



0000098204

IN RE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE PROPOSED	)	DOCKET NO.
RULEMAKING TO AMEND RULE 116 LISTING	)	RS-00000A-04-0649
NASAA STATEMENTS OF POLICY AS	)	
<u>REGISTRATION STANDARDS.</u>	)	PUBLIC COMMENTS

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At: Phoenix, Arizona

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Date: January 6, 2005

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Filed: JAN 19 2005

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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By: JODIE GUHR, RPR, CCR

AZ Certificate No. 50191

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Prepared for:

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ARIZONA CORPORATION COMMISSION

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## INDEX TO EXHIBITS

NO.	DESCRIPTION	IDENTIFIED	ADMITTED
A	Proposed amendment to the rule	5	10
B	Economic, Small Business, and Consumer Impact Statement	5	10

1 BE IT REMEMBERED that the above-entitled and numbered  
2 matter came on regularly to be heard before the Arizona  
3 Corporation Commission, in Hearing Room 1 of said  
4 Commission, 1200 West Washington Street, Phoenix, Arizona,  
5 commencing at 9:39 a.m., on the 6th day of January, 2005.

6

7 BEFORE:

8 MARC E. STERN, Administrative Law Judge

9

APPEARANCES:

10

For the Commission Staff:

11

Ms. Cheryl Farson, Assistant Director  
Securities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

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JODIE GUHR, RPR  
Certified Court Reporter  
AZ Certificate No. 50191

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1 ALJ STERN: This hearing is now open in the matter  
2 of the Proposed Rulemaking to Amend Rule 116 Listing NASAA  
3 Statements of Policy as Registration Standards, in Docket  
4 Number RS-00000A-04-0649.

5 My name is Marc Stern. I'll preside over this  
6 proceeding today and render a recommended opinion and order  
7 to the Commission for final disposition.

8 At this time, we'll now take appearances. And, on  
9 behalf of Commission Staff?

10 MS. FARSON: Cheryl Farson, General Counsel for the  
11 Securities Division of the Arizona Corporation Commission.

12 With me today is Sharleen Day, Chief Counsel of  
13 Registration & Compliance, and Evlin Farr, Senior Accountant  
14 of Registration & Compliance.

15 ALJ STERN: Thank you. And -- I'm sorry -- I  
16 didn't mean to call you Commission Staff. That's what we  
17 usually refer to the Staff and Utilities Division, and I  
18 meant to delineate this is the Securities Division.

19 With that, is there any member of the public  
20 present to make comment on this amendment to the rules?

21 We'll note, for the record, there's no one present  
22 to make comment on the amendment of this rule.

23 And, at this time, Ms. Farson or Ms. Day, do you  
24 have any comments to make with respect to the Division's  
25 proposals?

1 MS. FARSON: I do. The Division is proposing the  
2 amendment of A.A.C. R14-4-116.

3 Notice of Docket Opening for this rulemaking was  
4 published October 8, 2004, in the Arizona Administrative  
5 Register, Volume 10, Issue 41, page 4122.

6 The Notice of Proposed Rulemaking was published in  
7 the Arizona Administrative Register November 26th, 2004,  
8 Volume 10, Issue 48, page 4738.

9 I have given you a copy of the proposed amendment  
10 to the rule. I request that it be admitted as Exhibit A in  
11 this proceeding. Based on comments from the office of the  
12 secretary of state, the amendment has been revised since the  
13 publication of the notice of proposed rulemaking to delete  
14 the phrase "and the Office of the Secretary of State" from  
15 the first sentence of subsection B. The secretary of  
16 state's office no longer wants incorporated materials filed  
17 with it. The variance between the rule as reflected in  
18 Exhibit A and the published notice of proposed rulemaking is  
19 not substantially different for purposes of ARS Section  
20 41-1025 and does not require a supplemental notice or  
21 additional public comment pursuant to ARS Section  
22 41-1022(E).

23 I have given you a copy of the Economic, Small  
24 Business, and Consumer Impact Statement prepared pursuant to  
25 ARS Section 41-1055. I request that it be admitted as

1 Exhibit B in this proceeding.

2 Adopted May 3, 2000, rule 116 incorporates by  
3 reference a number of North American Securities  
4 Administrators Association statements of policy, which the  
5 Division applies as standards for registration to specified  
6 types of securities transactions.

7 Effective August 17, 2003, rule 116 was amended to  
8 incorporate in subsection (A)(11) the guidelines for general  
9 obligation financing by religious denominations adopted by  
10 NASAA on April 17, 1994. The guidelines are applied to  
11 transactions involving what is commonly referred to as  
12 church extension funds. Standards for registration of  
13 church extension funds were needed because in 2000 the  
14 Arizona legislature modified the statutory exemption,  
15 Section 44-1843(A)(6), to require registration of the debt  
16 securities of eleemosynary organizations.

17 In general, church extension funds are funds  
18 established by nonprofit denominational entities. A church  
19 extension fund raises capital from members of the  
20 denomination that established the fund by selling debt  
21 instruments to the members. The denomination uses the  
22 pooled funds, the church extension funds, to build the  
23 denomination's church buildings and other properties. The  
24 extension funds make loans secured by mortgages or liens on  
25 the properties to the individual churches. The extension

1 funds run their operations out of the net interest margin  
2 and function as nonprofit loan companies.

