



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED
DEC 22 2003

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In the matter of:

ROBERT J. BRANNON
2763 West Ironwood Drive
Chandler, AZ 85224,

Respondent.

DOCKET NO. S-03487A-03-0000

DECISION NO. 66648

**ORDER TO CEASE AND DESIST,
ORDER OF DISGORGEMENT,
ORDER OF REVOCATION, ORDER
FOR ADMINISTRATIVE PENALTIES
AND CONSENT TO SAME
BY: ROBERT J. BRANNON**

Respondent ROBERT J. BRANNON ("BRANNON") elects to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 et seq. ("Securities Act") with respect to this Order to Cease and Desist, Order of Disgorgement, Order of Revocation, Order for Administrative Penalties and Consent to Same ("Order"). BRANNON admits the jurisdiction of the Arizona Corporation Commission ("Commission"); admits the Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this Order by the Commission.

I.

FINDINGS OF FACT

1. BRANNON is an officer and director for Treichler-Brannon, Inc., ("TBI"), a financial services company located at 1270 East Broadway in Tempe, Arizona. At all times relevant hereto, BRANNON served with TBI as an insurance agent licensed with the State of Arizona.

1 2. At certain times relevant hereto, BRANNON was also registered as a securities
2 salesman in the state of Arizona through the broker-dealer Financial Network Investment Corporation
3 (“FNIC”). In connection with this registration, BRANNON was assigned CRD No. 810610.

4 3. In approximately January 1998, BRANNON began offering and selling viatical
5 settlement contracts to a number of his Arizona-based clients.

6 4. From approximately January 1998 through January 2001, BRANNON offered and
7 sold at least 45 viatical settlement contracts to 15 known investors. The principal amount of these
8 investments totaled approximately \$850,000.

9 5. On June 22, 2001, FNIC terminated its association with BRANNON for alleged non-
10 compliance with company directives. This termination ended BRANNON’s tenure as a registered
11 securities salesman in Arizona.

12 ***BRANNON and the “Mutual Benefits Corporation” viatical***

13 6. The viatical contracts that BRANNON offered and sold were issued through Mutual
14 Benefits Corporation (“MBC”), a viatical settlement contract company located at 2881 E. Oakland
15 Park Blvd., Suite 200, Ft. Lauderdale, Florida 33306. At no time were these MBC viaticals
16 registered with the Division.

17 7. Following BRANNON’s association with MBC in late 1997, BRANNON received
18 various MBC marketing materials, including videotapes and promotional brochures. These
19 materials included the claim that investors could earn fixed returns as high as 72% with no
20 speculation or stock market risk. The materials further cautioned prospective investors not to
21 “gamble your financial future with high risk investments,” and boasted that MBC “offer[ed] a
22 unique opportunity for the serious minded and profit motivated individual who [did] not wish to
23 risk their underlying principal.”

24 8. Based in part on these MBC materials, BRANNON recommended to certain of his
25 clients that MBC viaticals could be an attractive alternative to the volatility of the stock market.
26 BRANNON explained that viatical settlement contracts were life insurance policies insuring

1 someone with terminal illnesses such as AIDS, and that the insured individuals, also known as
2 “viators,” had been diagnosed with a terminal medical condition.

3 9. Contrary to promotional claims, MBC viatical investments actually contain a
4 number of inherent risks. These risks include, without limitation, the fact that the medical
5 prognoses for viators are susceptible to manipulation and distortion.

6 10. During the course of BRANNON’s association with MBC, BRANNON earned
7 approximately \$70,000 in commissions through the sale of MBC viaticals.

8 11. Of the approximately 45 MBC viatical settlement contracts BRANNON sold to
9 Arizona investors beginning in 1998, not one involved a viator with a projected life expectancy of
10 more than 36 months. Despite this, only a small fraction of these investments matured within the
11 projected three year period. In fact, many of these MBC viatical settlement contracts have now
12 exceeded their projected maturity dates by more than two years.

