

**ORIGINAL**

**NEW APPLICATION**



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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

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

2010 MAY 21 P 1:01

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
**DOCKETED**

MAY 21 2010

DOCKETED BY ne

In the matter of:  
KENNETH WILLIAMS (d/b/a "KWD  
COMMERCIAL CONSTRUCTION  
SERVICES"), and JANE DOE WILLIAMS,  
husband and wife,  
Respondents.

DOCKET NO. S-20743A-10-0211

**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 respondent KENNETH WILLIAMS (d/b/a "KWD COMMERCIAL CONSTRUCTION SERVICES") is engaging in or is 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. Respondent KENNETH WILLIAMS (d/b/a "KWD COMMERCIAL CONSTRUCTION SERVICES") ("WILLIAMS") is a married man and a Dallas, Texas resident.

1 At all times relevant, WILLIAMS has been offering securities in the form of investment contracts  
2 and/or notes within Arizona. WILLIAMS has not been registered as a securities salesman or dealer  
3 by the Commission.

4 3. Respondent JANE DOE WILLIAMS ("SPOUSE") has been at all relevant times the  
5 spouse of WILLIAMS. SPOUSE is joined in this action under A.R.S. § 44-2031(C) solely for  
6 purposes of determining the liability of the WILLIAMS and SPOUSE marital community.

7 4. At all relevant times, WILLIAMS has been acting for his individual benefit, and for  
8 the benefit or in furtherance of the WILLIAMS and SPOUSE marital community.

9 **III.**

10 **FACTS**

11 5. Since at least May 4, 2010, to the present, WILLIAMS has been offering  
12 unregistered securities in the form of investment contracts and/or notes within Arizona by  
13 publically advertising them on an Internet website known as Craig's List/Phoenix (the "Craig's  
14 List Advertisement(s)").

15 6. WILLIAMS published a Craig's List Advertisement on the Internet on or about  
16 May 4, 2010, to the present, and it states as follows:

17 **\*\*\*Invest in Solar and Green Energy\*\*\* (Texas)**

18 Hello, Dallas based Solar and Energy efficiency company seeking outside investors  
19 / silent partners for continued growth and expansion. This is a very hot area of the  
20 economy and we are poised for tremendous growth! Great product array offered for  
21 commercial and residential consumers. Our services qualify for government rebates  
and tax credit offerings. If interested get in touch!  
(PostingID: 1723796819)

22 (emphasis in originals).

23 7. On May 6, 2010, an Arizona resident responded to this Craig's List Advertisement  
24 by sending an email to WILLIAMS in which he expressed his interest in learning more about  
25 WILLIAMS' business operations and the investment.

1           8.       On May 7, 2010, WILLIAMS sent the potential Arizona investor a responsive  
2 email in which he described the investment:

3           Hello, and thank you for your interest...I am looking for individuals or groups  
4 interested in Investing [sic] / partnering to increase my cash base to work from. I  
5 concentrate on Texas and surrounding states...Our profit margins are high and my  
6 proposed payback of any invested money is as follows:

7           I will pay you 15% of investment each month for 12 months, so at the end you have  
8 been paid back 180% of the amount you invested, resulting in 80% profit in 12  
9 months time, so in a years [sic] time that's a great ROI.

10 (the "Investment(s)"). WILLIAMS' May 7, 2010, email further explained to the potential  
11 Arizona investor that WILLIAMS would pool investors' Investment money together to operate  
12 and promote his solar and energy efficiency business operations, and to increase his business  
13 "advertising and marketing as well as cash flow maintenance."

14           9.       WILLIAMS' May 7, 2010, email further described the services that he would  
15 provide on behalf of investors, including: (a) working with "distributors and installers on a wide  
16 arrange of solar and green products;" (b) preparing a marketing campaign targeted towards  
17 "residential and commercial customers;" (c) "bidding on commercial and government projects;"  
18 and (d) selling "Solar Energy Solutions" to, and consulting with customers including the sale of  
19 solar energy panels, solar thermal pool and hot water heating systems, solar attic fans, tank-less  
20 water heaters, wind energy systems, geo thermal HVAC systems, rainwater harvesting and grey  
21 water recycling and the installation of energy efficient roofing, windows, siding and insulation  
22 (the "Business").

23           10.       The potential Arizona investor sent WILLIAMS a second email on May 12, 2010,  
24 that requested additional information regarding how the Investment would be documented. In  
25 response, WILLIAMS emailed the potential Arizona investor on May 13, 2010, and stated:

26           Hello, attached is the promissory note. [Investment] funds are to be used in the  
operations [sic] and marketing of KWD's residential and commercial solar and  
energy efficiency operations.

1 Attached to WILLIAMS' May 13, 2010, email was a one page, unsecured "PROMISSORY  
2 NOTE" made and signed by WILLIAMS in his individual capacity (the "Note").

3 11. Without limitation, the Note states that: (a) the "borrower" is WILLIAMS, and  
4 that he is the "owner" of a company called, "KWD Commercial Construction Services;"<sup>1</sup> (b) the  
5 Note "shall be paid in equal installments of 15% of money lent, due the first day of each month,  
6 for 12 months, so at the termination of repayment 180% of loan has been repaid;" and (c) that if  
7 more than one borrower (*i.e.*, "WILLIAMS") makes and executes the Note, each borrower will  
8 be jointly and severally liable with the other to the Investment investor.

