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BEFORE THE ARIZONA CORPORATION COMMISSION

2003 DEC -9 P 3:36

COMMISSIONERS

- MARC SPITZER, Chairman
- WILLIAM A. MUNDELL
- JEFF HATCH-MILLER
- MIKE GLEASON
- KRISTIN K. MAYES

ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

DEC 09 2003

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DOCKET NO. S-03450A-02-0000

DIVISION'S PROPOSED  
FINAL ORDER OF RESTITUTION

In the matter of: )  
 PHILIP WILLIAM MERRILL )  
 3788 N. 156<sup>th</sup> Drive )  
 Goodyear, Arizona 85338 )  
 CRD #2436444, )  
 Respondent. )

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission"), based upon Decision No. 66614 entered on 12/9/2003, hereby proposes the Final Order of Restitution in the above-referenced matter, attached hereto as Exhibit "A".

The proposed restitution amounts regarding Beatrice DuChene and Viola Brotherson have been calculated using interest rates provided by Federal Reserve for government securities with one year maturities. Respondent's counsel has communicated to the Securities Division that Respondent, although he does not agree with the Order and does not waive any right to file an appropriate appeal, has no objection to the revised interest rates. See Revised Calculations for Restitution for Beatrice DuChene attached hereto as Exhibit "B" Viola Brotherson attached hereto as Exhibit "C".

RESPECTFULLY SUBMITTED this 9th day of December, 2003.

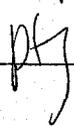
Pamela T. Johnson  
Senior Counsel  
Securities Division

1 ORIGINAL AND 13 COPIES filed  
2 With Docket Control on December 9, 2003.

3 Copies of the foregoing mailed  
4 December 9, 2003, to:

5 Frank Lewis, Esq.  
6 BEGAM, LEWIS, MARX AND WOLFE  
7 111 W. Monroe, Ste. 1400  
8 Phoenix, AZ 85003

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

In the matter of:

PHILIP WILLIAM MERRILL  
3788 N. 156<sup>th</sup> Drive  
Goodyear, Arizona 85338  
CRD #2436444,

Respondent.

DOCKET NO. S-03450A-02-0000

**FINAL ORDER OF RESTITUTION**

The Arizona Corporation Commission ("Commission"), having considered the entire record herein and being fully advised in the premises, based upon Decision No. \_\_\_\_\_ in this matter, finds, concludes, and orders as follows:

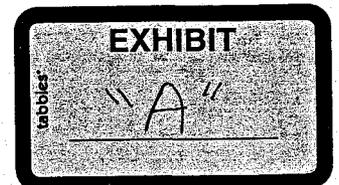
FINDINGS OF FACT

1. We find that the Respondent should be ordered to pay restitution to the State of Arizona in the amount of \$2,424.26, which includes pre-judgment interest, regarding Beatrice DuChene.
2. We find that the Respondent should be ordered to pay restitution to the State of Arizona in the amount of \$39,243.46, which includes pre-judgment interest, regarding Viola Brotherson.

CONCLUSIONS OF LAW

1. Restitution in the amount of \$2,424.26, regarding Beatrice Du Chene, is reasonable in this case.
2. Restitution in the amount of \$39,243.46, regarding Viola Brotherson, is reasonable in this case.

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DECISION NO. \_\_\_\_\_



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DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

This document is available in alternative formats by contacting Yvonne L. McFarlin, Executive Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us).

(PTJ)

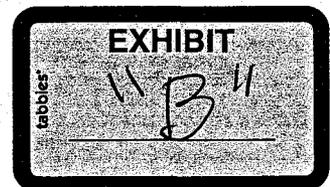
**Philip Merrill  
Restitution Calculations - Beatrice Duchene**

Interest Calculations to 12/18/03

Date of Investment	Investment	Total Interest (1)	Total
12/15/97	1,925.26	499.00	2,424.26

