

WILLIAM A. MUNDELL  
CHAIRMAN



ORIGINAL

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

JIM IRVIN  
COMMISSIONER  
**RECEIVED**  
MARC SPITZER  
COMMISSIONER

MARK SENDROW  
DIRECTOR

2002 MAY 14 P 3: 32

ARIZONA CORPORATION COMMISSION

SECURITIES DIVISION  
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Arizona Corporation Commission  
**DOCKETED**

AZ CORP COMMISSION  
DOCUMENT CONTROL

**MEMORANDUM**

MAY 14 2002

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

**OPEN MEETING ITEM**

DOCKETED BY *mac*

5/23/02

**FROM:** Mark Sendrow *MS*  
Director of Securities

**DATE:** April 22, 2002

**RE:** Docket No. S-03461A-01-0000 / Grand Canyon Wagon Adventure Tours, Inc. and Floyd Dwiggin

**CC:** Brian C. McNeil, Executive Secretary

A proposed Order To Cease And Desist, Order Of Rescission, Order For Administrative Penalties And Consent To Same ("Consent Order") against Grand Canyon Wagon Adventure Tours, Inc. ("GCWAT") and Floyd Dwiggin ("Dwiggin") is attached. The initial action, a Notice of Opportunity for Hearing ("Notice") was filed on October 31, 2001.

This matter involves the sale of unregistered stock in GCWAT. GCWAT was organized to offer horse drawn wagon tours to the Grand Canyon. Beginning in approximately March 2000, Dwiggin offered and sold shares of stock in GCWAT. Dwiggin was not a registered securities dealer and/or salesman in the state of Arizona. The stock shares in GCWAT were not registered for sale in the state of Arizona. Dwiggin on behalf of GCWAT sold or transferred approximately 231 shares of stock. He failed to disclose to offerees and shareholders that the number of shares issued exceeded the number available for sale pursuant to a resolution by the Board of Directors.

Dwiggin on behalf of GCWAT never discussed or disclosed the possible risks factors associated with the investment with offerees. The only document provided to some offerees in regard to the investment was a one-page document entitled "Business Overview and Proposal" ("Overview"). The Overview provided very basic information including directors' names, the mailing address and phone number of the company, the goal of the company and anticipated annual revenues. Dwiggin admitted that the information on anticipated annual revenues was purely speculation. Dwiggin promised at least one investor that he could earn upwards of \$30,000 on a \$5,000 investment. Offerees were never told that they could possibly lose their entire investment. At least one shareholder requested information that included the number of

investors, the amount of money raised and how the money was being spent. Dwiggins refused to disclose the information.

Dwiggins on behalf of GCWAT failed to provide offerees with a prospectus or equivalent offering document containing material information about GCWAT. Information withheld included, but was not limited to, capitalization, plan of distribution, federal tax aspects, redemptions and risks involved in this type of endeavor. Further, Dwiggins on behalf of GCWAT failed to offer detailed information on the background of the officers and key personnel of GCWAT, directors or principal stockholders including the business backgrounds and experience of the officers and directors in setting up and operating mule drawn tours of the Grand Canyon.

Dwiggins purchased land that would house the company. Dwiggins told shareholders at a stockholders' meeting that the land was to be titled in the names of the six founding Directors. Karen F. Nero, one of the Directors, advanced money for the down payment on the property. In fact, Dwiggins purchased the land in his name, and leased it to GCWAT purportedly without agreement by resolution of the GCWAT Board of Directors.

Corporate funds were used to make all the improvements on the property. Improvements included horse corrals, a bunkhouse, kitchen, and other buildings. Minutes from a Board of Directors meeting held on September 13, 2000, indicate a motion was made to accept the resolution that: "Floyd Dwiggins can purchase equipment and buildings on ranch for a nominal fee of \$1 (one Dollar) if GCWAT should fail." The motion purportedly passed.

Dwiggins and GCWAT failed to disclose to offerees how investors' funds would be used, including the fact that funds were used to improve real property owned by Dwiggins, and the fact that he could purchase all improvements to the property for the total sum of \$1.00 if GCWAT fails.

Dwiggins failed to notify offerees and shareholders that some investors had received stock in exchange for work performed or promised on behalf of GCWAT, in exchange for goods, or in one case because an individual "was a nice guy," thereby diluting the value of the stock. Other shares were sold for \$2500 per share. Shares that were sold brought in over \$200,500 to GCWAT.