13 **II.**

14 **CONCLUSIONS OF LAW**

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

17 2. BRANNON offered or sold securities within or from Arizona, within the meaning of
18 A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

19 3. BRANNON violated A.R.S. § 44-1841 by offering or selling securities that were
20 neither registered nor exempt from registration.

21 4. BRANNON’s conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-
22 2032.

23 5. BRANNON’s conduct subjects BRANNON to an order of revocation pursuant to
24 A.R.S. § 44-1962(A)(2).

25 6. BRANNON’s conduct is grounds for an order of disgorgement pursuant to A.R.S. § 44-
26 2032.

1 7. BRANNON's conduct is grounds for administrative penalties pursuant to A.R.S. § 44-
2 2036.

3 **III.**
4 **ORDER**

5 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and
6 BRANNON's consent to the entry of this Order, the Commission finds that the following relief is
7 appropriate, in the public interest, and necessary for the protection of investors:

8 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that BRANNON, and any of
9 BRANNON's agents, employees, successors and assigns, permanently cease and desist from
10 violating the Securities Act.

11 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that BRANNON shall
12 disgorge all sales commissions earned in connection with his activities in this matter; as reflected
13 in the records of the Commission, such disgorgement shall be the in the amount of \$70,181.26, due
14 and payable on the entry date of this Order. Any amounts due and payable under the terms of this
15 Order shall accrue interest at the rate of 10% per annum until paid in full. Payment shall be made
16 by cashier's check or money order payable to the "State of Arizona" to be placed in an interest-
17 bearing account maintained and controlled by the Arizona Attorney General. The Arizona
18 Attorney General shall disburse the funds on a pro rata basis to all known BRANNON investors
19 who currently retain one or more viatical policy interests that has yet to mature. Any funds that the
20 Attorney General is unable to disburse shall revert to the state of Arizona.

21 If BRANNON does not comply with the terms and conditions of this disgorgement, any
22 outstanding balance shall be deemed in default and shall become immediately due and payable.

23 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that BRANNON shall pay an
24 administrative penalty in the amount of \$5,000.00. Payment shall be made by cashier's check or
25 money order, payable to the "State of Arizona." Payment of this sum shall become immediately
26 due and payable only after disgorgement payments as set forth above have been paid in full, or if

1 BRANNON has defaulted prior to fulfilling BRANNON's disgorgement obligations. For the
2 purposes of this Order, a bankruptcy filing by BRANNON shall be considered an act of default on
3 BRANNON'S disgorgement obligations.

4 If BRANNON does not comply with the terms and conditions of this administrative
5 penalty, any outstanding balance shall be deemed in default and shall become immediately due and
6 payable; all outstanding administrative penalty amounts that are due and payable shall accrue
7 interest at the rate of 10% per annum until paid in full.

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1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1962, that BRANNON's securities
2 salesman registration is immediately revoked. BRANNON may re-apply for registration or
3 licensing under the Securities Act of Arizona beginning in 2004, but only if BRANNON has fully
4 complied with all terms and conditions of this Order. Such compliance includes the payment in
5 full of all disgorgement and penalty amounts.

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

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8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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11 CHAIRMAN

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14 COMMISSIONER

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17 COMMISSIONER

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Lance G. Gleason

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
Executive Secretary of the Arizona Corporation
Commission, have hereunto set my hand and
caused the official seal of the Commission to be
affixed at the Capitol, in the City of Phoenix, this
22nd day of December, 2003.

Brian C. McNeil
BRIAN C. McNEIL
Executive Secretary

DISSENT

DISSENT

This document is available in alternative formats by contacting Yvonne McFarlin, Executive Assistant to the Executive Secretary, phone number (602) 542-3931, E-mail YMcFarlin@cc.state.az.us.

