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Docket No. S-20482A-06-0631

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BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

In the matter of:)
)
EDWARD A. PURVIS and MAUREEN H.)
PURVIS, husband and wife)
2131 W. Shannon)
Chandler, Arizona 85224)
)
GREGG L. WOLFE and ALLISON A. WOLFE,)
husband and wife)
2092 W. Dublin Lane)
Chandler, Arizona 85224)
)
NAKAMI CHI GROUP MINISTRIES)
INTERNATIONAL, (a/k/a NCGMI), a Nevada)
corporation sole)
4400 N. Scottsdale Road, Suite 9-231)
Scottsdale, Arizona 85251)
)
Respondents.)

DOCKET NO. S-20482A-06-0631

REPLY TO RESPONDENTS EDWARD
AND MAUREEN PURVIS' CLOSING
BRIEF

Arizona Corporation Commission
DOCKETED

APR 17 2008

DOCKETED BY

Plaintiff, the Securities Division (the "Division") of the Arizona Corporation Commission ("Commission"), files this reply in response to the *Respondents Edward and Maureen Purvis' Closing Brief*. For the foregoing reasons, the Commission requests this tribunal to find the Respondents Edward and Maureen Purvis ("Respondents") in violation of the Arizona Securities Act and enter an order against them consistent with this finding. This Reply is supported by the Plaintiff's *Post Hearing Memorandum* and the record in the instant matter.

1 2033 provides: In any action, civil or criminal, when a defense is based upon any
2 exemption provided for in this chapter, the burden of proving the existence of the
3 exemption shall be upon the party raising the defense, and it shall not be necessary to
4 negative the exemption in any petition, complaint, information or indictment, laid or
brought in any proceeding under this chapter. *This statute clearly places the burden
upon the [defendant] to prove the existence of any exemption he deemed applicable to
this case.* (Emphasis added).

5 The burden is with the party claiming the exemption to prove that an issuer has qualified for
6 the exemption. A.R.S. §44-2033. Therefore, the burden rests with the Respondents because they are
7 claiming the exemption. Since this burden rests with the Respondents they must prove that ACI
8 Holdings stock was entitled to an exemption from registration. They must offer evidence to this
9 tribunal that ACI Holdings qualifies for an exemption from registration. Despite the Respondents'
10 repeated claims to the contrary, the Division is not required to prove that ACI Holdings does not
11 qualify for an exemption from registration.
12

13 During the administrative hearing, the Respondents made no reference to the exemption
14 provisions relating to the registration requirements prescribed under the Securities Act. At this
15 point, the Respondents have not claimed or offered any proof of an exemption from registration of
16 securities. The Respondents' failure to produce any testimony or evidence during the administrative
17 hearing to satisfy its burden should bar them from raising the issue for the first time in their closing
18 brief. It is evident from the Respondents' silence on this issue that the Respondents have not
19 satisfied their burden of proof. It is equally evident that the Respondents have waived any and all
20 registration defenses predicated on exemptions provided under the Securities Act, based on A.R.S.
21 § 44-2033 and the case law cited which interprets this provision.
22

23 C. ACI Holdings Stock Does Not Qualify for A Rule 506 Exemption
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1 In addition, the Respondents claim that the ACI Holdings stock Respondent Edward Purvis
2 (“Respondent Purvis”) sold investors was covered and exempt from registration pursuant to federal
3 Rule 506 of Regulation D. This is wholly inaccurate.

4 Securities exempt from registration under Rule 506 are covered securities, as defined by
5 Section 18(b)(4)(D) of the Securities Act of 1933. 15 U.S.C. §77r(b)(4)(D). Section 18(b)(4)(d) of
6 the National Securities Markets Improvement Act (“NSMIA”) preempts state registration of these
7 covered securities. However, if a security does not qualify as a “covered security” under federal
8 law then state securities law is not preempted. The United States Court of Appeals in *Brown v.*
9 *Earthboard Sports USA, Inc.*, 481 F.3d 901 (2007) held,

10 “NSMIA [National Securities Markets Improvement Act] preempts state securities
11 registration laws only with respect to securities that actually qualify as ‘covered securities’
12 under federal law.” *Id. at 912.*

13 Since ACI Holding stock does not qualify for Rule 506 exemption and therefore is not a
14 covered security, Arizona state securities registration requirements are not preempted.

