	ORIGINAL REW APPLICATION 0000086928	
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2008 JUL 2	3 A 8: 40	
	OMMISSION CONTROL BEFORE THE ARIZONA CORPORATION COMMISSION	
4 5	COMMISSIONERS Arizona Corporation Commission	
6	MIKE GLEASON, Chairman WILLIAM A. MUNDELL JUL 2 3 2008	
7	JEFF HATCH-MILLER KRISTIN K. MAYES CARY DIERCE	
8	GARY PIERCE	
9	In the matter of: ) DOCKET NO. S-20605A-08-0377	
10	Richard Bradford (CRD# 2706290) and Cindy ) NOTICE OF OPPORTUNITY FOR HEARING Bradford (a.k.a. Cindy White), husband and ) REGARDING PROPOSED ORDER TO	
11	wife; ) CEASE AND DESIST, ORDER FOR ) RESTITUTION, FOR ADMINISTRATIVE	
12	) PENALTIES, AND FOR OTHER ) AFFIRMATIVE ACTION	
13	Respondent. )	
14	)	
15		
16	NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING	
17	EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER	
18	The Securities Division ("Division") of the Arizona Corporation Commission ("Commission")	
19	alleges that Respondent Richard Bradford has engaged in acts, practices, and transactions that	
20	constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 et seq. ("Securities Act") and	
21	A.R.S. § 44-3101, et seq., the Investment Management Act ("IM Act").	
22	I.	
23	JURISDICTION	
24	1. The Commission has jurisdiction over this matter pursuant to Article XV of the	
25	Arizona Constitution, the Securities Act, and the IM Act.	
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1	II.
2	RESPONDENT
3	2. Richard Bradford ("BRADFORD") is an individual residing in Maricopa County,
4	Arizona.
5	3. BRADFORD may be referred to individually as "Respondent."
6	4. Cindy Bradford, a.k.a Cindy White, ("C. BRADFORD"), at all times relevant, was
7	the spouse of Respondent BRADFORD and may be referred to as "Respondent Spouse."
8	Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely for purposes of
9	determining the liability of the marital community.
10	5. At all times relevant, BRADFORD was acting for his own benefit and for the benefit
11	or in furtherance of the marital community.
12	III.
13	FACTS
14	6. At all times relevant, Respondent was not registered with the Commission as a
15	dealer or salesman. BRADFORD (CRD# 2706290) has not been a registered salesman since 2001
16	and has never been a registered dealer.
17	7. The securities offered and/or sold by BRADFORD are not registered with the
18	Commission.
19	8. At all times relevant, BRADFORD was not licensed as an Investment Adviser or
20	Investment Adviser Representative.
21	9. Potential Investor(s) ("PI") or LLC member(s) may be referred to individually or
22	collectively as "investor(s)," as the context so requires.
23	10. From on or about March 1, 2006, BRADFORD publicly offered and sold
24	unregistered securities in the form of investment contracts, within or from Arizona.
25	11. From on or about March 1, 2006, BRADFORD solicited PIs, in or from Arizona, to
26	pool money for an investment fund that would invest in stocks and various securities that would be

chosen and managed by BRADFORD and the returns would be based on his decisions,
 management, and efforts. The investment fund was commonly referred to by BRADFORD as a
 "Hedge Fund" called Fishing Partners-Salmon.

4 12. Profits were to be paid out to each investor proportionate to their percentage of 5 contribution.

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13. BRADFORD represented to at least one investor that:

a) He was an experienced and "licensed" securities salesman who was featured
8 on CNN;

9 b) He had managed large funds in the past, making minimum returns of 30% or
10 greater annually;

c) The investment provided low risk of devaluation or losses because
BRADFORD "never lost money";

d) The proposed fund would be highly liquid at all times to allow investors to
cash out easily upon request; and

e) That he was currently managing a separate multimillion dollar fund for the
famous billionaire investor T-Boone Pickens.

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14. However, none of the representations were in fact true.