(JBP)

CONSENT TO ENTRY OF ORDER

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2 1. BRANNON admits the jurisdiction of the Commission over the subject matter of
3 this proceeding. BRANNON acknowledges that he has been fully advised of his right to a
4 hearing to present evidence and call witnesses and BRANNON knowingly and voluntarily waives
5 any and all rights to a hearing before the Commission and all other rights otherwise available
6 under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code.
7 BRANNON acknowledges that this Order to Cease and Desist, Order of Disgorgement, Order of
8 Revocation, Order for Administrative Penalties and Consent to Same ("Order") constitutes a valid
9 final order of the Commission.

10 2. BRANNON knowingly and voluntarily waives any right under Article 12 of the
11 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief
12 resulting from the entry of this Order.

13 3. BRANNON acknowledges and agrees that this Order is entered into freely and
14 voluntarily and that no promise was made or coercion used to induce such entry.

15 4. BRANNON acknowledges that he has been represented by counsel in this matter
16 and that he has reviewed this Order with his attorney and understands all terms contained therein.

17 5. BRANNON admits the Findings of Fact and Conclusions of Law contained in this
18 Order.

19 6. By consenting to the entry of this Order, BRANNON agrees not to take any action
20 or to make, or permit to be made, any public statement denying, directly or indirectly, any
21 Finding of Fact or Conclusion of Law contained in this Order, or to create the impression that this
22 Order is without factual basis. BRANNON will undertake steps necessary to assure that all of his
23 agents and employees understand and comply with this agreement.

24 7. While this Order settles this administrative matter between BRANNON and the
25 Commission, BRANNON understands that this Order does not preclude the Commission from
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1 instituting other administrative proceedings based on violations that are not addressed by this
2 Order.

3 8. BRANNON understands that this Order does not preclude the Commission from
4 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
5 that may be related to the matters addressed by this Order.

6 9. BRANNON understands that this Order does not preclude any other agency or
7 officer of the state of Arizona or its subdivisions from instituting administrative, civil or criminal
8 proceedings that may be related to matters addressed by this Order.

9 10. BRANNON agrees that he will not apply to the state of Arizona for registration
10 under the Securities Act of Arizona or under the Arizona Investment Management Act for at least
11 one year from the entry date of this Order *and* until such time as all he has complied with all
12 terms and conditions of this Order, including the payment in full of all disgorgement amounts and
13 administrative penalties promulgated under this Order.

14 11. BRANNON agrees that he will not exercise any control over any entity that offers
15 or sells securities or provides investment advisory services, within or from Arizona, until such
16 time that he has a) complied with all terms and conditions promulgated under this Order, and b)
17 obtained the legal authority to do so.

18 12. BRANNON agrees that until disgorgement and penalties are paid in full,
19 BRANNON will notify the Director of the Securities Division within 30 days of any change in
20 home address or any change in BRANNON's ability to pay amounts due under this Order.

21 13. BRANNON understands that a default shall render him liable to the Commission
22 for its costs of collection and interest at the maximum legal rate.

23 14. BRANNON understands and agrees that he shall cooperate fully with the
24 Securities Division by, without limitation, providing information pertinent to any related
25 investigation and, if necessary, presenting complete and accurate testimony at any related hearing.
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1 BRANNON agrees that he shall similarly cooperate with any other agency of the state of Arizona
2 in any investigation or in any other matter arising from the activities described in this Order.

3 15. BRANNON consents to the entry of this Order and agrees to be fully bound by its
4 terms and conditions. *If BRANNON breaches any provision of this Order, the Commission may*
5 *vacate this Order and restore this case to its active docket.*

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7 Agreed: *Robert J. Brannon*
8 ROBERT J. BRANNON

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10 SUBSCRIBED AND SWORN TO before me, by ROBERT J. BRANNON, this 31st day of
11 October, 2003.

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13
14 *Stephanie J. Lawson*
15 NOTARY PUBLIC

16 My Commission Expires:



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19 March 4, 2006