15 The Respondents offering of ACI Holdings stock does not qualify for Rule 506 exemption
16 for several reasons. Initially, the Respondents failed to meet the requirements of Rule 506, and
17 therefore are not eligible for the private placement exemption.

18 Specifically, Rule 506 enumerates specific requirements for the private placement
19 exemption, as does its Arizona counterpart Rule 14-4-126(F) of the Arizona Administrative Code.
20 A.A.C. R14-4-126(F).

21 Courts are divided regarding the interpretation of Section 18 with respect to state
22 preemption for Rule 506 offerings. The first theory contends that an issuer does not have to
23 establish an entitlement to the Rule 506 exemption to be entitled to preemption of state securities
24 law. Instead, according to this argument, the issuer must merely allege a claim to the exemption
25 under Rule 506, regardless of whether such a claim can be substantiated. As a result, the securities
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1 are covered because of a claimed exemption under Rule 506 and the registration requirement of
2 state securities law is preempted. The Respondents follow this theory. In contrast, the Division
3 believes more recent courts have accurately interpreted Section 178 to require an issuer to not only
4 allege but must actually comply with the statutory requirements of Rule 506 to qualify for the
5 exemption. Only then, the issuer is preempted under federal law from state securities registration.

6 The Respondents have provided this tribunal with a litany of cases which support their
7 position, citing *Temple v. Gorman*, 201 F.Supp.2d 1238 (S.D. Fla. 2002) and *Lillard v. Stockton*, 267
8 F.Supp.2d 1081 (N.D.Okla.2003) to name a few. Each of the cases which the Respondents cite
9 stand for the proposition that it is sufficient for an issuer to claim a Rule 506 exemption, without
10 proof of actual compliance. *Temple* at 1244.

11 Contrastingly, the Division offers this tribunal cases which reject *Temple*, *Lillard*, and their
12 litany. These cases declare that a *mere attempt* to comply with Rule 506's statutory requirements is
13 not sufficient. In *In re Blue Flame Energy Corporation*, 871 N.E. 2d 1227 (2006), the Ohio Court
14 of Appeals declined to follow *Temple* citing that "the *Temple* analysis of Section 77r would allow
15 an issuer to avoid any state regulation or liability under state law simply by claiming compliance
16 with Regulation D." *Id.* at 1244. (See also *Hamby v. Clearwater Consulting Concepts, LLLP*, 428
17 F.Supp.2d 915 (2006) in which the District Court of Arkansas held, "the only way to assert federal
18 preemption is to first show that an exemption from registration actually applies." *Id.* 921. The
19 District Court in *Hamby* reasoned that a mere statement in an agreement that the sale of a security
20 was made pursuant to a federal exemption, without any showing of actual compliance with that
21 exemption, was insufficient to exempt the sale from Arkansas securities law.)

22 In particular, the Division argues that an issuer must prove that it qualifies for Rule 506
23 exemption for state registration laws to actually be preempted. (See *Apollo Capital Fund, LLC v.*
24 *Roth Capital Partners, LLC*, 70 Cal.Rptr.3d 199 (2007) in which the California Court of Appeals
25 held that "a security has to actually be a 'covered security' before federal exemption applies. (See
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1 also *Hamby v. Clearwater Consulting Concepts, LLLP*, 428 F.Supp.2d 915,921, fn.2). Otherwise,
2 an issuer has not satisfied the statutory requirements of the federal exemption and not is entitled to
3 federal preemption.

