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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: securitiesdiv@azcc.gov

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ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Mike Gleason, Chairman
William A. Mundell
Jeff Hatch-Miller
Kristin K. Mayes
Gary Pierce

Arizona Corporation Commission
DOCKETED
APR 11 2008

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2008 APR 11 P 4: 18
AZ CORP COMMISSION
DOCKET CONTROL

FROM: Matthew J. Neubert *MJN*
Director of Securities

DOCKETED BY *NE*

DATE: April 11, 2008

RE: *Michael Andrew Dawes (CRD #62832) and Linda Dawes S-20570A-07-0709*

CC: Brian C. McNeil, Executive Director

Attached is a proposed Consent Order regarding Michael Dawes ("Dawes").

On December 28, 2007, the Division filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, For Administrative Penalties and for Other Affirmative Action ("Notice") alleging that the Respondent and his spouse, Linda, violated the registration and antifraud provisions of the Arizona Securities Act. Linda Dawes was joined in the action as the spouse of Dawes solely for purposes of determining the liability of the martial community. The Division has prepared a proposed order to dismiss Linda Dawes.

Michael Dawes was a registered representative and branch office manager for Emmett A. Larkin Company, Inc.'s Sierra Vista and Green Valley offices in Arizona. On February 5, 2007 Dawes resigned from Emmett Larkin following an audit which revealed that Dawes had accepted loans/investments from Emmett Larkin clients (a/k/a lenders/investors) for a non-existent investment opportunity. In fact, Dawes solicited and raised a total of \$4 million from approximately 80 individuals, many of which were Emmett Larkin clients between 1998 and 2007. Dawes used the solicited funds to pay for losses incurred in the options and stock markets, repay loans to lenders/investors and pay his personal expenses. Dawes still owes lenders/investors approximately \$1.5 million.

On November 6, 2007, Dawes entered into a plea agreement with the United States Attorney's Office and pled guilty to felony Mail Fraud and felony Money Laundering charges.

He will be sentenced on May 2, 2008. At his sentencing hearing, Dawes may be sentenced to serve a prison term and/or pay a fine for each charge. As part of his plea agreement, Dawes has agreed to pay restitution in the amount of the loss to his lenders/investors. The amount of restitution Dawes will be ordered to pay at his sentencing hearing has not yet been determined but is expected to be between \$1.3 to \$1.7 million.

The Division recommends the Commission approve the Consent Order, and believes it is appropriate to protect the public interest.

originator: Rachel F. Strachan

1 responsible for managing Emmett Larkin branch offices in Sierra Vista and Green Valley, Arizona.

2 Currently, DAWES is not affiliated with any securities dealer.

3 4. DAWES is licensed with the Arizona Department of Insurance ("Department of
4 Insurance") to sell life insurance products and variable annuities. DAWES first became licensed to
5 sell life insurance in January 24, 1990. His insurance license expires in June 2011.

6 5. On or about February 5, 2007, DAWES resigned from Emmett Larkin after
7 admitting to law enforcement that he had been accepting loans/investments from
8 lenders/investors for a non-existent investment opportunity. Most but not all of the
9 lenders/investors were Emmett Larkin clients.

10 6. DAWES borrowed/raised about \$4 million from, at least, 80 lenders/investors
11 between 1998 and 2007 by selling securities, in the form of promissory notes. DAWES
12 borrowing/raising funds from lenders/investors, constituted selling securities, in the form of
13 promissory notes. DAWES currently owes lenders/investors approximately \$1.3 to \$1.7 million.
14 However, the exact amount has not yet been determined.

15 7. Many of the lenders/investors interviewed by the Division, stated that DAWES
16 said to them that he intended to use the borrowed funds to invest in a high interest "off-shore"
17 investment, although no such investment existed. These lenders/investors also stated that
18 DAWES promised them high interest returns on these "off-shore" investments, ranging between
19 10% to 30%.

20 8. The parties agree that DAWES failed to disclose to his lenders/investors that the
21 money he received from them would be used to cover his personal losses he incurred from
22 options and stock trading, repay previous lenders/investors and pay some personal expenses.
23 DAWES also failed to disclose to his lenders/investors that the primary source of funds to repay
24 these loans/investments was funds he received other lenders/investors.