18 15. BRADFORD represented to at least one investor not to worry about losing his
19 principal as BRADFORD was worth millions and could guarantee the funds. However, when
20 losses did arise, BRADFORD did not repay the investor his principal or interest upon request.

16. BRADFORD represented to at least one investor that he would guarantee a
minimum of 20% annual return; however the investor has not received such a return and his
investment has decreased in value.

24 17. Prior to investment, BRADFORD represented to at least one investor that monthly
25 audited statements would be provided to the investor by an accountant. However, all statements

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submitted to investors after investing were created by BRADFORD in the form of emails and
 spreadsheet account summaries and are not audited.

18. On or about March 7, 2006 the Fishing Partners – Salmon, LLC ("FPS LLC") was
formed in the State of Arizona. FPS LLC was formed to allow BRADFORD to manage the
investor funds and to provide investors with an interest in the fund. Two investors were listed as
members of the FPS LLC at this time.

7 19. Pursuant to public records of the Commission, at all times relevant BRADFORD
8 was the manager of FPS LLC.

9 20. On or about March 8, 2006, BRADFORD opened a brokerage account in FPS 10 LLC's name with Scottrade, Inc., ("Scottrade Account"), an online brokerage firm, to deposit the 11 pooled money which enabled BRADFORD to, including but not limited to, trade stocks and 12 options, use margin trading (to use borrowed funds to employ trades or trading strategies), and 13 write authorized checks.

14 21. On or about March 9, 2006, at least one investor's monies were deposited into the
15 Scottrade Account to allow BRADFORD to manage and trade.

16 22. BRADFORD was the only individual authorized to transact and access the
17 Scottrade Account for all times relevant.

18 23. None of the investors managed or participated in the management of the Scottrade19 Account.

20 24. A formal FPS LLC Operating Agreement ("Operating Agreement") was drafted to
21 memorialize the legal rights and agreements of BRADFORD, FPS LLC and each investor.
22 Investors would be given "unit certificates" representing a certain number of shares of FPS LLC
23 that corresponded with their respective interest in the fund based on their percentage of
24 contribution.

25 25. The Operating Agreement stated that FPS LLC was formed for the purpose of 26 operating a financial services company and any other lawful business. 1 26. All profits would inure to FPS LLC and then be paid out annually or as determined 2 by a majority of members, to investors in proportion to their interest as reflected in the "unit 3 certificate."

4 27. The Operating Agreement was executed by six (6) total investors (the two original 5 March 7, 2006 LLC members plus 4 additional investors), who were combined and all became 6 members of the FPS LLC, which became effective as of May 1, 2006. The investors each received 7 a "unit certificate" document evidencing their respective interest based on their percentage of 8 contribution.

9 28. Pursuant to the Operating Agreement, BRADFORD as Manager, was vested the 10 power to manage and control the business affairs of FPS LLC as evidenced by the "Powers of the 11 Manager(s)" enumerated in the Operating Agreement Section VII, subsection (A) and (B) 12 respectively, including but not limited to, the ability to:

a) "To engage in any activity and to execute, perform, and carry out the
purchase or sale of investments, execution of trades, contracts or agreements of any kind [...].";

b) "To sell, exchange, convey, lease, or otherwise dispose of all or part of any
personal Company property [...]" with approval by at least 60% of members;

17 c) "To acquire by purchase, lease, exchange, or otherwise any Company
18 tangible or intangible asset [...].";

d) "[...], to lend money and receive debt instruments [...] on behalf of the
Company for any approved Company purpose [...]";

e) "To employ agents, employees, [and other third parties to carry out the
Company business]"; and

23 24 f) "To invest and reinvest, on behalf of the Company, Company funds [...]."

25 29. In addition, the FPS LLC Operating Agreement Section VII, subsection (F) stated 26 that no individual member shall take part in the control or management of FPS LLC business.