4 Moreover, in *Grubka v. WebAccess International, Inc.* 445 F.Supp.2d 1259 (2006), the
5 United States District Court of Colorado stated,

6 “If Congress had intended than an offeror’s representation of exemption should suffice it
7 could have said so, but it did not. *Such an intent seems unlikely, in any event*; that a
8 defendant could avoid liability under state law simply by disclaiming its alleged compliance
9 with Regulation D is an unsavory proposition and would eviscerate the statute.” *Id.* at 1270.
10 (emphasis added).

11 Therefore, in spite of the Respondents’ claims that Respondent’s solicitation of ACI
12 Holdings stock is preempted from registration under Rule 506. The stock offering does not qualify
13 for the Rule 506 exemption and state registration requirements are not preempted because ACI
14 Holdings did not comply with the statutory requirements of Rule 506, or prove entitlement to the
15 exemption. In *Buist v. Time Domain Corporation*, 926 So.2d 290 (2005), the Supreme Court of
16 Alabama declared, “a failure to comply with a requirement of Rule 506 ‘voids’ the exemption,
17 thereby eliminating the possibility of preemption.” *Id.* at 298. Specifically, ACI Holdings does not
18 qualify for exemption because: Respondent Edward Purvis (“Respondent Purvis”) used 1) general
19 solicitation in the marketing of the ACI Holdings stock; 2) accepted investments from investors
20 who were neither accredited or sophisticated; 3) failed to furnish investors with information as
21 required; and 4) fraud in the offer and sale of ACI Holdings stock.

22 1. Respondent Purvis Used General Solicitation

23 The Respondents do not qualify for exemption under Rule 506 because federal Rule 506
24 prohibits an issuer, or anyone acting on behalf of the company, from using general solicitation or
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1 advertising to market its securities. The federal statutory requirements apply to ACI Holdings as the
2 issuer of the security and Respondent Purvis as the person who solicited investors.

3 General solicitation is defined as soliciting investors with whom the promoter has no
4 relationship. This tribunal heard testimony from investors during the administrative hearing that
5 Respondent Purvis offered ACI Holdings stock to investors which he did not have a prior
6 relationship. There was testimony from investors that, in a few instances, Respondent Purvis
7 offered an investor ACI Holdings' stock during their first encounter. Respondent Purvis'
8 solicitation of individuals to purchase ACI Holdings stock with whom he does not have a pre-
9 existing relationship is prohibited and is a basis for exclusion from the exemption created by Rule
10 506. Thus, the failure of the Respondents to meet all of the conditions of the Rule 506 causes loss
11 of the exemption and the federal preemption of state law.

12
13 2. Respondent Purvis's Investors Were Neither Accredited nor Sophisticated

14 Another reason ACI Holdings stock is not eligible for exemption under Rule 506 is that
15 Respondent Purvis offered and sold the security to non-accredited and non-sophisticated investors.
16 Rule 506 of Regulation D permits an issuer, or anyone working on behalf of the issuer, to solicit an
17 unlimited number of accredited investors. An issuer may, however sell to a maximum of 35 non-
18 accredited investors only if they are sophisticated investors. Otherwise, all investors, accredited or
19 unaccredited, may set the transaction aside.

20 Only one investor, Anthony Senarighi, during the hearing described himself as an accredited
21 investor. The remaining investors testified, during the hearing, that they did not believe they were
22 accredited investors. Thus, the remainder of Respondent Purvis' investors who purchased ACI
23 Holdings stock must be defined as non-accredited. This issue must be analyzed in two parts. First,
24 the issue of whether the investors were accredited will be addressed.

1 The Respondents have claimed that Respondent Purvis reasonably believed that all the
2 investors he sold ACI Holdings' stock were accredited because the investors signed ACI Holdings
3 subscription agreements describing themselves as accredited. The Respondents claim that they
4 relied upon the investors representations.