GCWAT's counsel reports that this is a viable company with a significant customer base. This Order, including the Order of Rescission, was generated to allow the company to continue to conduct business, but at the same time address the issue of the unregistered stock. The Order calls for rescission to investors as reflected on the records of the Commission, in the principal amount of \$200,500, plus interest at the rate of 10% per annum from the date of each investment to the date of repayment. Further the Division recommends that Dwiggins pay an administrative penalty in the amount of \$10,000. Upon completion of rescission, and with the Director's approval, the amount may be reduced to \$5,000.

Originator: Kathryn McCormick

AG Assigned: Moira McCarthy



## I.

## FINDINGS OF FACT

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3 1. GRAND CANYON WAGON ADVENTURE TOURS, INC. ("GCWAT") is a Nevada  
4 corporation, incorporated in March 2000. GCWAT'S last known business address is P. O. Box 578,  
5 Meadview, Arizona 86444-0578. GCWAT was formed to conduct mule drawn tours of the Grand  
6 Canyon.

7 2. FLOYD WILLARD DWIGGINS, JR. ("DWIGGINS") whose last known address is 185  
8 E. Sumner Drive, Meadview, Arizona 86444, acted as a securities salesman on behalf of GCWAT  
9 and conducted business involving the offer and sale of securities within or from the state of Arizona.  
10 DWIGGINS was President and a Director of GCWAT until his recent resignation.

11 3. From approximately March 2000, RESPONDENTS offered and sold shares of stock in  
12 GCWAT. RESPONDENTS are not registered as securities dealers and/or salesmen in the state of  
13 Arizona. The stock shares in GCWAT were not registered for sale in the state of Arizona.

14 4. When RESPONDENTS began approaching individuals to purchase stock, offerees were  
15 required to sign a document entitled "Contract of Confidentiality" ("Contract"). The Contract was an  
16 agreement that the offeree would not disclose the business idea to anyone else.

17 5. Offerees who were interested in investing received a "Demand Promissory Note"  
18 ("Note"). The offeree signed the Note promising a principal sum that was due and payable when the  
19 incorporation of GCWAT was complete and the stock certificates available. RESPONDENTS told  
20 offerees that the purpose of the Note was to determine whether or not there was sufficient interest in  
21 the project. After the incorporation of GCWAT, the payee (offeree) had a limited amount of time to  
22 remit funds to GCWAT. At least some of the shareholders have been told by GCWAT they can  
23 sell their shares of stock to members of the public if they so desire.

24 6. DWIGGINS on behalf of GCWAT never discussed with offerees or disclosed the  
25 possible risks factors associated with the investment. The only document provided to some offerees  
26 in regard to the investment was a one-page document entitled "Business Overview and Proposal"

1 ("Overview"). The Overview provided very basic information including directors' names, the  
2 mailing address and phone number of the company, the goal of the company and anticipated annual  
3 revenues. DWIGGINS admitted that the information on anticipated annual revenues was purely  
4 speculation. DWIGGINS promised at least one investor that he could earn upwards of \$30,000 on  
5 a \$5,000 investment. Offerees were never told that they could possibly lose their entire investment.  
6 At least one shareholder requested information that included the number of investors, the amount of  
7 money raised and how the money was being spent. DWIGGINS refused to disclose the information.

8 7. DWIGGINS on behalf of GCWAT failed to provide offerees with a prospectus or  
9 equivalent offering document containing material information about GCWAT. Information  
10 withheld included, but was not limited to, capitalization, plan of distribution, federal tax aspects,  
11 redemptions and risks involved in this type of endeavor.

12 8. DWIGGINS on behalf of GCWAT failed to offer detailed information on the  
13 background of the officers and key personnel of GCWAT, directors or principal stockholders  
14 including the business backgrounds and experience of the officers and directors in setting up and  
15 operating mule drawn tours of the Grand Canyon.

16 9. DWIGGINS purchased land that would house the company. DWIGGINS told  
17 shareholders at a stockholders' meeting that the land was to be titled in the names of the six  
18 founding Directors. Karen F. Nero, one of the Directors, advanced money for the down payment  
19 on the property. In fact, DWIGGINS purchased the land in his name, and leased it to GCWAT  
20 purportedly without agreement by resolution of the GCWAT Board of Directors.