BRADFORD executed hundreds of trades within the Scottrade Account on almost a 30. daily basis and made decisions, such as the advisability of investing in the type of and which 2 security. 3

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BRADFORD and FPS LLC, through its members, agreed that the compensation for 31. 4 his management and services would equate to (i) a one-time management fee equal to 2% of the 5 capital investment made by the investor and (ii) 20% of all profits made by the "Hedge Fund" to be 6 7 paid quarterly and no unauthorized withdrawals by BRADFORD were allowed. This was memorialized in the Operating Agreement. 8

32. All investment services and advice provided by BRADFORD would be paid as part 9 of the above compensation structure as there were no other contracts between the parties. 10

For all times relevant, BRADFORD had custody of the investor's assets as the sole 33. 11 applicant on the FPS Scottrade Account and sole party to transact and manage the pooled investor 12 13 funds.

34. BRADFORD delivered periodic unaudited statements to investors showing 14 individual balances and year-to-date gains exceeding 30% (and some higher than 100%) to 15 investors; however the balances and year-to-date gains submitted did not reflect the true and actual 16 account balances and gains, which were far below the values represented by BRADFORD and 17 18 were actually negative.

On or about August 15, 2007, based on the statements showing profits and positive 35. 19 returns, at least one investor purchased additional FPS membership interests of \$250,000 20 ("Additional Investment") and his monies were deposited into the Scottrade Account. 21

Prior to the deposit of the Additional Investment, the Scottrade Account balance 36. 22 was less than \$500. 23

37. Approximately 7 days following the Additional Investment deposit, BRADFORD 24 wrote a check for \$70,000 from the Scottrade Account to a different investor who had been 25 26 requesting liquidation.

38. BRADFORD failed to disclose to investors that the funds received would be used to
 pay other investors.

3 39. BRADFORD represented to at least one investor that they could easily liquidate
4 upon request.

40. Multiple investors, who requested liquidation were unsuccessful and received
nothing. The Scottrade Account held almost all positions on margin and the Scottrade Account
balances were far below their reported statement balances provided by BRADFORD to investors.

8 41. BRADFORD wrote checks and/or withdrew funds from the Scottrade Account over
9 30 times from the period of March 2006 through November 2007 in violation of the Operating
10 Agreement and without authorization. Some of the checks and/or withdrawals were marked as
11 earned fees or commissions by BRADFORD when in fact no fees or commission were earned
12 pursuant to the Operating Agreement since no net profits were realized. Checks were made out to
13 BRADFORD and C.BRADFORD, who deposited them into their personal banking accounts to pay
14 for credit cards and other miscellaneous purchases.

42. BRADFORD raised at least \$1,298,416.36 from at least 6 investors. At least 6 investors also paid a one-time management fee to BRADFORD equal to 2% of their principal.
These payments were in exchange for an interest in the fund and services provided by BRADFORD.

43. On or about November 30, 2007, by majority approval of the investors/members,
BRADFORD was replaced as the Manager of FPS LLC. This amendment was filed with the
Commission on February 15, 2008.

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# IV.

### VIOLATION OF A.R.S. § 44-1841

#### (Offer or Sale of Unregistered Securities)

44. From on or about March 1, 2006, Respondent offered or sold securities in the form
of investment contracts, within or from Arizona.