5 The flaw in this argument is that Respondent Purvis fails to acknowledge his influence in
6 the investors' decision to sign the subscription agreement. Investors testified during the
7 administrative hearing that they did not believe they were accredited investors. However,
8 Respondent Purvis seemed unfazed and proceeded with the investment by accepting the investors'
9 payment and subscription agreement. Such conduct on behalf of Respondent Purvis is critical to the
10 analysis of whether ACI Holdings stock is eligible for an exemption under Rule 506. Without
11 reasonable belief, Respondent Purvis sold to any unaccredited or unsophisticated investors, the
12 offering is not eligible for Rule 506 exemption.

13 Moreover, Respondent Purvis knew about the investors' respective financial situations.
14 During the administrative hearing, this tribunal heard testimony from JoAnn Brundege and
15 Catherine Barnowsky that prior to investing with Respondent Purvis they each informed him that
16 they lived on a limited income and sought additional monthly investment income to meet their
17 expenses. Moreover, Mrs. Brundege and Mrs. Barnowsky testified that they also told Respondent
18 Purvis that their investments with him represented their entire life savings.² Based on this
19 information, Respondent Purvis knew that these investors could not withstand the loss of their
20 investments. In spite of having this information, Respondent Purvis sold ACI Holdings' stock to
21 these individuals.

22 Investors testified during the administrative hearing that Respondent Purvis completed the
23 subscriber signature page of the subscription agreement so that all that was required from them
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26 ² Mrs. Brundege testified to this on behalf of her parents, Russell and Fern Montgomery, who are now deceased.

1 were their signatures. If an investor expressed apprehension about the statement describing them as
2 accredited, Respondent Purvis informed them they could not invest.

3 Such testimony is remarkably similar of a situation when Respondent Purvis told investors
4 that if they did not sign something they did not agree with, they could not invest. During the
5 hearing there was testimony from investors regarding pre-drafted letters to Sterling Trust Company
6 (“Sterling Trust”) which Respondent Purvis presented to his investors for their signature. The letter
7 stated that the investor’s decision to invest was not influenced by Respondent Purvis, when in fact
8 it was. None of the investors were familiar with ACI Holdings or its products prior to meeting
9 Respondent Purvis. Respondent Purvis told investors that if they did not sign the letter they could
10 not invest.

11 The Respondents have gone to great lengths to highlight the inconsistency between the
12 testimony of Mrs. Brundege and Mrs. Barnowsky and their representations in their subscription
13 agreements. The Respondents cite *Wright v. National Warranty Company, L.P.*, 953 F.2d 256 (6th
14 Cir. 1992) in support of their argument. *Wright* states that an investor cannot provide testimony to
15 disavow an earlier representation by an investor that she is accredited. *Wright* is distinguishable for
16 several reasons.

17 *First, Wright* is a Sixth Circuit United States Court of Appeals case which is not binding on
18 the instant case, which is being decided in Arizona, not the Sixth Circuit.

19 Second, the facts are significantly distinct. In *Wright*, Robert Wright, the Vice-President of
20 Finance and Chief Financial Officer of National Warranty, Inc. invested with his employer and later
21 sought the return of his investment. This case is distinguishable because the investor, at issue, was
22 the Vice-President of Finance and Chief Financial Officer of the issuing company. In these roles, he
23 prepared monthly financial statements and balance sheets, approved stock certificates, prepared
24 invoices, wrote and signed all company checks and revised the income statements in the private
25 placement memorandum for the same offering in which he invested several times. In addition, at
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1 the time Mr. Wright signed the subscription agreement he represented to his employer that he was a
2 sophisticated business man and the fiduciary to his company's shareholders. None of Respondent
3 Purvis' investors had such intimate knowledge about the stock offering or the financial condition of
4 ACI Holdings prior to signing the subscription agreement, as the investor in *Wright*.

5 The Respondents' attempt to impart blame solely on the investors for signing the
6 subscription agreement seems disingenuous because not only did the investors inform Respondent
7 Purvis that they were not accredited but he was also aware of this. Since the Respondents' investors
8 were not accredited they must be sophisticated, in order for ACI Holdings' stock to be eligible for a
9 Rule 506 exemption and preempted from state registration requirements. As a result, the analysis
10 turns to whether the investors were sophisticated.

