



0000116468

COMMISSIONER
MARC SPITZER
COMMISSIONER

OPEN MEETING ITEM 10/24/02



ORIGINAL 615

BRIAN C. McNEIL
EXECUTIVE SECRETARY

MARK SENDROW
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007-2996
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: accsec@ccsd.cc.state.az.us

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer

Arizona Corporation Commission

DOCKETED

OCT 11 2002

FROM: Mark Sendrow *MS*
Director of Securities

DOCKETED BY *MS*

DATE: October 9, 2002

RE: Proposed Order To Cease And Desist, Order Of Restitution and Order For Administrative Penalties Re: Brian Bamman and Bamex International, Ltd., Docket No. S-03391A-02-0000

CC: Brian C. McNeil, Executive Secretary

RECEIVED
2002 OCT 11 P 1:12
AZ CORP COMMISSION
DOCUMENT CONTROL

Attached is a proposed Order to Cease and Desist Order of Restitution and Order for Administrative Penalties and Consent to Same for Respondents Brian Bamman and Bamex International, Ltd. The Order requires Respondents to cease and desist their activity, to pay restitution and interest to investors and to pay a penalty of \$35,000.

Beginning in 1999, Respondents solicited investors to invest in foreign currency contracts. Respondents advertised to the general public in publications, attended financial conferences and maintained an Internet website offering their services in investing in foreign currencies. Respondents informed investors that they would limit risk through conservative trading strategies. Respondents alleged that through use of these conservative trading techniques, investors could expect a net return of 72% - 84% per annum. Investors were told that other investors had been very successful.

Respondents told some investors that Respondents did not need to be licensed to trade in foreign currencies for investors. Twenty-two investors from Arizona and nationwide invested over \$3,000,000 with Respondents. Respondents did provide multi-page disclosure statements to investors at time of investment, some of which contradicted the oral representations made to investors. Additionally, the disclosure statements alleged that currency investments were only suitable for sophisticated institutions and investors able to withstand the loss of all their investments, when at least some of the investors had limited net worth.

October 9, 2002

Page 2

Despite promises to investors, Respondents did not provide monthly statements. Investors were unable to obtain information regarding their account status, other than contacting Respondents and being orally informed as to the amount held in their account. Some investors were unaware of any losses in their accounts until informed by Respondents that they had no funds left in their accounts. Respondents ultimately lost \$1,242,429.84 of investors' funds.

In 1996, the National Futures Association ("NFA") issued a complaint against Bamman alleging that he, and others, used fraudulent or deceitful communications with the public, in violation of NFA rules. On December 2, 1996, Bamman settled the complaint with the NFA, agreeing to pay a \$10,000 fine. Respondents did not inform any investor of Bamman's prior regulatory problems.

This Order finds that Respondents sold securities in the form of commodity investment contracts. It finds that they violated A.R.S. §§ 44-1841, 44-1842 and 44-1991. It imposes restitution for the full amount lost, \$1,242,429.84, with interest. It also imposes an administrative penalty of \$35,000.

The Division recommends approval of the Order. Respondents are required to pay restitution for all losses suffered by the investors, in addition to payment of a \$35,000 penalty. Additionally, the Order will once again bring to the focus of the public that foreign currency investments in Arizona are regulated by the Commission.

Originator: Mark Dinell

N:\ENFORCE\CASES\Bamex.md\MEMOS\Memo to Commissioners.doc

I.

FINDINGS OF FACT

1
2
3 1. RESPONDENT BRIAN BAMMAN ("BAMMAN"), whose address is 14104 E.
4 Andrew Drive, Fountain Hills, Arizona 85268, was the president of BAMEX.

5 2. RESPONDENT BAMEX INTERNATIONAL, LTD. ("BAMEX"), was an Arizona
6 corporation at all relevant times. BAMEX is no longer an operating business.

7 3. Beginning in 1999, RESPONDENTS solicited investors to invest in foreign currency
8 contracts. RESPONDENTS advertised to the general public in publications, attended financial
9 conferences and maintained an Internet website offering their services in investing in foreign
10 currencies.

11 4. RESPONDENTS informed investors that they would limit risk through
12 conservative trading strategies. RESPONDENTS alleged that through use of these conservative
13 trading techniques, investors could expect a net return of 72% - 84% per annum. Investors were
14 told that other investors had been very successful. The leveraged trading accounts offered or sold
15 by RESPONDENTS were promoted as an investment rather than a commercial facility, with a
16 focus on high return to the investor from speculation profits instead of the actual delivery of
17 foreign currency to or by the account holder.

18 5. RESPONDENTS told some investors that RESPONDENTS did not need to be
19 licensed to trade in foreign currencies for investors.

20 6. Investors from Arizona and nationwide invested with RESPONDENTS.
21 RESPONDENTS did provide multi-page disclosure statements to investors at time of investment,
22 some of which contradicted the oral representations made to investors. Additionally, the
23 disclosure statements alleged that currency investments were only suitable for sophisticated
24 institutions and investors able to withstand the loss of all their investments, when at least some of
25 the investors had limited net worth.
26

1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS, jointly
2 and severally, shall pay an administrative penalty in the amount of \$35,000, payable to the "State
3 of Arizona." Payment shall be made in full by cashier's check or money order on the date of this
4 Order. Any unpaid amount shall accrue interest at the rate of 10% per annum until paid in full.