21 10. Corporate funds were used to make all the improvements on the property.  
22 Improvements included horse corrals, a bunkhouse, kitchen, and other buildings. Minutes from a  
23 Board of Directors meeting held on September 13, 2000, indicate a motion was made to accept the  
24 resolution that: "Floyd Dwiggins can purchase equipment and buildings on ranch for a nominal  
25 fee of \$1 (one Dollar) if GCWAT should fail." The motion purportedly passed.  
26

1 11. RESPONDENTS failed to disclose to offerees how investors' funds would be used,  
2 including the fact that funds were used to improve real property owned by DWIGGINS, and the  
3 fact that he could purchase all improvements to the property for the total sum of \$1.00 if GCWAT  
4 fails.

5 12. RESPONDENTS sold or transferred approximately 231 shares of stock.  
6 RESPONDENTS failed to disclose to offerees and shareholders that the number of shares issued  
7 exceeded the number available for sale pursuant to a resolution by the Board of Directors.  
8 RESPONDENTS failed to notify offerees and shareholders that some investors had received stock  
9 in exchange for work performed or promised on behalf of GCWAT, in exchange for goods, or in  
10 one case because an individual "was a nice guy," thereby diluting the value of the stock. Other  
11 shares were sold for \$2500 per share. Shares that were sold brought in over \$200,500 to  
12 GCWAT.

13 13. In a letter dated September 15, 2001, a shareholder who had requested a return of the  
14 money he invested in GCWAT stock received a letter on GCWAT stationery. The secretary of the  
15 corporation advised him that GCWAT was not in a position to buy back stock at this time, but that  
16 the shareholder has the right to sell the stock "to whomever you like."

## 17 II.

### 18 CONCLUSIONS OF LAW

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

21 2. RESPONDENTS offered or sold securities within or from Arizona, within the meaning  
22 of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

23 3. RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that were  
24 neither registered nor exempt from registration.

25 4. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while  
26 neither registered as dealers or salesmen nor exempt from registration.



- 1           2.           The offer to repurchase the stock shall include an offer of cash equal to the  
2                   consideration paid, together with 10% annual interest from the date of purchase  
3                   to the date of repayment less the amount of any principal, dividends, or other  
4                   distributions received on the stock for the period from the date of purchase to  
5                   the date of repayment.
- 6           3.           The offer to repurchase shall be accompanied by a prospectus and other  
7                   documents making full written disclosure about the financial and business  
8                   condition of the companies and the financial and business risks associated with  
9                   the retention of the stock.
- 10          4.           The offer to repurchase shall be accompanied by the full disclosure of all  
11                   companies and individuals associated with the enterprise including but not  
12                   limited to Canyon West Ranch, LLC, CW Ranch Properties, Heli USA, Fort  
13                   Mead Enterprises, and Rebel Adventure Tours.
- 14          5.           The offer to repurchase shall state that the purchaser may accept such offer at  
15                   any time within 60 days after the date of receipt thereof.
- 16          6.           Purchasers who accept the rescission offer shall receive repayment no later than  
17                   30 days after RESPONDENTS receive notice of such acceptance.
- 18          7.           Financial statements prepared in accordance with A.A.C. R14-4-120 shall be  
19                   provided to the Director. The financial statements or documentation shall  
20                   demonstrate that the person or persons funding the rescission offer has or have  
21                   adequate funds to pay the amount ordered pursuant to A.A.C. R14-4-  
22                   308(B)(1)(b) to all purchasers of the securities who are eligible to accept the  
23                   rescission offer.

24           The rescission offer shall be provided to investors no later than 14 days from the date of the  
25 Director's approval. RESPONDENTS must submit verification to the Director no later than 14  
26 days after completion of the rescission offer. The verification shall include:

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1. Names, addresses, and telephone numbers of all investors who had a right to receive the rescission offer, the amount and purchase dates of securities held by such investors, and the amount of principal, interest, or other distributions on all securities held by such investors.
2. Names, addresses, and telephone numbers of all investors who did not receive the rescission offer and the reason why they did not receive the rescission offer, the amount and purchase dates of securities held by them, and the amount of principal, interest, or other distributions on all securities held by them.
3. Verification of receipt of the rescission offer by all investors who had a right to and did receive the rescission offer.
4. A list of investors who accepted the rescission offer and those who did not accept.
5. Verification of payment of principal and interest ordered to be paid to all such investors who accepted the rescission offer.

If RESPONDENTS do not comply with this rescission order, any outstanding balance shall be immediately due and payable as restitution.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that DWIGGINS shall pay an administrative penalty in the amount of \$10,000, payable to the "State of Arizona." Upon completion of rescission, and with the Director's approval, the amount may be reduced to \$5,000. Payment shall be made in full by cashier's check or money order on the date of the submission of the verification.