11 Respondent Purvis knew that the individuals who invested in ACI Holdings stock with him
12 were not only accredited, but also not sophisticated. A sophisticated investor is an individual who
13 has knowledge and experience in financial and business matters to evaluate the merits and risks of
14 the prospective investment. That the knowledge and experience must be specific to the business or
15 industry of the specific investment. General investment knowledge is not sufficient.

16 When Respondent Purvis encountered the individuals who ultimately purchased ACI
17 Holdings stock from him, he must have recognized that they lacked the financial savvy to be a
18 sophisticated investors. First, ACI Holdings is a circuit board manufacturing company which caters
19 to a specific sector of the electronics industry. To qualify as a sophisticated investor, an investor
20 must have knowledge and experience about the circuit board manufacturing business to weigh the
21 advantages and disadvantages of the proposed investment. None of the Respondents' investors had
22 this specialized knowledge or experience to satisfy this requirement.

23 During the administrative hearing, this tribunal heard testimony from several investors who
24 purchased ACI Holdings stock from Respondent Purvis. The investors testified about whether they
25 had any previous investment experience and their ability to withstand the loss of their investment.

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1 Although these investors purchased ACI Holdings' stock from Respondent Purvis, none of them
2 are sophisticated investors. This tribunal should recall that it was clear from investor testimony
3 presented at the hearing that they relied upon Respondent Purvis' representations regarding their
4 investment, his claims of ACI Holdings' success and promise of substantial profits once the
5 company became publicly traded. These investors obviously also relied upon Respondent Purvis'
6 recommendation that they purchase ACI Holdings' stock and earn them significant returns. Based
7 on this testimony, it was also obvious that the investors did not appear to fully appreciate the
8 possibility that they may lose their entire investment, at the time they invested and were investing
9 in a private placement which in itself possesses significant risks.

10 Therefore, it is evident that Respondent Purvis' investors signed the subscription agreements, as
11 well as the letter to Sterling Trust because they trusted him and followed his direction. They
12 believed Respondent Purvis was successful in business and knowledgeable about investing. They
13 valued his opinion possibly because they lacked the knowledge in investing and the circuit board
14 manufacturing business industry to rely on their own assessment of the investment. Instead of
15 acknowledging his role, Respondent Purvis has asked this tribunal to fault his investors for trusting
16 in him.

17 3. Respondent Purvis Failed to Disclose Material Information to Investors

18 Another reason why ACI Holdings stock does not qualify for the Rule 506 registration
19 exemption is because Respondent Purvis failed to disclose material information to investors. This
20 is essential to an investor's ability to make a well-reasoned decision regarding the proposed
21 investment. Respondent Purvis failed to provide investors with material information regarding their
22 prospective investment.

23 For example, Respondent Purvis did not inform investors that ACI Holding's was
24 significantly in debt; that shareholders from ACI Holdings' predecessor, Circuit Source
25 Technologies, were given shares in ACI Holdings without charge after the company became
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1 insolvent; that Respondent Purvis' company, NCGMI, received 10 million shares and was one of
2 the largest shareholder of ACI Holdings stock; ACI Holding's President and Chief Executive
3 Officer, James Keaton, received 30 million shares of company stock in compensation, thus making
4 him the majority owner of ACI Holdings' shares. Also, Respondent Purvis failed to disclose to
5 investors that the company's management had made the necessary filings to become a publicly
6 offered company. Any investor would have found this information to be of great important in
7 making a decision to invest in ACI Holdings.

8 9 4. Respondent Purvis Used Fraud in the Offer and Sale of Securities

10 Lastly, ACI Holdings stock is not eligible for Rule 506 exemption because Respondent
11 Purvis used fraud in the offering. If an issuer uses fraud in the offer or sale of a security, the issuer
12 has forgone any opportunity for to qualify for the exemption under Rule 506. Furthermore,
13 according to Section 18(c)(1) of the National Securities Markets Act ("NSMIA") states:

14 "Consistent with this section, the securities commission...of any State shall retain
15 jurisdiction under the laws of such State to investigate and bring enforcement actions with
16 respect to fraud or deceit...in connection with securities or securities transactions."

