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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

SEP 13 2008

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

DOCKETED BY
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In the matter of:

JAMES JONATHON FRASER
BUCHANAN, CRD# 2452897 and JANE
DOE BUCHANAN, husband and wife,

Respondents.

DOCKET NO. S-20620A-08-0472

NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO
CEASE AND DESIST, ORDER FOR
RESTITUTION, FOR ADMINISTRATIVE
PENALTIES, OF REVOCATION AND FOR
OTHER AFFIRMATIVE ACTION

**NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondent JAMES JONATHON FRASER BUCHANAN ("BUCHANAN") has engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

I.

JURISDICTION

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

II.

RESPONDENT

2. BUCHANAN, CRD# 2452897, was at all pertinent times a resident of Chandler, Arizona, and a registered securities salesman in Arizona. BUCHANAN was affiliated with LPL

1 Financial Corporation ("LPL") from June 1, 2006, until he was discharged on or around March 21,
2 2008. LPL reported on the Central Registration Depository ("CRD") of the Financial Industry
3 Regulatory Authority, Inc. ("FINRA") that BUCHANAN's discharge was based upon the firm's
4 review of "documents reflecting investments not held or offered by the firm," including "documents
5 reflecting payments by individuals to Mr. BUCHANAN directly" and "documents reflecting
6 purported investment statements not authorized or approved by the firm." LPL discharged
7 BUCHANAN based upon the same transactions that are the subject of this action. Prior to his
8 association with LPL, BUCHANAN was affiliated with American Express Financial Advisors, Inc.
9 ("AEFA"), now known as Ameriprise Financial Services, Inc. ("Ameriprise"), from February 2,
10 1994, until he voluntarily terminated his association on January 23, 2006. BUCHANAN was at all
11 pertinent times licensed with the Arizona Department of Insurance as a producer, authorized to
12 sell accident/health and life insurance, and variable life/variable annuity products.

13 3. JANE DOE BUCHANAN was at all relevant times the spouse of BUCHANAN;
14 JANE DOE BUCHANAN may be referred to as "Respondent Spouse." Respondent Spouse is
15 joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of
16 the marital community.

17 4. At all times relevant, BUCHANAN was acting for his own benefit and for the
18 benefit or in furtherance of BUCHANAN and Respondent Spouse's marital community.

19 III.

20 FACTS

21 5. Beginning as early as 2001, BUCHANAN, operating out of Chandler, Arizona,
22 engaged in an elaborate fraudulent scheme to offer to sell various types of securities, including
23 debentures, which he described as "debentures with conversion privileges" and "7% Certificates."

24 6. BUCHANAN told customers that they were investing in one or more coal
25 companies, including Hannah Energy, Inc. ("HEI") and Clean Coal Technologies, Inc. ("CCT"),
26 based in Florida.

1 7. BUCHANAN made various representations to customers to persuade them that the
2 securities he offered were safe from risk and profitable. These representations included statements
3 that the investments were secure; that the investors would receive needed monthly income in the
4 form of interest payments; and that the investments would not be influenced by fluctuations in the
5 market.

6 8. BUCHANAN distributed various documents to customers, including copies of
7 contracts entitled "Debenture Agreement with Conversion Privileges."

8 9. Some of BUCHANAN's customers, including elderly Arizona investors who had
9 long-term relationships with BUCHANAN as their financial planner, invested their life savings in
10 these debentures and certificates, believing BUCHANAN's reassurances that these investments
11 were safe and would provide needed income, and trusting BUCHANAN as their friend.

12 10. BUCHANAN falsely claimed that the certificates and debentures were sold through
13 his dealers.

14 11. BUCHANAN distributed fictitious documents to customers reflecting customers'
15 purported purchase of these securities through BUCHANAN's dealer, for example dealer
16 "Confirmation" forms reflecting purchases of "Investor Certificate 7%" or "HEI Debenture 10%,"
17 and fictitious dealer customer account statements reflecting purported accumulated earnings as
18 "interest payable."

19 12. These securities transactions were not effected through BUCHANAN's dealers, and
20 BUCHANAN's dealers did not authorize BUCHANAN to offer these securities.

21 13. BUCHANAN persuaded customers of his dealers to sell other securities that they
22 owned, including bank certificates of deposit and mutual fund accounts, or to liquidate IRA
23 account investments to purchase the certificates and debentures.

24 14. BUCHANAN directed customers to give him personal checks payable to
25 BUCHANAN, which violated his dealers' rules prohibiting registered securities salesmen from
26 accepting direct payment of funds from customers for the purchase of securities.

1 15. In at least one instance, a customer questioned BUCHANAN regarding his authority
2 to accept direct payments of funds, and BUCHANAN told the customer to that her money was
3 secure if she made the payment to him as “CFP,” which she did. BUCHANAN was not a certified
4 financial planner, and therefore, was not authorized to use the “CFP” designation.