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1	45. The securities referred to above were not registered pursuant to Articles 6 or 7 of the
2	Securities Act.
3	46. This conduct violates A.R.S. § 44-1841.
4	V.
5	VIOLATION OF A.R.S. § 44-1842
6	(Transactions by Unregistered Dealers or Salesmen)
7	47. Respondent offered or sold securities within or from Arizona while not registered as
8	a dealer or salesman pursuant to Article 9 of the Securities Act.
9	48. This conduct violates A.R.S. § 44-1842.
10	VI.
11	VIOLATION OF A.R.S. § 44-1991
12	(Fraud in Connection with the Offer or Sale of Securities)
13	49. In connection with the offer or sale of securities within or from Arizona, Respondent
14	directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue
15	statements of material fact or omitted to state material facts that were necessary in order to make the
16	statements made not misleading in light of the circumstances under which they were made; or (iii)
17	engaged in transactions, practices, or courses of business that operated or would operate as a fraud
18	or deceit upon offerees and investors. Respondent's conduct includes, but is not limited to, the
19	following:
20	a) Misrepresented to at least one investor that he was a "licensed" securities
21	salesman when in fact he was not. BRADFORD has not been registered as a salesman since 2001
22	and has never been a registered dealer;
23	b) Delivered periodic unaudited statements to investors showing individual
24	balances and year-to-date gains exceeding 30% (and some higher than 100%) to investors; however
25	the balances and year-to-date gains submitted did not reflect the true and actual account balances
26	and gains, which were far below the values represented by BRADFORD and were actually negative;
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1	c) Misrepresented to at least one investor not to worry about losing their
2	principal as he was worth millions and could guarantee the funds. However, when losses did arise,
3	BRADFORD did not repay the investor their principal or interest upon request;
4	d) Misrepresented that he was a current trader for T. Boone Pickens and
5	managed a multimillion dollar fund when in fact he was not and never had been a trader or fund
6	manager for T. Boone Pickens;
7	e) Failed to disclose that investor funds received would be used to pay other
8	investors; and
9	f) Failed to disclose that FPS Scottrade Account funds would be withdrawn for
10	personal use when no authority or authorization was obtained or given and BRADFORD marked
11	some withdrawals as earned fees or commissions, when in fact no fees or commissions were earned
12	pursuant to the Operating Agreement since no net profits were realized;
13	50. This conduct violates A.R.S. § 44-1991.
14	VII.
14 15	VII. VIOLATION OF A.R.S. § 44-3151
15	VIOLATION OF A.R.S. § 44-3151
15 16	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative)
15 16 17	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative) 51. Respondent transacted business in Arizona as an investment adviser or investment
15 16 17 18	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative) 51. Respondent transacted business in Arizona as an investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act.
15 16 17 18 19	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative) 51. Respondent transacted business in Arizona as an investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act. 52. This conduct violates A.R.S. § 44-3151.
15 16 17 18 19 20	<ul> <li>VIOLATION OF A.R.S. § 44-3151</li> <li>(Transactions by unregistered investment adviser or investment advisor representative)</li> <li>51. Respondent transacted business in Arizona as an investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act.</li> <li>52. This conduct violates A.R.S. § 44-3151.</li> <li>VIII.</li> </ul>
15 16 17 18 19 20 21	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative) 51. Respondent transacted business in Arizona as an investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act. 52. This conduct violates A.R.S. § 44-3151. VIII. VIOLATION OF A.R.S. § 44-3241
<ol> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative) 51. Respondent transacted business in Arizona as an investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act. 52. This conduct violates A.R.S. § 44-3151. VIII. VIOLATION OF A.R.S. § 44-3241 (Fraud in the provision of investment advisory services)
<ol> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	VIOLATION OF A.R.S. § 44-3151         (Transactions by unregistered investment adviser or investment advisor representative)         51.       Respondent transacted business in Arizona as an investment adviser or investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act.         52.       This conduct violates A.R.S. § 44-3151.         VIII.         VIOLATION OF A.R.S. § 44-3241         (Fraud in the provision of investment advisory services)         53.       Respondent engaged in a transaction or transactions within or from Arizona
<ol> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	VIOLATION OF A.R.S. § 44-3151 (Transactions by unregistered investment adviser or investment advisor representative) 51. Respondent transacted business in Arizona as an investment adviser or investment adviser representative while not licensed or in compliance with Article 4 of the IM Act. 52. This conduct violates A.R.S. § 44-3151. VIII. VIOLATION OF A.R.S. § 44-3241 (Fraud in the provision of investment advisory services) 53. Respondent engaged in a transaction or transactions within or from Arizona involving the provision of investment advisory services in which BRADFORD are, directly or