25 9. Moreover, DAWES represented to his lenders/investors that their investment or
26 loan would be repaid on a specific date but some loans were not repaid on the date promised.

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3 **CONCLUSIONS OF LAW**

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

6 2. As outlined above, DAWES offered or sold securities within or from Arizona,
7 within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

8 3. DAWES violated A.R.S. § 44-1841 by offering or selling securities that were
9 neither registered nor exempt from registration.

10 4. DAWES violated A.R.S. § 44-1991 by (a) employing a device, scheme or artifice to
11 defraud, (b) making untrue statements or misleading omissions of material facts, and (c) engaging
12 in transactions, practices or courses of business which operate or would operate as a fraud or
13 deceit.

14 5. DAWES' conduct is grounds to revoke DAWES' registration as a securities
15 salesman with the Commission pursuant to A.R.S. § 44-1962 (A). Specifically:

16 a. DAWES has been convicted of a felony involving a transaction in securities,
17 of which fraud was an essential element and which arose out of the conduct of
18 business in securities, within the meaning of A.R.S. §44-1962 (A)(6), through
19 his entry and the United States District Court's acceptance of DAWES' guilty
20 plea to felony Mail Fraud and felony Money Laundering charges in the
21 operation of a "Ponzi scheme" which involved clients of his securities
22 business;

23 b. DAWES has violated A.R.S. §44-1991 of the anti-fraud provisions of the
24 Securities Act, within the meaning of A.R.S. §44-1962 (A)(2), by
25 misrepresenting or omitting material facts to lenders/investors by telling them
26 that they could earn a high rate of return for loaning DAWES money in an
investment DAWES described as being similar to an off-shore
loan/investment, when such an investment did not exist;

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- c. DAWES has been found guilty of a fraudulent act in connection with the purchase and sale of securities, within the meaning of A.R.S. §44-1962 (A)(9), through his entry and the United States District Court's acceptance of DAWES' guilty plea to felony Mail Fraud and felony Money Laundering charges which arose from DAWES misleading lenders/investors about how the funds he borrowed would be used and that lenders/investors were being repaid with funds from other lenders/investors; and
- d. DAWES employed a manipulative or deceptive device or contrivance, in connection with the purchase or sale of a security, as defined by A.A.C. Rule R14-4-130(14), by not providing his lender/investors the actual reason he borrowed funds from them.

6. DAWES' conduct is grounds to assess administrative penalties and/or take appropriate affirmative action pursuant to A.R.S. § 44-1962 (B). Specifically:

- a. DAWES has engaged in dishonest or unethical practices in business and financial matters, within the meaning of A.R.S. § 44-1962 (A)(10) as defined by A.A.C. R14-4-130(A)(15), by borrowing money from his brokerage clients;
- b. DAWES has engaged in dishonest or unethical practices in business and financial matters within the meaning of A.R.S. § 44-1962 (A)(10) as defined by A.A.C. R14-4-130(A)(16), by using clients' funds for his own personal benefit; and
- c. DAWES has engaged in dishonest or unethical practices in business and financial matters within the meaning of A.R.S. § 44-1962 (A)(10) as defined by A.A.C. R14-4-130(A)(17), by selling securities that were not recorded on the records of his dealer, Emmett Larkin, with whom DAWES was registered at the time of the transactions.

1 amount outstanding for this administrative penalty shall accrue interest at the rate of 10% per
2 annum.

3 IT IS FUTHER ORDERED, pursuant to A.R.S. §44-1962, that the Respondent's securities
4 salesman registration is permanently revoked.

5 For purposes of this Order, a bankruptcy filing by Respondent shall be an act of default. If
6 the Respondent does not comply with this Order, any outstanding balance may be deemed in
7 default and shall be immediately due and payable to the state of Arizona. Any amount in default
8 shall accrue interest at the rate of 10% per annum.

9 IT IS FURTHER ORDERED, that if the Respondent fails to comply with this order, the
10 Commission may bring further legal proceedings against him, including application to the superior
11 court for an order of contempt.