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3 If DWIGGINS does not comply with this order for administrative penalties, DWIGGINS  
4 may be deemed in default.

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

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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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.

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\_\_\_\_\_  
BRIAN C. McNEIL  
Executive Secretary

17

18 DISSENT

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

22

23 (KEM)

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**CONSENT TO ENTRY OF ORDER**

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2           1. RESPONDENT FLOYD WILLIARD DWIGGINS, JR. ("RESPONDENT  
3 DWIGGINS"), an individual, admits the jurisdiction of the Commission over the subject matter of  
4 this proceeding. RESPONDENT DWIGGINS acknowledges that he has been fully advised of his  
5 right to a hearing to present evidence and call witnesses and RESPONDENT DWIGGINS  
6 knowingly and voluntarily waives any and all rights to a hearing before the Commission and all  
7 other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona  
8 Administrative Code. RESPONDENT DWIGGINS acknowledges that this Order to Cease and  
9 Desist, Order of Rescission, and Order for Administrative Penalties ("Order") constitutes a valid  
10 final order of the Commission.

11           2. RESPONDENT DWIGGINS knowingly and voluntarily waives any right he may have  
12 under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or  
13 extraordinary relief resulting from the entry of this Order.

14           3. RESPONDENT DWIGGINS acknowledges and agrees that this Order is entered into  
15 freely and voluntarily and that no promise was made or coercion used to induce such entry.

16           4. RESPONDENT DWIGGINS acknowledges that he has been represented by counsel in  
17 this matter, he has reviewed this Order with his attorney and understands all terms it contains.

18           5. RESPONDENT DWIGGINS admits, only for the purpose of this proceeding, to the  
19 Findings of Fact and Conclusions of Law contained in this Order.

20           6. By consenting to the entry of this Order, RESPONDENT DWIGGINS agrees not to  
21 take any action or to make, or permit to be made, any public statement denying, directly or  
22 indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that  
23 this Order is without factual basis. However, this Order is not intended to collaterally estop,  
24 factually bind, or preclude RESPONDENT DWIGGINS from defending himself in any  
25 administrative, civil or criminal proceedings to which the Commission is not a party.  
26

1 RESPONDENT DWIGGINS will undertake steps necessary to assure that all of his agents and  
2 employees understand and comply with this agreement.

3 7. While this Order settles this administrative matter between RESPONDENT  
4 DWIGGINS and the Commission, RESPONDENT DWIGGINS understands that this Order does  
5 not preclude the Commission from instituting other administrative proceedings based on violations  
6 that are not addressed by this Order.

7 8. RESPONDENT DWIGGINS understands that this Order does not preclude the  
8 Commission from referring this matter to any governmental agency for administrative, civil, or  
9 criminal proceedings that may be related to the matters addressed by this Order.

10 9. RESPONDENT DWIGGINS understands that this Order does not preclude any other  
11 agency or officer of the state of Arizona or its subdivisions from instituting administrative, civil or  
12 criminal proceedings that may be related to matters addressed by this Order.

13 10. RESPONDENT DWIGGINS agrees that he will not apply to the state of Arizona for  
14 registration as a securities dealer or salesman or for licensure as an investment adviser or  
15 investment adviser representative at any time in the future.

16 11. RESPONDENT DWIGGINS agrees that he will not exercise any control over any  
17 entity that offers or sells securities or provides investment advisory services, within or from  
18 Arizona.

19 12. RESPONDENT DWIGGINS agrees that until rescission and penalties are paid in full,  
20 RESPONDENT DWIGGINS will notify the Director of the Securities Division within 30 days of  
21 any change in home address or any change in his ability to pay amounts due under this Order.

22 13. RESPONDENT DWIGGINS understands that default shall render him liable to the  
23 Commission for its costs of collection and interest at the maximum legal rate.

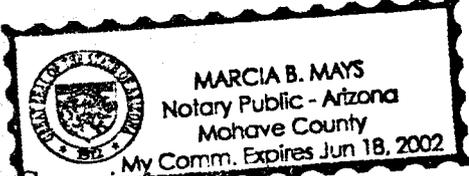
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14. RESPONDENT DWIGGINS consents to the entry of this Order and agrees to be fully bound by its terms and conditions. If RESPONDENT DWIGGINS breaches any provision of this Order, the Commission may vacate this Order and restore this case to its active docket.

*Floyd Willard Dwiggins, Jr.*  
FLOYD WILLARD DWIGGINS, JR.

