

NEW APPLICATION

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 13 2009

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In the matter of:  
West Mining and Innovations, Inc., an Arizona  
corporation,  
Avison C. (AC) West and Barbara M. West,  
Husband and Wife,  
Respondents.

DOCKET NO. S-20661A-09-0108

TEMPORARY ORDER TO CEASE AND  
DESIST AND NOTICE OF  
OPPORTUNITY FOR HEARING

**NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**

**EACH RESPONDENT HAS 20 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 Respondents West Mining and Innovations, Inc. and Avison C. West are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

**I.**

**JURISDICTION**

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

**II.**

**RESPONDENTS**

2. Avison C. (AC) West ("WEST") is an individual residing in Maricopa County, Arizona.

1           3.      West Mining and Innovations, Inc. (“WM&I”) is an Arizona corporation with its  
2 principal place of business in Gilbert, Arizona.

3           4.      Pursuant to public records of the Commission, WEST is a member of the board of  
4 directors of WM&I. WEST also represents himself as the owner and president of WM&I in  
5 electronic mail communications.

6           5.      WM&I and WEST may be referred to collectively as “Respondents.”

7           6.      Barbara M. West has been at all relevant times the spouse of Respondent WEST and  
8 may be referred to as “Respondent Spouse.” Respondent Spouse is joined in this action under  
9 A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital community.

10           7.      At all relevant times, WEST has been acting for his own benefit and for the benefit  
11 or in furtherance of the marital community.

12    **III.**

13    **FACTS**

14           8.      On or about March 3, 2009, WEST on behalf of WM&I, posted an investment  
15 opportunity on the Internet through [phoenix.craigslist.org](http://phoenix.craigslist.org) available for all internet users to view  
16 without password protection. The craigslist.org advertisement was specifically directed to Arizona  
17 residents since it was posted to the Phoenix, Arizona section of the website and it included the  
18 following statements:

19                a)      That described WEST as a geologist with a doctorate in geology specializing  
20 in precious metals recovery. WEST stated he had over 25 years of experience in this field;

21                b)      That WEST is seeking \$50,000 and offering offerees and/or investors  
22 preferred stock in his WM&I corporation, which will be redeemed within 180 days of investment  
23 for “BARS of REFINED gold bullion of at least 99.99% purity equaling a total TROY weight of  
24 100 TROY POUNDS (1400 troy ounces)” (*emphasis in original*);

25                c)      “Even at a LOW value of normal SPOT gold price of just \$500.00 an ounce,  
26 that would equal \$700,000.00 in dollar value” (*emphasis in original*);

1           d)     That the investment based in gold is safer than the stock market. He also  
2 stated that, “[t]his is about as safe as it can get for an investment that can return so much”;

3           e)     That the Spot rate for gold would not fall below \$500 a troy ounce  
4 minimum;

5           f)     That WEST had “access to some extremely rich gold reserves that are prime  
6 to tap”;

7           g)     That the recovery of the gold would be based on a new high-tech science  
8 method developed by WEST; and

9           h)     That an additional profit could be realized by securing government contracts  
10 or government funds that were earmarked in a recent legislative bill to clean up, reclaim and close  
11 abandoned mines in Arizona.

12           9.     However, WEST can not ensure that the spot gold price would not fall below \$500 a  
13 troy ounce minimum since that is dictated by market force.

14           10.    An Arizona offeree contacted WEST as a result of this advertisement.

15           11.    On or about March 9, 2009, WEST, on behalf of WM&I, responded and transmitted  
16 a document titled “The Project” to the offeree describing the investment opportunity. The Project  
17 document stated the following:

18           a)     That WEST would purchase the historic “Vulture Mine” located in  
19 Wickenburg, Arizona;

20           b)     The Vulture Mine is currently flooded and has “over 30 MILES of flooded  
21 tunnels, there are literally billions of gallons of rich gold bearing waters to process” (*emphasis in*  
22 *original*);

23           c)     That WEST’s high-tech extraction method would allow him to extract and  
24 collect gold on a microscopic or sub-atomic level from the water and salt deposits that can be  
25 collected from the Vulture Mine. This would result in a greater overall extraction of precious  
26

1 metals, particularly gold, because of its exposure to gold and the ounce-per-ton ratio would be  
2 much greater than traditional ore extraction methods;

3 d) That dissolved gold is present in normal water and that WEST's proprietary  
4 system can extract such "dissolved gold" and other precious metals with high purities for profit. In  
5 fact, WEST's Project document presents a visual extraction and recovery of gold from a particular  
6 "clay" that is used in kitty litter and by using his proprietary process he stated he was able to  
7 extract and recover gold from that kitty litter;

8 e) That WEST's proprietary process when used to process and extract gold and  
9 other precious metals from the Vulture Mine would allow WEST and WM&I to pay back the  
10 investor and "literally - within just a few months - be able to buy the entire mine outright" too;

11 f) That WEST tested his proprietary process on fifty (50) pounds of salt  
12 obtained from a particular region in the USA and was able to yield five (5) grams of pure gold, as  
13 displayed in the Project document with attached pictures. This test extrapolated out to a recovery  
14 rate of 10 ounces of gold per ton of salt;

15 g) That through the Bureau of Mines or the Federal Bureau of Land  
16 Management, WEST has access to additional flooded mines that he could mine to secure the 100  
17 troy pounds of gold to repay the total \$50,000 investment; and

18 h) That an additional return on investment was possible, based on WEST's  
19 knowledge and experience and resulting from WEST acquiring "abandoned mine sealing contracts  
20 as they become available from the government stimulus money being funneled to the Department  
21 of the Interior, which oversees the mining industry both federal and state."