**Offsets - Amounts Returned** -  
Restitution Due 2,424.26

1 - See Schedule 1 - Interest Calculations



**Schedule 1 - Interest Calculations**  
**Beatrice Duchene**

INTEREST RATES PROVIDED BY FEDERAL RESERVE  
 FOR GOVERNMENT SECURITIES WITH ONE YEAR MATURITIES

\$ AMOUNT INVESTED	DATE INVESTED	INTEREST RATE	DATE OF MATURITY	INTEREST EARNED
1,925.26	12/15/97	5.42	11/07/98	93.49
"	11/09/98	4.54	11/09/99	87.41
"	11/09/99	5.49	11/09/00	105.99
"	11/09/00	6.13	11/09/01	118.02
"	11/10/01	3.31	11/10/02	63.73
"	11/12/02	1.44	11/12/03	27.72
"	11/12/03	1.39	12/18/03	2.64
				<u>499.00</u>

**Philip Merrill  
Restitution Calculations - Viola Brotherson**

Interest Calculations to 12/18/03

Date of Investment	Investment	Total Interest (1)	Total
05/22/96	13,600.00	4,737.96	18,337.96
11/20/96	5,700.00	1,781.06	7,481.06
01/02/98	30,000.00	7,347.44	37,347.44
01/12/98	14,500.00	3,496.43	17,996.43
<b>Total</b>	<b>63,800.00</b>	<b>17,362.89</b>	<b>81,162.89</b>

**Offsets - Amounts Returned**

Year	Dividend	Cap. Gains	Total
1996	926.58	150.42	1,077.00
1997	2,089.58	57.66	2,147.24
1998	6,575.37	-	6,575.37
1999	6,483.88	-	6,483.88
2000	3,585.47	-	3,585.47
2001	-	-	-
2002	-	-	-
<b>Total Offsets</b>	<b>19,660.88</b>	<b>208.08</b>	<b>19,868.96</b>
Liquidation of Investment			22,050.47
<b>Total Returned to Investor</b>			<b>41,919.43</b>
<b>Restitution Due</b>			<b>39,243.46</b>

1 - See Schedule 1 - Interest Calculations



**Schedule 1 - Interest Calculations**  
**Viola Brotherson**

INTEREST RATES PROVIDED BY FEDERAL RESERVE  
 FOR GOVERNMENT SECURITIES WITH ONE YEAR MATURITIES

\$ AMOUNT INVESTED	DATE INVESTED	INTEREST RATE	DATE OF MATURITY	INTEREST EARNED
13,600	05/22/96	5.56	05/22/97	756.16
"	05/22/97	5.87	05/22/98	798.32
"	05/22/98	5.45	05/22/99	741.20
"	05/24/99	4.86	05/24/00	662.77
"	05/24/00	6.29	05/24/01	855.44
"	05/24/01	3.79	05/24/02	515.44
"	05/24/02	2.37	05/24/03	322.32
"	05/27/03	1.13	12/18/03	86.31
				<u>4,737.96</u>
5,700	11/20/96	5.40	11/20/97	307.80
"	11/20/97	5.49	11/20/98	312.93
"	11/20/98	4.56	11/20/99	259.92
"	11/22/99	5.63	11/22/00	321.79
"	11/22/00	6.10	11/22/01	347.70
"	11/23/01	2.41	11/23/02	137.37
"	11/25/02	1.56	11/25/03	88.92
"	11/25/03	1.29	12/18/03	4.63
				<u>1,781.06</u>
30,000	01/02/98	5.46	01/02/99	1,638.00
"	01/04/99	4.58	01/04/00	1,374.00
"	01/04/00	6.00	01/04/01	1,804.93
"	01/04/01	4.82	01/04/02	1,446.00
"	01/04/02	2.25	01/04/03	675.00
"	01/06/03	1.44	12/18/03	409.51
				<u>7,347.44</u>
14,500	01/12/98	5.13	01/12/99	743.85
"	01/12/99	4.55	01/12/00	659.75
"	01/12/00	6.16	01/12/01	895.65
"	01/12/01	4.96	01/12/02	719.20
"	01/14/02	2.00	01/14/03	290.00
"	01/14/03	1.40	12/18/03	187.98
				<u>3,496.43</u>
				<u><u>17,362.89</u></u>