

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER



ORIGINAL



0000044392

EXECUTIVE SECRETARY

MARK SENDROW
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007-2996
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: accsec@ccsd.cc.state.az.us

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Chairman William A. Mundell
 Commissioner Jim Irvin
 Commissioner Marc Spitzer

FROM: Mark Sendrow *MS*
 Director of Securities

DATE: April 10, 2002

RE: Proposed Amendment to Rule A.A.C. R14-4-132
 Docket No. RS-00000A-02-0005

cc: Brian C. McNeil, Executive Secretary

OPEN MEETING ITEM

DOCKETED

4/25/02

APR 11 2002

DOCKETED BY	<i>ms</i>
-------------	-----------

RECEIVED
 2002 APR 11 P 3:34
 ARIZONA CORPORATION COMMISSION
 EXECUTIVE SECRETARY

The Securities Division (the "Division") is seeking permission from the Commissioners to publish a Notice of Proposed Rulemaking concerning an amendment to A.A.C. R14-4-132 ("rule 132"). Attached for your review is a copy of rule 132 with the proposed revisions highlighted and a copy of the proposed order.

Rule 132 requires that registered dealers make, maintain, and preserve books and records in compliance with certain specified Securities and Exchange Commission rules as those rules existed in 1991. Pursuant to A.R.S. § 44-1028, the specified 1991 SEC books and records rules are incorporated by reference and do "not include any later amendments or editions of the incorporated matter."

Section 15(h)(1) of the federal Securities Exchange Act of 1934 (15 U.S.C. § 78o(h)(1)), adopted in 1996, provides that

No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall establish . . . making and keeping records . . . requirements for . . . dealers . . . that differ from, or are in addition to, the requirements in those areas established under this title.

The SEC has amended two of the rules incorporated in rule 132; the amendments will be effective May 2, 2003. The Division proposes amending rule 132 to reflect the federal law mandate that state books and records requirements do not differ from the SEC books and records rules and to reflect the SEC's amendments effective May 2, 2003.

Memorandum regarding A.A.C. R14-4-132

April 10, 2002

Page 2

Typically, the Division recommends that the Commission hold a hearing to receive public comment on all rulemaking packages. Because of the federal law mandate that the state books and records requirements may not differ from the federal requirements, the Division recommends that the Commission does not expend the resources to hold a public hearing for comments unless the Commission receives a written request for an oral proceeding pursuant to A.R.S. § 41-1023(C).

The Division has solicited the informal advice and comments of the office of the attorney general, the securities section of the Arizona State Bar, and the Division's staff regarding the amendment to the rule. The Division has received two letters from members of the local bar, copies of which are attached. One attorney supports the proposed amendment; one has no comment.

The Division recommends that the Commission send to the secretary of state's office a Notice of Proposed Rulemaking regarding the proposed amendment to rule 132.

Originator: Cheryl T. Farson

Asst. AG Assigned: Moira McCarthy

R14-4-132. Books and Records of Dealers

- A. Unless otherwise provided by order of the Commission, each registered dealer shall make, maintain, and preserve books and records in compliance with U.S. Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3 (1991+2002)), and 17-a4 (17 CFR 240.17a-4 (1991+2002)) as amended in Release No. 34-4992, 66 Fed. Reg. 55817 (2001); ~~15c2-6~~ 15g (17 CFR 240.15c2-6 (1991+240.15g (2002)); and 15c2-11 (17 CFR 240.15c2-11 (1991+2002)), ~~as amended in Release No. 34-29094, 56 Fed. Reg. 19148 (1991))~~ all of which are incorporated herein by reference. Copies of the materials are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, from the Commission, and are on file with the office of the secretary of state.
- B. To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules, dealers in compliance with such rules as amended shall not be subject to enforcement action by the Commission for violation of this rule to the extent that the violation results solely from the dealer's compliance with the amended rule.



A.F. SCHAFFER, P.C.

Corporate, Business and Securities Law

2415 East Camelback Road, Suite 700
Phoenix, Arizona 85016
Telephone: 480.998.1848
Facsimilie: 602.957.0859
Email: afslaw@ix.netcom.com

February 15, 2002

Cheryl T. Farson
General Counsel
Arizona Corporation Commission
1300 West Washington, Third Floor
Phoenix, AZ 85007

Re: Your letter of 01/30/02 re: A.A.C. R14-4-132

Dear Cheryl,

This is to advise you that I fully support the proposed amendments to the above rule, as I believe that state securities law should mirror the federal law as much as possible.