22 12. Pursuant to the public records of the Arizona State Land Database and the  
23 Department of the Interior Bureau of Land Management, Mining Claims, WEST and WM&I does  
24 not possess any state or federal mining claims in Arizona, which would be required to mine and  
25 extract precious metals on state or federal land.

26

1 13. Respondents fail to disclose the material risks associated with the investment,  
2 including but not limited to, the fact that an investor could lose all or a large portion of their principal  
3 investment. Neither the website posting nor the transmitted information discloses any material risks  
4 associated with the investment.

5 14. At all times relevant, WEST was not a registered salesman or registered dealer and  
6 WM&I was not a registered dealer.

7 **IV.**

8 **VIOLATION OF A.R.S. § 44-1841**

9 **(Offer and Sale of Unregistered Securities)**

10 15. From on or about March 3, 2009, WEST, individually and/or on behalf of WM&I,  
11 has been offering or selling securities in the form of preferred stock and investment contract, within  
12 or from Arizona.

13 16. The securities referred to above are not registered pursuant to Articles 6 or 7 of the  
14 Securities Act.

15 17. This conduct violates A.R.S. § 44-1841.

16 **V.**

17 **VIOLATION OF A.R.S. § 44-1842**

18 **(Transactions by Unregistered Dealers or Salesmen)**

19 18. WEST is offering or selling securities within or from Arizona while not registered as  
20 a dealer or salesman pursuant to Article 9 of the Securities Act.

21 19. WM&I is offering or selling securities within or from Arizona while not registered  
22 as a dealer pursuant to Article 9 of the Securities Act.

23 20. This conduct violates A.R.S. § 44-1842.  
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VI.

**VIOLATION OF A.R.S. § 44-1991**

**(Fraud in Connection with the Offer or Sale of Securities)**

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4       21. In connection with the offer or sale of securities within or from Arizona,  
5 Respondents are, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii)  
6 making untrue statements of material fact or omitting to state material facts that are necessary in  
7 order to make the statements made not misleading in light of the circumstances under which they are  
8 made; or (iii) engaging in transactions, practices, or courses of business that operate or would  
9 operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not  
10 limited to, the following:

11           a) Stating that the Spot rate for gold would not fall below \$500 a troy ounce  
12 minimum. However, WEST can not ensure that the spot gold price would not fall below \$500 a  
13 troy ounce minimum since that is dictated by market forces;

14           b) Stating that WEST has access to additional flooded mines through the  
15 Bureau of Mines or the Federal Bureau of Land Management that he could mine to secure the 100  
16 troy pounds of gold to repay the total \$50,000 investment. However, pursuant to the public records  
17 of the Arizona State Land Database and the Department of the Interior Bureau of Land  
18 Management, Mining Claims, WEST and WM&I does not possess any state or federal mining  
19 claims in Arizona, which would be required to mine and extract precious metals on state or federal  
20 land.

21           c) Stating that the investment based in gold is safer than the stock market and that  
22 “[t]his [investment] is about as safe as it can get for an investment that can return so much.” However,  
23 WEST failed to disclose the material risks associated with the investment, including but not limited to,  
24 the fact that an investor could lose all or a large portion of their principal investment. Neither the  
25 website posting nor the transmitted information discloses any material risks associated with the  
26 investment.

22. This conduct violates A.R.S. § 44-1991.

**VII.**

**TEMPORARY ORDER**

**Cease and Desist from Violating the Securities Act [or IM Act]**

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondents, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with Respondents CEASE AND DESIST from any violations of the Securities Act.

IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

IT IS FURTHER ORDERED that this Order shall be effective immediately.

**VIII.**

**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;

2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order Respondents 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;

4. Order that the marital community of WEST and Respondent Spouse is subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

1           5.       Order any other relief that the Commission deems appropriate.

2   **IX.**

3   **HEARING OPPORTUNITY**

4           Each respondent, including Respondent Spouse, may request a hearing pursuant to A.R.S.  
5 § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a**  
6 **hearing, the requesting respondent must also answer this Temporary Order and Notice.** A  
7 request for hearing must be in writing and received by the Commission within 20 days after service  
8 of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for  
9 hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix,  
10 Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477  
11 or on the Commission's Internet web site at [www.azcc.gov/divisions/hearings/docket.asp](http://www.azcc.gov/divisions/hearings/docket.asp).

12           If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10  
13 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,  
14 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**  
15 **Order shall remain effective from the date a hearing is requested until a decision is entered.**  
16 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order,  
17 with written findings of fact and conclusions of law. A permanent Order may include ordering  
18 restitution, assessing administrative penalties, or other action.

19           If a request for hearing is not timely made, the Division will request that the Commission  
20 make permanent this Temporary Order, with written findings of fact and conclusions of law, which  
21 may include ordering restitution, assessing administrative penalties, or other relief.

22           Persons with a disability may request a reasonable accommodation such as a sign language  
23 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.  
24 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov).  
25 Requests should be made as early as possible to allow time to arrange the accommodation.



**X.**

**ANSWER REQUIREMENT**

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

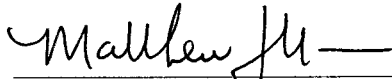
Additionally, the answering respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, Arizona, 85007, addressed to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

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

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

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 13 day of March, 2009.

  
Matthew J. Neuben  
Director of Securities

PTH/RE