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BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner

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WILLIAM A. MUNDELL
Commissioner

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF

DOCKET NO. S-03312A-99-0000

Charles Shull
687 Pampas Place
Sierra Vista, Arizona 85636

SECURITIES DIVISION'S RESPONSE
TO RESPONDENT CHARLES J.
SHULL'S APPLICATION FOR
REHEARING OR REVIEW

John Ebdon
4814 Equestrian Avenue
Sierra Vista, Arizona 85650

Cochise Financial Corp.
687 Pampas Place
Sierra Vista, Arizona 85636

Respondents

IN THE MATTER OF

DOCKET NO. S-03375A-99-0000

Carol Ebdon
1101 E. Carmelita Drive
Sierra Vista, Arizona 85636

Daniel Joe Garcia
8823 N. 38th Drive
Phoenix, Arizona 85051

Respondents

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") hereby responds to the application for rehearing or review submitted by Respondent Charles J. Shull ("SHULL") in the above referenced matter and opposes such application on the grounds set forth below.

Although SHULL'S letter, dated May 22, 2000, addressed to Commissioners Carl J. Kunasek, Jim Irvin and William A. Mundell, is worded as an appeal and does not specifically request a rehearing or a review, the Division will refer to it and treat it as a request for a rehearing or review under A.A.C. R14-3-112.

I.

**RESPONDENT SHULL'S APPLICATION FOR REHEARING OR REVIEW IS
WITHOUT MERIT**

A.A.C. R14-3-112(A) allows the filing of an application for rehearing or review "...specifying the particular grounds therefor." Subsection (C) of A.A.C. R14-3-112 lists seven causes why an application may be granted. Each of the seven causes materially affects the moving party's rights.

SHULL only addresses two of the seven possible causes for granting his application. In paragraph #10 of SHULL'S application, he alleges that the undersigned counsel and the hearing officer engaged in misconduct by consulting in off the record communications. This allegation arguably falls under paragraph (C)(2) of A.A.C. R14-3-112 that lists as a cause for granting an application misconduct by the Commission, a hearing officer, or the prevailing party.

SHULL fails to provide any information in his application on what was discussed between the hearing officer and undersigned counsel during any off the record discussions; nor does he address how any conversations materially affected his rights. Any off the record communications between undersigned counsel and the hearing officer were done in open court to discuss procedural issues such as witness scheduling and did not in any way relate to the merits of the case. SHULL was present during the entire hearing and could have heard any conversation between undersigned counsel and the hearing officer.

SHULL also argues that the order entered against him was not justified by the evidence or was contrary to the law. He does not support these allegations with any facts, analysis or evidence brought out at the hearing, nor does he provide any legal basis for the order being contrary to the law.

More than sufficient evidence was presented by the Division at the hearing to support the findings in the Opinion and Order ("Order") that SHULL offered and sold unregistered securities in the form of promissory notes as an unregistered dealer or salesman and that he made untrue

1 statements of material fact related to the offer and sale of these promissory notes. The hearing
2 officer, after evaluating testimony and evidence presented at the hearing, clearly found that
3 SHULL had violated Arizona securities laws. Paragraph 18 in the "Findings of Fact" section on
4 page six of the Order reads, "Respondent SHULL solicited funds from and sold promissory notes
5 to at least 17 of the investors for a total of \$1,292,929." SHULL, on page three in the fourth
6 paragraph of his application, even admits that he received money from investors. Lines 13-16 on
7 page three of the Order also supports the fact that SHULL solicited funds from investors, delivered
8 some promissory notes to investors and allowed investors to deposit money into his bank account
9 or the bank account of his company, Cochise Financial Corporation. On page four of the Order,
10 lines 21-24, the hearing officer determined that SHULL made untrue statements of material fact
11 related to his offer and sale of unregistered securities in the form of promissory notes and he acted
12 as an unregistered securities dealer or salesman.

13 **II.**

14 **CONCLUSION**

15 For the reasons stated above, SHULL'S application for rehearing or review should be
16 rejected as without merit. SHULL'S application should be denied and Decision No. 62509 should
17 be affirmed by the Commission pursuant to A.A.C. R14-3-112(D).

18 Respectfully submitted this 1st day of June, 2000.

19
20 **Janet Napolitano**

Attorney General for the State of Arizona

21 

Anthony B. Bingham

Special Assistant Attorney General

22 **Robert A. Zumoff**

Assistant Attorney General

23 Attorneys for the Securities Division of the
24 Arizona Corporation Commission
25
26

1 Original and ten copies filed
2 this 1st day of June, 2000 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
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7 A copy of the original mailed
8 this 2nd day of June, 2000 to:

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