and selling unregistered securities and misrepresenting and failing to disclose material facts in connection with the sale of those securities.

1 a) Violated §§ 44-1841 and 44-1991 of the Securities Act within the meaning of  
2 A.R.S. § 44-1962(A)(2), by offering and selling unregistered securities and misrepresenting and  
3 failing to disclose material facts in connection with the sale of those securities.

4 b) Engaged in dishonest or unethical practices within the meaning of A.R.S. §  
5 44-1962(10) as defined by A.A.C. R14-4-130(A)(15), by borrowing money from a customer, who  
6 was not a relative of SHEEHY or a person in the business of lending funds.

7 c) Engaged in dishonest or unethical practices within the meaning of A.R.S. §  
8 44-1962(10) as defined by A.A.C. R14-4-130(A)(17), by selling securities that were not recorded on  
9 the records of the dealer with whom he was registered at the time of the transactions.

10 21. SHEEHY's conduct is grounds to assess restitution, penalties and/or take appropriate  
11 affirmative action pursuant to A.R.S. § 44-1962. Specifically, SHEEHY has:

12 a) Engaged in dishonest or unethical practices within the meaning of A.R.S. §  
13 44-1962(10) as defined by A.A.C. R14-4-130(A)(15), by borrowing money from a customer, who  
14 was not a relative of SHEEHY or a person in the business of lending funds.

15 b) Engaged in dishonest or unethical practices within the meaning of A.R.S. §  
16 44-1962(10) as defined by A.A.C. R14-4-130(A)(17), by selling securities that were not recorded on  
17 the records of the dealer with whom he was registered at the time of the transactions.

18 **VII.**

19 **REQUESTED RELIEF**

20 The Division requests that the Commission grant the following relief:

21 1. Order SHEEHY to permanently cease and desist from violating the Securities Act, pursuant  
22 to A.R.S. §§ 44-2032 and 44-1962;

23 2. Order SHEEHY to take affirmative action to correct the conditions resulting from his acts,  
24 practices or transactions, including a requirement to make restitution pursuant to A.R.S. §§ 44-2032  
25 and 44-1962;

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

3 4. Order SHEEHY to pay the state of Arizona administrative penalties, pursuant to A.R.S. §  
4 44-1962;

5 5. Order the revocation of SHEEHY's registration as a securities salesman pursuant to A.R.S. §  
6 44-1962;

7 6. Order that the marital community of SHEEHY and JANE DOE SHEEHY be subject to any  
8 order of restitution, rescission, administrative penalties, or other appropriate affirmative action  
9 pursuant to A.R.S. § 25-215; and

10 7. Order any other relief that the Commission deems appropriate.

11 **VIII.**

12 **HEARING OPPORTUNITY**

13 RESPONDENTS SHEEHY, including respondent JANE DOE SHEEHY, may request a  
14 hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If any respondent requests a**  
15 **hearing, respondent must also answer this Notice.** A request for hearing must be in writing and  
16 received by the Commission within 10 business days after service of this Notice of Opportunity for  
17 Hearing. Each respondent must deliver or mail the request to Docket Control, Arizona Corporation  
18 Commission, 1200 W. Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must  
19 accompany the request. A cover sheet form and instructions may be obtained from Docket Control  
20 by calling (602) 542-3477 or on the Commission's Internet web site at  
21 [www.cc.state.az.us/utility/forms/index.htm](http://www.cc.state.az.us/utility/forms/index.htm).

22 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin  
23 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the  
24 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission  
25 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of  
26 Opportunity for Hearing.

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

6 **IX.**

7 **ANSWER REQUIREMENT**

8 Pursuant to A.A.C. R14-4-305, if SHEEHY and/or JANE DOE SHEEHY requests a  
9 hearing, SHEEHY and/or JANE DOE SHEEHY must deliver or mail an Answer to this Notice of  
10 Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W.  
11 Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this  
12 Notice. A Docket Control cover sheet must accompany the Answer. A cover sheet form and  
13 instructions may be obtained from Docket Control by calling (602) 542-3477 or on the  
14 Commission's Internet web site at [www.cc.state.az.us/utility/forms/index.htm](http://www.cc.state.az.us/utility/forms/index.htm).

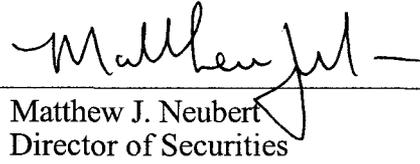
15 Additionally, SHEEHY and/or JANE DOE SHEEHY must serve the Answer upon the  
16 Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by  
17 hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor,  
18 Phoenix, Arizona, 85007, addressed to Pamela T. Johnson.

19 The Answer shall contain an admission or denial of each allegation in this Notice and the  
20 original signature of SHEEHY or JANE DOE SHEEHY or their attorneys. A statement of a lack  
21 of sufficient knowledge or information shall be considered a denial of an allegation. An allegation  
22 not denied shall be considered admitted.

23 When SHEEHY or JANE DOE SHEEHY intends in good faith to deny only a part or a  
24 qualification of an allegation, SHEEHY or JANE DOE SHEEHY shall specify that part or  
25 qualification of the allegation and shall admit the remainder. SHEEHY and JANE DOE SHEEHY  
26 waive any affirmative defense not raised in the answer.

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

3 Dated this 15 day of April, 2005.

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7 Matthew J. Neubert  
8 Director of Securities

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