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

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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16 CHAIRMAN

COMMISSIONER

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18 COMMISSIONER

COMMISSIONER

COMMISSIONER

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20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
21 Executive Director of the Arizona Corporation
22 Commission, have hereunto set my hand and caused the
23 official seal of the Commission to be affixed at the
24 Capitol, in the City of Phoenix, this _____ day of
_____, 2008.

25 _____
26 BRIAN C. McNEIL
Executive Director

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DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, Executive Assistant to the Executive Director, voice phone number 602-542-3931, E-mail lhogan@azcc.gov.

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CONSENT TO ENTRY OF ORDER

1. MICHAEL ANDREW DAWES (a/k/a MICHAEL DAWES) (“Respondent”) admits the jurisdiction of the Commission over the subject matter of this proceeding. Respondent acknowledges that he has been fully advised of his right to a hearing to present evidence and call witnesses and Respondent knowingly and voluntarily waives any and all rights to a hearing before the Commission and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. Respondent acknowledges that this Order to Cease and Desist, Order for Administrative Penalties and Consent to Same (“Order”) constitutes a valid final order of the Commission.

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

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

4. Respondent acknowledges that he has been represented by attorney A. Bates Butler III of the law firm of Fennemore Craig, P.C. in this matter. Respondent has reviewed this Order with his attorney and understands all terms it contains.

5. Respondent admits only for purposes of this proceeding and any other administrative proceeding before the Commission the Findings of Fact and Conclusions of Law contained in this Order. Respondent agrees that he shall not contest the validity of the Findings of Fact and Conclusions of Law contained in this Order in any present or future administrative proceeding before the Commission concerning the denial or issuance of any license or registration required by the State to engage in the practice of any business or profession.

6. By consenting to the entry of this Order, Respondent agrees not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding

1 of Fact or Conclusion of Law in this Order or creating the impression that this Order is without
2 factual basis.

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

6 8. Respondent agrees that he will not apply to the state of Arizona for registration as a
7 securities dealer or salesman or for licensure as an investment adviser or investment adviser
8 representative, at anytime in the future.

9 9. Respondent agrees that he will not exercise any control over any entity that offers
10 or sells securities or provides investment advisory services, within or from Arizona, at any time in
11 the future.

12 10. Respondent agrees that he will not sell any securities, in or from Arizona, at
13 anytime in the future.

14 11. Respondent agrees that Respondent will continue to cooperate with the Securities
15 Division including, but not limited to, providing complete and accurate testimony at any hearing in
16 this matter and cooperating with the state of Arizona in any related investigation or any other
17 matters arising from the activities described in this Order.

18 12. Respondent consents to the entry of this Order and agrees to be fully bound by its
19 terms and conditions.

20 13. Respondent acknowledges and understands that if he fails to comply with the
21 provisions of the order and this consent, the Commission may bring further legal proceedings
22 against him, including application to the superior court for an order of contempt.

23 14. Respondent understands that default shall render him liable to the Commission for
24 its costs of collection and interest at the maximum legal rate.

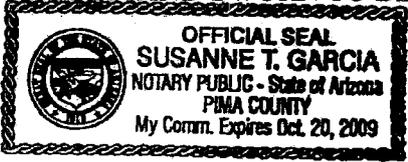
25 15. Respondent agrees and understands that if he fails to make any payment as required
26 in the Order, any outstanding balance shall be in default and shall be immediately due and payable

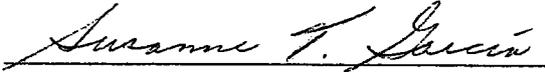
1 to the state of Arizona without notice or demand. Respondent agrees and understands that
2 acceptance of any partial or late payment by the Commission is not a waiver of default by
3 Commission.

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5 
6 Michael Andrew Dawes (a/k/a Michael Dawes)

7 STATE OF ARIZONA)
8) ss
9 County of *PIMA*)

10 SUBSCRIBED AND SWORN TO BEFORE me this 11th day of April, 2008.



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12 NOTARY PUBLIC

13 My Commission Expires:
14 October 20, 2009

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