17 *15 U.S. C. § 77r; Pub.L.No. 104-290, 110 Stat. 3417, Title 1, Sec.18 (c)(1). (See also*
18 *A.A.C. R14-4-126(A)(1).*

19 Thus, not only is the exemption blown but the issue related to fraud would be investigated
20 and any enforcement actions brought according to state securities laws. This tribunal heard
21 testimony from many investors regarding the multitude of material misrepresentations, omissions
22 and deceptive practices Respondent Purvis used to solicit investments in ACI Holdings stock. As a
23 result, even if ACI Holdings or Respondent had satisfied all the requirements of the Rule 506
24 exemption, the offering would not have been eligible for the exemption due the fraud. Furthermore,
25 NSMIA suggests that fraud is an issue that is to be addressed by state securities regulators, not
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1 federal securities regulators. Therefore, providing another reason why ACI Holdings stock is not
2 eligible for exemption from federal registration.

3
4 D. Respondent Edward Purvis Is Not Exempt from Registration as a Salesperson or Dealer

5 The Respondents also assert that because Respondent Purvis was a director of ACI
6 Holdings he was exempt from registration as a securities salesman as required by A.R.S. §44-1842.
7 A.A.C. R14-4-140(B) Specifically, Rule 14-4-126(F) states, “the exemption from A.R.S. § 44-1842
8 is available for the issuer’s employees, officers, and directors who make offers or sales on behalf of
9 the issuer if they were not retained for the primary purpose of making such offers or sales...”
10 A.A.C. R14-4-126(F).

11 Contrary to the Respondents’ assertions, James Keaton, the President and Chief Executive
12 Officer of ACI Holdings testified that Respondent Purvis was hired to help ACI Holdings and its
13 related entities to raise capital. Moreover, Mr. Keaton testified that Respondent Purvis’ role in ACI
14 Holdings was solely to seek investors in order to raise capital for the company. In fact, Mr. Keaton
15 testified that Respondent Purvis had been provided an office, use of the company facilities and a
16 company credit card to facilitate this purpose. Respondent Purvis likely received these benefits as
17 compensation for raising capital on behalf of the company. In addition, several investors testified
18 that Respondent Purvis told them that he was raising capital for the company, so it could expand
19 and eventually become publicly offered. Based upon this evidence, Respondent Purvis was clearly
20 retained by ACI Holdings for the primary purpose of offering and selling company stock.

21
22 F. Homes for Southwest Living, Inc.; Corporate Architects, Inc. and CSI Technologies, Inc.

23 Promissory Notes Are Securities And Must Be Registered

1 The Respondents are mistaken in their assertion that promissory notes are not securities.
2 Respondent Purvis solicited investors to invest in promissory notes involving HSWL, Corporate
3 Architects and CSI Technologies.

4 In *Reves v. Ernst & Young*, 494 U.S. 56 (1990), the United States Supreme Court adopted
5 the family resemblance test and added four additional factors.. (*See also S.E.C. v. R.G. Reynolds*
6 *Enterprises, Inc.* 952 F.2d 1125 (9th Cir. 1991); *McNabb v. S.E.C.*, 298 F.23d 1126 (9th Cir. 20020;
7 SEC v. Wallenbrock, 313 F.3d 532 (9th Cir. 2002); *Trust Co. of Louisiana v. N.N.P. Inc.*, 104 F.3d
8 1478 (5th Cir. 1997) and *Pollack v. Laidlaw Holdings, Inc.*, 27 F.3d 808 (2nd Cir. 1994). *Reves*
9 involved the Farmer's Cooperative of Arkansas and Oklahoma which issued demand notes to raise
10 money to support the co-op's general business. The notes were offered to members of the co-op and
11 non-members and marketed as an "investment program".