3 The debt instruments sold by the church extension  
4 funds to the denomination members must be registered with  
5 the Securities Division. In order to be registered, the  
6 transaction must comply with the NASAA guidelines  
7 incorporated into rule 116(A)(11).

8 In 2002, NASAA assigned to a project group the task  
9 of reviewing the guidelines for general obligation financing  
10 by religious denominations and recommending changes. The  
11 three main reasons for this assignment were:

12 1. The current guidelines had not been revisited,  
13 updated, or revised for eight years since original adoption.

14 2. Terminology needed to be updated for  
15 accounting, consistency, et cetera.

16 3. Concern about affinity fraud.

17 A staff member of the Registration & Compliance  
18 section of the Arizona Securities Division participated on  
19 the NASAA project group. The project group worked with an  
20 industry advisory committee to update the guidelines, the  
21 members of which were primarily representatives of the  
22 Denominational Investment and Loan Administrators, which  
23 represents about 40 church extension funds. Prior to  
24 proposing the amendment to the NASAA guidelines, the NASAA  
25 project group solicited comments from all of the state

1 securities regulatory agencies and the industry trade  
2 association, the Denominational Investment and Loan  
3 Association. NASAA adopted the project group's recommended  
4 amendment April 18, 2004.

5 In the docket for this rulemaking, attached to the  
6 September 27, 2004, memorandum from the Division to the  
7 Commissioners, is a copy of the NASAA statement of policy,  
8 redlined to illustrate the changes from the former  
9 guidelines to the current statement of policy. I have also  
10 given you a summary created by Division staff that  
11 highlights the primary amendments to the NASAA 1994  
12 guidelines.

13 Generally, the NASAA amendment increases investor  
14 protection, addresses developing industry practices, and  
15 modernizes the 1994 guidelines. The guidelines have been  
16 renamed the Statement of Policy Regarding Church Extension  
17 Fund Securities. The new statement of policy imposes  
18 enhanced financial standards, increases requirements for  
19 disclosure of information relevant to the industry,  
20 including identification of risks specific to the industry  
21 that must be disclosed, and modernizes accounting  
22 terminology and standards for nonprofit entities.

23 The Commission proposes to amend rule 116 to  
24 incorporate the NASAA amended Statement of Policy to enhance  
25 investor protection, to reflect current industry practices,

1 and to enhance uniformity among the states with respect to  
2 the standard of review applied to applications for  
3 registration of debt securities issued by a church extension  
4 fund.

5 The Division believes that the amendment to rule  
6 116 will benefit both the industry and potential investors  
7 by providing appropriate and consistent registration  
8 standards that are uniform with other states that apply the  
9 NASAA statements of policy.

10 Comment was solicited during the Division's  
11 drafting of the proposed amendment from the securities  
12 section of the state bar. The Division received one letter  
13 from an Arizona bar member in support of the amendment,  
14 which has been filed with Docket Control.

15 In addition to publishing the notice of proposed  
16 rulemaking, the Division mailed notice of the proposed  
17 rulemaking to members of the state bar and to the industry.  
18 The Division has received no comments during the formal  
19 comment period.

20 We would be happy to answer any questions you may  
21 have regarding this rulemaking.

22 ALJ STERN: Okay. This was approved by NASAA in  
23 April of 2004, so the Commission wants to, I assume, adopt  
24 this as soon as possible so we're --

25 MS. FARSON: Correct. So we're consistent with the

1 other states.

2 ALJ STERN: Okay. And insofar as comments, the  
3 only real comment, then, of even substance is the one from  
4 the office of the secretary of state, which requests one  
5 minor change in the rule?

6 MS. FARSON: Correct.

7 ALJ STERN: And that didn't require any additional  
8 notice.

9 The Exhibits A and B, did you give one of those,  
10 each, to the court reporter?

11 MS. FARSON: I did.

12 ALJ STERN: Okay. Then without objection, Exhibit  
13 A, which is the copy of the proposed amendment to the rule,  
14 will be admitted in evidence. Exhibit B, the copy of the  
15 Economic, Small Business, and Consumer Impact Statement, is  
16 also admitted into evidence.

17 Is there anything additional you wish to add?

18 MS. FARSON: No, there isn't.

19 ALJ STERN: Okay. Thank you. That will conclude  
20 this proceeding at this time.

21 MS. FARSON: Thank you.

22 ALJ STERN: Thanks.

23 (The hearing concluded at 9:49 a.m.)

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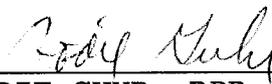
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1 STATE OF ARIZONA )  
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I, JODIE GUHR, Certified Court Reporter No. 50191  
 for the State of Arizona, do hereby certify that the  
 foregoing printed pages constitute a full, true and accurate  
 transcript of the proceedings had in the foregoing matter,  
 all done to the best of my skill and ability.

WITNESS my hand this 11th day of January, 2005.

  
 \_\_\_\_\_  
 JODIE GUHR, RPR, CCR  
 AZ Certificate No. 50191