5 16. BUCHANAN had some customers sign dealer forms entitled “Wired Funds
6 Authorization,” in which BUCHANAN represented that he was transferring customer funds from
7 customers’ brokerage accounts to brokerage accounts of the companies purportedly issuing the
8 securities, for example, “Clean Coal Technologies, Inc.”

9 17. BUCHANAN told customers that they would receive official ownership documents
10 after their purchases. In some cases, customers did not receive official “certificates” of ownership,
11 but were not concerned after they started receiving monthly statements or interest payments from
12 BUCHANAN. Upon information and belief, BUCHANAN did not use the money obtained from
13 these customers to purchase securities in their names, but deposited their funds in his own bank
14 account and paid the “interest” payments to them out of his own account.

15 18. BUCHANAN effected securities transactions that were not recorded on the records
16 of the dealers with whom BUCHANAN was registered at the time of the transactions. This sales
17 practice is referred to as “selling away” and is prohibited conduct in the securities industry, and is
18 defined as a dishonest and unethical conduct under the Arizona Securities Act.

19 19. On or about March 21, 2008, LPL discharged BUCHANAN after learning from the
20 Maricopa County Sheriff’s Office that BUCHANAN was under criminal investigation for alleged
21 fraudulent conduct involving securities customers, relating to these purported securities
22 transactions.

23 20. After learning that LPL discharged BUCHANAN, some customers attempted to
24 verify their ownership of the securities, and learned that there was no record of any purchase of
25 securities in their names. These customers do not know where or how BUCHANAN used their
26 funds, which they paid to him for the purchase of debentures and certificates.

V.

REMEDIES PURSUANT TO A.R.S. § 44-1962

(Denial, Revocation, or Suspension of Registration of Salesman; Restitution, Penalties, or other Affirmative Action)

24. Pursuant to A.R.S. §§ 44-1962(A)(2) and (A)(10), BUCHANAN's conduct is grounds to revoke BUCHANAN's registration with the Commission as a securities salesman. Specifically, BUCHANAN has:

a) Engaged in conduct providing grounds for revocation under A.R.S. § 44-1962(A)(2), by misrepresenting and failing to disclose material facts in connection with the sale of those securities, in violation of A.R.S. § 44-1991 of the Securities Act.

b) Engaged in conduct providing grounds for revocation under A.R.S. § 44-1962(A)(10), for dishonest and unethical practices in the securities industry, as defined in R14-4-130(A)(16) and (17) by effecting securities transactions that have not been recorded on the records of the dealer with whom he was registered at the time of the transactions, within the meaning of A.A.C. Rule R14-4-130(A)(17).

25. BUCHANAN's conduct is grounds to assess restitution, penalties and/or take appropriate affirmative action pursuant to A.R.S. § 44-1962. Specifically, BUCHANAN has engaged in conduct providing grounds for revocation under A.R.S. § 44-1962(A)(10), for dishonest and unethical practices in the securities industry, by making unauthorized use of securities or funds of customers or converting customer securities or funds for personal benefit, within the meaning of A.A.C. Rule R14-4-130(A)(16), and by effecting securities transactions that have not been recorded on the records of the dealer with whom he was registered at the time of the transactions, within the meaning of A.A.C. Rule R14-4-130(A)(17).

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VI.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order BUCHANAN to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
2. Order BUCHANAN to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-1962;
3. Order BUCHANAN to take affirmative action to correct the conditions resulting from Respondent's acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. §§ 44-2032 and 44-1962;
4. Order BUCHANAN to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
5. Order BUCHANAN to pay the state of Arizona administrative penalties, pursuant to A.R.S. § 44-1962;
6. Order the revocation of BUCHANAN's registration as a securities salesman pursuant to A.R.S. § 44-1962;
7. Order that the marital community of Respondent BUCHANAN and Respondent Spouse be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
8. Order any other relief that the Commission deems appropriate.

VII.

HEARING OPPORTUNITY

Each respondent including Respondent Spouse may request a hearing pursuant to A.R.S. §§ 44-1972 and A.A.C. R14-4-306. **If Respondent or Respondent Spouse requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity

1 for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona
2 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may
3 be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web
4 site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

5 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin
6 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the
7 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission
8 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of
9 Opportunity for Hearing.

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

14 **VIII.**

15 **ANSWER REQUIREMENT**

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

22 Additionally, the answering respondent must serve the Answer upon the Division.
23 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
24 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix,
25 Arizona, 85007, addressed to Pam Johnson, the attorney of record.

26 . . .

1 The Answer shall contain an admission or denial of each allegation in this Notice and the
2 original signature of the answering respondent or respondent's attorney. A statement of a lack of
3 sufficient knowledge or information shall be considered a denial of an allegation. An allegation
4 not denied shall be considered admitted.

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

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

10 Dated this 11 day of September, 2008.

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14 Matthew J. Neubert
15 Director of Securities
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