12 In *Reves* the Supreme Court considered whether these notes were securities within the
13 meaning of § 3(a)(1) of the Securities Exchange Act of 1934. The court found that the notes were
14 securities by using the family resemblance test. The family resemblance test begins with the
15 presumption that all notes are securities. However, the presumption can be rebutted by showing the
16 note at issue resembles one or more categories of instruments which are not securities. The
17 Supreme Court identified four facts to consider in making the determination if a note is a security.

18 First, it is necessary to examine the transaction to assess the motivations that would prompt
19 a reasonable seller and buyer to enter into the note. If the purpose of the note is to raise money for
20 the general use of a business or to finance substantial investments *and* the buyer is interested
21 primarily in the profit the note is expected to generate, the note is likely a security. Secondly, one
22 must consider the plan of distribution to determine whether there is common trading for speculation
23 or investment. Common trading is established if the instrument is offered and sold to a broad
24 segment of the public. Next, it is necessary to consider the reasonable expectations of the investing
25 public with respect to the applicability of the securities laws. And finally, one must consider
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1 whether some factor significantly reduces the risk associated with the instrument rendering
2 application of securities laws unnecessary. Alternative regulatory schemes, collateral, and insurance
3 may reduce the risk to render the protection of federal securities laws unnecessary.

4 In the matter at hand, Respondent Purvis solicited individuals to invest in HSWL, Corporate
5 Architects and CSI Technologies. He told the investors that they would be investing in one or more
6 promissory notes, therefore the investors expected their funds to be used for this purpose.
7 Respondent Purvis told investors that they funds would be used to finance the business'
8 investments or provide general financial assistance. A few investors testified during the
9 administrative hearing that based on what Respondent Purvis told them about the returns on the
10 investments they were mostly interested in the profit they would make from investing in the note.
11 Respondent Purvis told investors to expect a return of 2% per month on their investment. Thus, it
12 appears that these promissory notes are securities.

13 In addition, the plan of distribution was an investment program for individuals. Although
14 individual investors pooled their funds to raise a sufficient amount to fund the promissory note,
15 investors expected to receive an individual return on their investment. The number of investors
16 invested in each note was limited. Based on the foregoing, the promissory notes are unequivocally
17 securities.

18 Also, in considering the reasonable expectation of the investing public with respect to the
19 applicability of securities law, a reasonable investor would expect the HSWL, Corporate Architects
20 and CSI Technologies promissory notes to be securities because that is what Respondent Purvis
21 told investors. Furthermore, all of the investors invested in the promissory notes opened IRA
22 accounts and placed in it their savings and retirement funds. Eventually, these funds were
23 transferred from the IRA account to the business which was requesting the loan. In addition,
24 investors received monthly statements from NCGMI which explicitly described the investor's
25 investment in the promissory note as an "investment". Based on this, Respondent Purvis' investors,
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1 or any other reasonable investor, would believe these notes to be investments. For the reasons
2 outlined, the promissory notes in HSWL, Corporate Architects and CSI Technologies are securities.

3 Moreover, one must determine whether there are any factors which would significantly
4 reduce the risk associated with the note rendering application of the securities laws unnecessary.
5 There are none present here. There was no alternative regulatory scheme, nor any insurance to
6 reduce the risk to the investors. Although the promissory notes provide for security, the security
7 was limited to corporate guarantees from borrowing entity, personal guarantees from the individual
8 managing the financial affairs of the borrowing entity and specific assets of the borrowing entity
9 listed as collateral.

10
11 Lastly, Respondent Purvis' company, NCGMI, in some instances received a "finder's fee"
12 for the promissory notes. This appears to be compensation for Respondent Purvis for connecting
13 the investors with business in need of a loan. A totality of the evidence clearly shows that the
14 promissory notes Respondent Purvis offered and sold to investors satisfied the four factors put forth
15 by the court in *Reves*, and these notes resembled a securities offering than a commercial instrument.
16 Once again, it is evident that these promissory notes were securities.