9 12. WILLIAMS published another, similar Craig's List Advertisement on the Internet on  
10 May 14, 2010, to the present, that states as follows:

11 **\*\*\*Profit from Solar Energy\*\*\* (Phoenix)**

12 Hello, I am looking for individuals to invest / partner with a growing solar and energy  
13 efficiency sale & installation company. Make monthly income off of our business  
14 activities! If interested get in touch!! (PostingID: 1740450930)

15 (emphasis in originals). Like the May 4, 2010, Craig's List Advertisement discussed above, this  
16 May 14, 2010, Craig's List Advertisement was viewed by a potential Arizona investor.

17 13. Although WILLIAMS represented to offerees and investors that his solar Business  
18 "profit margins are high" and that the Investments pay a profit of eighty percent per year,  
19 WILLIAMS further failed to disclose to them a reasonable basis for such Business profit margins,  
20 and Investment profit projections and promises including, without limitation: (a) any Business  
21 profit and loss statements; (b) his past, present or future Business contracts, revenues and net profit  
22 margins; (c) any purported competitive advantages enjoyed by WILLIAMS' Business such as the  
23 nature and extent of any federal or state tax rebates, credits or exemptions enjoyed by his Business  
24 or his customers; (d) the nature and extent of his existing Business customer base; (e) the amount of  
25 time WILLIAMS and/or his Business has been selling and installing solar and energy efficient

26 <sup>1</sup> As of the date of this Temporary Order to Cease and Desist ("TC&D"), the Division was unable to locate any formal incorporation documents filed by WILLIAMS on behalf of KWD Commercial Construction Services ("KWD"). The Division may seek to amend this TC&D to include such incorporation information regarding KWD as appropriate.

1 products, and providing related services; and (f) the nature and extent of WILLIAMS and/or his  
2 Business' assets and liabilities and/or cash reserves.

3 **IV.**

4 **VIOLATION OF A.R.S. § 44-1841**

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

6 14. From at least May 4, 2010, to the present, WILLIAMS has been publically offering  
7 or selling securities in the form of investment contracts and/or notes, within Arizona.

8 15. The securities referred to above are not registered pursuant to Articles 6 or 7 of the  
9 Securities Act.

10 16. This conduct violates A.R.S. § 44-1841.

11 **V.**

12 **VIOLATION OF A.R.S. § 44-1842**

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

14 17. WILLIAMS is offering or selling securities within Arizona while not registered as a  
15 dealer or salesman pursuant to Article 9 of the Securities Act.

16 18. This conduct violates A.R.S. § 44-1842.

17 **VI.**

18 **VIOLATION OF A.R.S. § 44-1991**

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

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

1 A. Representing to offerees and investors that his solar Business “profit margins are  
2 high” and that the Investments pay a profit of eighty percent per year, but further  
3 failing to disclose to them a reasonable basis for such Business profit margins, and  
4 Investment profit projections and promises including, without limitation: (a) any  
5 Business profit and loss statements; (b) his past, present or future Business contracts,  
6 revenues and net profit margins; (c) any purported competitive advantages enjoyed by  
7 WILLIAMS’ Business such as the nature and extent of any federal or state tax  
8 rebates, credits or exemptions actually enjoyed by his Business or his customers; (d)  
9 the nature and extent of his existing Business customer base; (e) the amount of time  
10 WILLIAMS and/or his Business has been selling and installing solar and energy  
11 efficient products, and providing related services; and (f) the nature and extent of  
12 WILLIAMS and/or his Business’ assets and liabilities and/or cash reserves.

13 20. This conduct violates A.R.S. § 44-1991.

14 **VII.**

15 **TEMPORARY ORDER**

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

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

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

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

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

26

**VIII.**

**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief:

1. Order WILLIAMS to permanently cease and desist from violating the Securities Act pursuant to A.R.S. § 44-2032;
2. Order WILLIAMS to take affirmative action to correct the conditions resulting from WILLIAMS' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order WILLIAMS 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 WILLIAMS and SPOUSE is subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
5. Order any other relief that the Commission deems appropriate.

**IX.**

**HEARING OPPORTUNITY**

WILLIAMS and SPOUSE may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If WILLIAMS or SPOUSE request a hearing, the requesting respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. 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).

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,

1 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**  
2 **Order shall remain effective from the date a hearing is requested until a decision is entered.**

3 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order,  
4 with written findings of fact and conclusions of law. A permanent Order may include ordering  
5 restitution, assessing administrative penalties, or other action.

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

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

13 **X.**

14 **ANSWER REQUIREMENT**

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

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

25 The Answer shall contain an admission or denial of each allegation in this Temporary  
26 Order and Notice and the original signature of the answering respondent or the respondent's



1 attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial  
2 of an allegation. An allegation not denied shall be considered admitted.

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

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 21<sup>st</sup> day of May,  
9 2010.

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12 Mark Dinell  
13 Assistant Director of Securities  
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