made not misleading in light of the circumstances under which they are made; (iii) misrepresenting 1 professional qualifications with the intent that the client rely on the misrepresentation; or (iv) 2 engaging in transactions, practices, or courses of business that operate or would operate as a fraud or 3 deceit. Respondent's conduct includes, but is not limited to, the following: 4 Delivered periodic unaudited statements showing individual balances and a) 5 year-to-date gains exceeding 30% (and some higher than 100%) to investors; however the balances 6 and year-to-date gains submitted did not reflect the true and actual account balances and gains, 7 which were far below the stated values and were actually negative; and 8 Misappropriated investment funds for personal use and marked some b) 9 withdrawals as earned fees or commissions, when in fact no fees or commissions were earned 10 pursuant to the Operating Agreement since no net profits were realized. 11 54. This conduct violates A.R.S. § 44-3241. 12 IX. 13 **REQUESTED RELIEF** 14 The Division requests that the Commission grant the following relief: 15 Order Respondent to permanently cease and desist from violating the Securities Act, 55. 16 pursuant to A.R.S. § 44-2032, and the IM Act, pursuant to § 44-3292; 17 Order Respondent to take affirmative action to correct the conditions resulting from 56. 18 Respondent's acts, practices, or transactions, including a requirement to make restitution pursuant to 19 A.R.S. §§ 44-2032, and 44-3292; 20 Order Respondent to pay the state of Arizona administrative penalties of up to five 57. 21 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036; 22 58. Order Respondent to pay the state of Arizona administrative penalties of up to one 23 thousand dollars (\$1,000) for each violation of the IM Act, pursuant to A.R.S. § 44-3296; 24 25 26

1 59. Order that the marital communities of Respondent and Respondent Spouse be 2 subject to any order of restitution, rescission, administrative penalties, or other appropriate 3 affirmative action pursuant to A.R.S. § 25-215; and

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Order any other relief that the Commission deems appropriate.

### **HEARING OPPORTUNITY**

Respondent, including Respondent Spouse may request a hearing pursuant to A.R.S. §§ 44-7 1972, 44-3212 and A.A.C. R14-4-306. If a Respondent or Respondent Spouse requests a 8 hearing, the requesting Respondent must also answer this Notice. A request for hearing must be 9 in writing and received by the Commission within 10 business days after service of this Notice of 10 Opportunity for Hearing. The requesting Respondent must deliver or mail the request to Docket 11 Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing 12 instructions may be obtained from Docket Control by calling (602) 542-3477 or on the 13 Commission's Internet web site at http://www.azcc.gov/divisions/hearings/docket.asp. 14

15 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 16 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the 17 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission 18 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of 19 Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language
interpreter, as well as request this document in an alternative format, by contacting Linda Hogan,
ADA Coordinator, voice phone number 602/542-3931, e-mail <u>lhogan@azcc.gov</u>. Requests should
be made as early as possible to allow time to arrange the accommodation.

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#### ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing, the requesting Respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at http://www.azcc.gov/divisions/hearings/docket.asp.

Additionally, the answering Respondent must serve the Answer upon the Division. 9 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-10 delivering a copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, 11 Arizona, 85007, addressed to Phong (Paul) Huynh. 12

The Answer shall contain an admission or denial of each allegation in this Notice and the 13 original signature of the answering Respondent or Respondent's attorney. A statement of a lack of 14 sufficient knowledge or information shall be considered a denial of an allegation. An allegation 15 not denied shall be considered admitted. 16

When the answering Respondent intends in good faith to deny only a part or a qualification 17 of an allegation, the Respondent shall specify that part or qualification of the allegation and shall 18 admit the remainder. Respondent waives any affirmative defense not raised in the answer. 19

The officer presiding over the hearing may grant relief from the requirement to file an 20 Answer for good cause shown. 21

Dated this 23rd day of July, 2008.

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Matthew J. Neubert Director of Securities

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