SUBSCRIBED AND SWORN TO BEFORE me this 19 day of April, 2002.



*Marcia B. Mays*  
NOTARY PUBLIC

My Commission Expires:  
6-18-2002

**CONSENT TO ENTRY OF ORDER**

1  
2           1. RESPONDENT GRAND CANYON WAGON ADVENTURE TOURS, INC.  
3 (“RESPONDENT GCWAT”) admits the jurisdiction of the Commission over the subject matter of  
4 this proceeding. RESPONDENT GCWAT acknowledges that it has been fully advised of its right  
5 to a hearing to present evidence and call witnesses and RESPONDENT GCWAT knowingly and  
6 voluntarily waives any and all rights to a hearing before the Commission and all other rights  
7 otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona  
8 Administrative Code. RESPONDENT GCWAT acknowledges that this Order to Cease and  
9 Desist, Order of Rescission, and Order for Administrative Penalties (“Order”) constitutes a valid  
10 final order of the Commission.

11           2. RESPONDENT GCWAT knowingly and voluntarily waives any right it may have  
12 under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or  
13 extraordinary relief resulting from the entry of this Order.

14           3. RESPONDENT GCWAT acknowledges and agrees that this Order is entered into  
15 freely and voluntarily and that no promise was made or coercion used to induce such entry.

16           4. RESPONDENT GCWAT acknowledges that it has been represented by counsel in this  
17 matter, it has reviewed this Order with its attorney and understands all terms it contains.

18           5. RESPONDENT GCWAT admits, for the purpose of this proceeding, to the Findings of  
19 Fact and Conclusions of Law contained in this Order.

20           6. By consenting to the entry of this Order, RESPONDENT GCWAT agrees not to take  
21 any action or to make, or permit to be made, any public statement denying, directly or indirectly,  
22 any Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order  
23 is without factual basis. However, this Order is not intended to collaterally estop, factually bind,  
24 or preclude RESPONDENT GCWAT from defending itself in any administrative, civil or criminal  
25 proceedings to which the Commission is not a party. RESPONDENT GCWAT will undertake  
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1 steps necessary to assure that all of its agents and employees understand and comply with this  
2 agreement.

3 7. While this Order settles this administrative matter between RESPONDENT GCWAT  
4 and the Commission, RESPONDENT GCWAT understands that this Order does not preclude the  
5 Commission from instituting other administrative proceedings based on violations that are not  
6 addressed by this Order.

7 8. RESPONDENT GCWAT understands that this Order does not preclude the  
8 Commission from referring this matter to any governmental agency for administrative, civil, or  
9 criminal proceedings that may be related to the matters addressed by this Order.

10 9. RESPONDENT GCWAT understands that this Order does not preclude any other  
11 agency or officer of the state of Arizona or its subdivisions from instituting administrative, civil or  
12 criminal proceedings that may be related to matters addressed by this Order.

13 10. RESPONDENT GCWAT agrees that until rescission and penalties are paid in full,  
14 RESPONDENT GCWAT will notify the Director of the Securities Division within 30 days of any  
15 change in address or any change in RESPONDENT GCWAT'S ability to pay amounts due under  
16 this Order.

17 11. RESPONDENT GCWAT understands that default shall render it liable to the  
18 Commission for its costs of collection and interest at the maximum legal rate.

19 12. RESPONDENT GCWAT consents to the entry of this Order and agrees to be fully  
20 bound by its terms and conditions. If RESPONDENT GCWAT breaches any provision of this  
21 Order, the Commission may vacate this Order and restore this case to its active docket.

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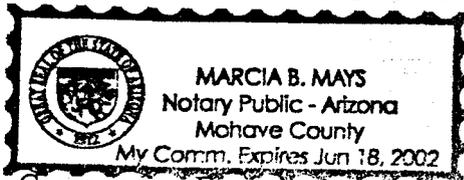
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1 13. Gwynn M. Pearson, hereby represents that she is the President of GCWAT and has  
2 been duly authorized to enter into this Order for and on behalf of GCWAT.

3 GRAND CANYON WAGON ADVENTURE TOURS, INC.

4  
5 Gwynn M. Pearson  
6 By: GWYNN M. PEARSON, President

7  
8 SUBSCRIBED AND SWORN TO BEFORE me this 19 day of APRIL, 2002.



11 Marcia B. Mays  
12 NOTARY PUBLIC

13 My Commission Expires:

14 6-18-2002

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26 N:Enforce/Cases/GCWAT/Pleadings/Consent