5 IT IS FURTHER ORDERED that this Order shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

7
8
9 CHAIRMAN

COMMISSIONER

COMMISSIONER

10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
11 Executive Secretary of the Arizona Corporation
12 Commission, have hereunto set my hand and caused the
13 official seal of the Commission to be affixed at the
14 Capitol, in the City of Phoenix, this _____ day of
15 _____, 2002.

16 _____
17 BRIAN C. McNEIL
18 Executive Secretary

19
20 _____
21 DISSENT

22 This document is available in alternative formats by contacting Shelly M. Hood, Executive
23 Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail
24 shood@cc.state.az.us.

25 (md)

26 N:\ENFORCE\CASES\Bamex.md\PLEADING\Consent.doc

CONSENT TO ENTRY OF ORDER

1
2 1. RESPONDENTS admit the jurisdiction of the Commission over the subject matter of
3 this proceeding. RESPONDENTS acknowledge that they has been fully advised of their right to a
4 hearing to present evidence and call witnesses and RESPONDENTS knowingly and voluntarily
5 waive any and all rights to a hearing before the Commission and all other rights otherwise
6 available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code.
7 RESPONDENTS acknowledge that this Order constitutes a valid final order of the Commission.

8 2. RESPONDENTS knowingly and voluntarily waive any right they may have under
9 Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or
10 extraordinary relief resulting from the entry of this Order.

11 3. RESPONDENTS acknowledge and agree that this Order is entered into freely and
12 voluntarily and that no promise was made or coercion used to induce such entry.

13 4. RESPONDENTS acknowledge that they have been represented by counsel in this
14 matter, they have reviewed this Order with their attorney and understand all terms it contains.

15 5. RESPONDENTS admit, only for purposes of this proceeding and any other
16 administrative proceeding before the Commission or any other agency of the state of Arizona, the
17 Findings of Fact and Conclusions of Law contained in this Order.

18 6. By consenting to the entry of this Order, RESPONDENTS agree not to take any action
19 or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding
20 of Fact or Conclusion of Law in this Order or creating the impression that this Order is without
21 factual basis. RESPONDENTS will undertake steps necessary to assure that all of their agents and
22 employees understand and comply with this agreement. Nothing in this Order shall be construed
23 to restrict any right RESPONDENTS possess to petition the Commission for reconsideration of
24 this Order.

25 7. While this Order settles this administrative matter between RESPONDENTS and the
26 Commission, RESPONDENTS understand that this Order does not preclude the Commission from

1 instituting other administrative proceedings based on violations that are not addressed by this
2 Order.

3 8. RESPONDENTS understand that this Order does not preclude the Commission from
4 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
5 that may be related to the matters addressed by this Order.

6 9. RESPONDENTS understand that this Order does not preclude any other agency or
7 officer of the state of Arizona or its subdivisions from instituting administrative, civil or criminal
8 proceedings that may be related to matters addressed by this Order.

9 10. RESPONDENTS agree that they will not apply to the state of Arizona for registration
10 as a securities dealer or salesman or for licensure as an investment adviser or investment adviser
11 representative until such time as all restitution and penalties under this Order are paid in full.

12 11. RESPONDENTS agree that they will not exercise any control over any entity that
13 offers or sells securities or provides investment advisory services, within or from Arizona.

14 12. RESPONDENTS agree that until restitution and penalties are paid in full,
15 RESPONDENTS will notify the Director of the Securities Division within 30 days of any change
16 in their business or home address or any change in RESPONDENTS' ability to pay amounts due
17 under this Order.

18 13. RESPONDENTS understand that default shall render them liable to the Commission
19 for its costs of collection and interest at the maximum legal rate.

20 14. RESPONDENTS agree that they will continue to cooperate with the Securities Division
21 including, but not limited to, providing complete and accurate testimony at any hearing in this
22 matter and cooperating with the state of Arizona in any related investigation or any other matters
23 arising from the activities described in this Order.

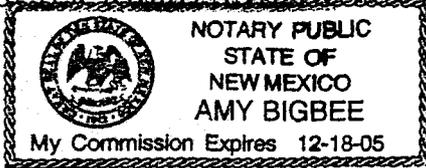
24 15. RESPONDENTS consent to the entry of this Order and agree to be fully bound by its
25 terms and conditions. If RESPONDENTS breach any provision of this Order, the Commission
26 may vacate this Order and restore this case to its active docket.

1 16. BAMMAN represents that he is authorized to execute this Consent on behalf of
2 BAMEX.

Brian Bamman

BRAIN BAMMAN

3
4
5
6 SUBSCRIBED AND SWORN TO BEFORE me this 4th day of October, 2002.



Amy Bigbee
NOTARY PUBLIC

7
8
9 My Commission Expires:

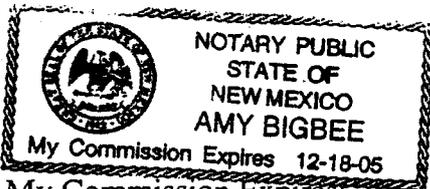
10 12-18-05

11
12
13
14 BAMEX INTERNATIONAL, LTD.

Brian Bamman

15
16
17 By: Brian Bamman

18 SUBSCRIBED AND SWORN TO BEFORE me this 4th day of October, 2002.



Amy Bigbee
NOTARY PUBLIC

19
20
21
22 My Commission Expires:

23 12-18-05