Very truly yours,

A.F. SCHAFFER, P.C.

A handwritten signature in cursive script, appearing to read "Fred Schaffer", is written over a horizontal line.

A. Frederick Schaffer, Jr.

AFS/so

GALLAGHER & KENNEDY
P.A.
ATTORNEYS AT LAW

PAUL R. MADDEN
E-MAIL: PRM@GKNET.COM

101 EAST GURLEY, SUITE 214
PRESCOTT, ARIZONA 86301
PHONE: (928) 445-5800
FAX: (928) 445-5804
WWW.GKNET.COM

March 1, 2002

VIA FACSIMILE AND MAILING (602) 594-7470

Cheryl T. Farson, Esq.
General Counsel
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Re: A.A.C. R14-4-132

Dear Ms. Farson:

Pursuant to your letter dated January 30, 2002 concerning proposed amendments to the above referred to regulation, please be advised that I have no comments with respect to the proposed amendments.

Sincerely yours,

GALLAGHER & KENNEDY, P.A.



Paul R. Madden

PRM/mah

BEFORE THE ARIZONA CORPORATION COMMISSION

1 WILLIAM A. MUNDELL
2 Chairman
3 JIM IRVIN
4 Commissioner
5 MARC SPITZER
6 Commissioner

6 In the matter of) DOCKET NO. RS-00000A-02-0005
7)
7 PROPOSED RULEMAKING TO AMEND) DECISION NO. _____
8 A.A.C. R14-4-132)
9) **ORDER**

10 Open Meeting
11 April 25, 2002
12 Phoenix, AZ

13 BY THE COMMISSION:

14 INTRODUCTION

15 The Securities Division (the "Division") of the Arizona Corporation Commission (the
16 "Commission") has forwarded to the Commission a proposal recommending that the Commission
17 amend A.A.C. R14-4-132 ("rule 132") of the Arizona Administrative Code governing the
18 administration of the securities statutes.
19

20 FINDINGS

21 1. Rule 132 requires that registered dealers make, maintain, and preserve books and
22 records in compliance with certain specified United States Securities and Exchange Commission
23 ("SEC") rules as those rules existed in 1991, including 17 CFR 240.17a-3 and 17 CFR 240.17a-4.

24 2. Section 15(h)(1) of the federal Securities Exchange Act of 1934 (15 U.S.C.
25 § 78o(h)(1)), adopted in 1996, provides that
26

No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall establish . . . making and keeping records . . . requirements for . . . dealers . . . that differ from, or are in addition to, the requirements in those areas established under this title.

3. The SEC has amended 17 CFR 240.17a-3 and 17 CFR 240.17a-4; the amendments will be effective May 2, 2003.

4. The Division has proposed that the Commission amend rule 132 to reflect the federal law mandate that state books and records requirements do not differ from those promulgated under the federal Securities Exchange Act of 1934 and to reflect the SEC amendments.

5. The Division has recommended that a notice of the proposed rulemaking regarding rule 132 be forwarded to the secretary of state for publication.

6. The Commission finds that the Division's proposal has merit and that the proposed amendment to rule 132 should be published.

CONCLUSION OF LAW

The Commission has the authority for the proposed rulemaking under the Arizona Constitution Article XV § 4, and under A.R.S. § 44-1821.

ORDER

THEREFORE IT IS ORDERED that the Division prepare a notice of the proposed rulemaking and forward it to the office of the secretary of state for publication in the Arizona Administrative Register.

1 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

3
4
5 CHAIRMAN

COMMISSIONER

COMMISSIONER

6
7 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
8 Executive Secretary of the Arizona Corporation
9 Commission, have hereunto set my hand and caused
10 the official seal of the Commission to be affixed at
11 the Capitol, in the City of Phoenix, this _____ day of
12 _____, 2002.

13
14
15 _____
16 BRIAN C. McNEIL
17 Executive Secretary

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

15 DISSENT
16 (ctf)
17 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,
18 voice phone number 602-542-3931, E-mail shood@cc.state.az.us