17 18 G. The Respondents Should Be Ordered to Pay Restitution to Investors

19 Based upon the compelling documentary evidence and testimony provided to this tribunal
20 during the administrative hearing, the Respondents should be ordered to pay restitution to investors.
21 A.R.S. §44-2032 permits the Division to seek restitution on behalf of investors from a person who
22 has engaged in "any act, practice or transaction that constitutes a violation of the Securities Act".

23 In the instant matter, such a request is reasonable considering Respondent Purvis sold
24 securities without being licensed, sold unregistered securities and used fraud in the offer and sale of
25 securities, all of which are violations of the Securities Act. Contrary to the Respondents'
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1 representations, the hearing record is clear that Respondent Purvis sold ACI Holdings stock.
2 However, it is not relevant whether or not Respondent Purvis personally received any of the
3 proceeds from these investments. Based upon the foregoing, the Division seeks restitution from all
4 parties which it believes has violated the Securities Act by engaging in fraud or failing to comply
5 with registration requirements.

6 **IV.**

7 **CONCLUSION**

8 Based upon the foregoing, the Division requests this tribunal to order the following:

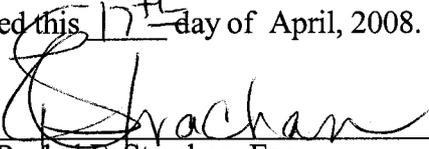
- 9 A. The Respondents to pay restitution to investors;
- 10 B. The Respondents pay administrative penalties;
- 11 C. Find that Edward and Maureen Purvis offered and sold unregistered securities, in the
12 form of company stock and promissory notes, to investors from Arizona;
- 13 D. Find that Gregg and Allison Wolfe offered and sold unregistered securities, in the form
14 of company stock and promissory notes, to investors from Arizona;
- 15 E. Find that NCGMI offered and sold unregistered securities to investors from Arizona;
- 16 F. Find that Edward and Maureen Purvis offered and sold securities while not registered
17 as a salesman, broker or dealer;
- 18 G. Find that Gregg and Allison Wolfe offered and sold securities while not registered as a
19 salesman, broker or dealer;
- 20 H. Find that NCGMI offered and sold securities while not registered as a broker or dealer.
- 21 I. Find that Edward and Maureen Purvis used fraud in connection with the offer and sale
22 of securities; and
- 23 J. Find that Gregg and Allison Wolfe used fraud in connection with the offer and sale of
24 securities.
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Based upon the foregoing and the evidence admitted during the administrative hearing, the Division respectfully requests this tribunal to:

- 1. Order Respondents Purvis and NCGMI to pay restitution pursuant to A.R.S. § 44-2032(1), in the amount of \$11,044,912;
- 2. Order all the Respondents to pay an administrative penalty of not more than five thousand dollars (\$5,000) for each violation of the Act, as the Court deems just and proper, pursuant to A.R.S. § 44-2036(A); The Division recommends a conservative penalty of no less than \$150,000 for Respondent Purvis, Respondent Wolfe, and NCGMI jointly and severally.
- 3. Order Respondents cease and desist from further violations of the Act pursuant to A.R.S. § 44-2032.
- 4. Order any other relief this tribunal deems appropriate or just.

Dated this 17th day of April, 2008.


 By Rachel F. Strachan, Esq.
 Attorney for the Securities Division

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ORIGINAL AND THIRTEEN (13) COPIES of the foregoing
filed this 17~~th~~ day of April, 2008, with

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

COPY of the foregoing hand-delivered this
17~~th~~ day of April, 2008, to:

ALJ Marc Stern
Hearing Officer
Arizona Corporation Commission/Hearing Division
1200 West Washington
Phoenix, AZ 85007

COPY of the foregoing mailed
this 17~~th~~ day of April, 2008 to:

John Maston O'Neal, Esq.
Zachary Cain, Esq.
Quarles & Brady LLP
Renaissance One, Two North Central Avenue
Phoenix, AZ 85004-2391
Attorneys for Respondents Ed and Maureen Purvis

By: VS