

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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AZ CORP COMMISSION
DOCKET CONTROL

In the matter of:

DOCKET NO. S-20759A-10-0387

Norstreet Portfolio, LLC, an Arizona limited liability company,

NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, FOR RESTITUTION, FOR ADMINISTRATIVE PENALTIES, AND FOR OTHER AFFIRMATIVE ACTION

Nathan Nordstrom, a divorced man and Lorrie Beckham (f/k/a Lorrie Nordstrom), the former spouse,

Wayne Scott Clague, a divorced man and Karen Stensler (f/k/a Karen Clague), the former spouse,

Respondents.

**NOTICE: EACH RESPONDENT HAS 10 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 Respondents Norstreet Portfolio, LLC, Nathan Nordstrom, and Wayne Scott Clague have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division also alleges that Nathan Nordstrom and Wayne Scott Clague are persons controlling Norstreet Portfolio, LLC, within the meaning of A.R.S. § 44-1999, so that they are each jointly and severally liable under A.R.S. § 44-1999 to the same extent as Norstreet Portfolio, LLC, for violations of the Securities Act.

Arizona Corporation Commission
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I.

JURISDICTION

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

5 II.

6 RESPONDENTS

7 2. Norstreet Portfolio, LLC ("Norstreet") is an Arizona limited liability company
8 organized on May 9, 2007. The management of Norstreet is reserved to the managers.

9 3. Nathan Nordstrom ("Nordstrom") is a manager of Norstreet. Nordstrom, on behalf of
10 Norstreet, conducted business and/or did business as and through Norstreet, as its manager.

11 4. Wayne Scott Clague ("Clague") is a manager of Norstreet. Clague, on behalf of
12 Norstreet, conducted business and/or did business as and through Norstreet, as its manager.

13 5. Nordstrom, Clague, and Norstreet may be referred to collectively as "Respondents."

14 6. From April 27, 2007, through January 29, 2010, Lorrie Beckham ("L. Beckham") was
15 the spouse of Respondent Nordstrom. On September 17, 2009, a petition of dissolution of marriage
16 was filed in Arizona (FN2009-052393) and a decree of dissolution of marriage of Nordstrom and L.
17 Beckham was entered on January 29, 2010.

18 7. From March 16, 2006, to May 6, 2009, Karen Stensler ("K. Stensler") was the spouse
19 of Respondent Clague. On March 11, 2008, a petition for dissolution of marriage was filed in Arizona
20 (FN2008-050461) and a decree of dissolution of marriage of Clague and K. Stensler was entered on
21 May 6, 2009.

22 8. L. Beckham and K. Stensler may be referred to collectively as "Respondent Spouses."
23 Respondent Spouses are joined in this action under A.R.S. § 44-2031(C) solely for purposes of
24 determining the liability of the marital communities.

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1 d) “5.1.1. *Member-managed*. The Members agree that the management of the
2 Company shall be vested in the Managing Members, The Managing Members are Nathan
3 Nordstrom and Scott Clague. Nathan shall control [...51%...] and Scott Clague shall control
4 [...49%...] of the Company’s authority. [...]. There shall be no further Managing Members;

5 e) “6.1. *Purpose*. The purpose of adding Members to the Company is to obtain
6 additional capital;

7 f) “6.4 *Management*. Members have no management authority;

8 g) “6.5 *Voting*. Members have no ownership in the Company;

9 h) “6.8 *Interest*. If any real estate venture obtains a profit, Members shall
10 receive interest at a rate up to, but not to exceed, twenty two (22) percent *per annum* of any capital
11 contribution; and

12 i) “10.4. *Amendment*. This Agreement may only be amended, restated, or
13 revoked by the written consent of the Managing Members.”

14 16. After payments to investors, any profit still available would be split between
15 Nordstrom and Clague pursuant to the Operating Agreement terms.

16 17. Nordstrom offered and sold to an Arizona resident (“investor”) a real estate
17 investment opportunity involving properties located in Hawaii (“Hawaii Project”). The residential
18 properties located in Hawaii would be rehabilitated, renovated, and resold.

19 18. Nordstrom also provided investors with information about re-platting one of the
20 Hawaii properties so that Norstreet could build and resell an additional residential structure or
21 condominium.

22 19. In addition, Nordstrom offered an investor a real estate investment opportunity
23 involving a residential property located in Washington D.C. (“D.C. Project”). The D.C. Project
24 property would be re-platted and reconstructed into three residential properties or condominiums
25 and then resold by Norstreet.

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1 20. Clague also offered and sold the Hawaii Project and the D.C. Project investment
2 opportunities to certain Arizona investors.

3 21. Between May 2007, and August 2007, certain investors were told that the Hawaii
4 Project and/or the D.C. Project were close to completion and/or that completion would occur
5 within three months.

6 22. Nordstrom and/or Clague stated to investors that their monies would be used for
7 construction and renovation costs required to complete the projects. Upon completion, the
8 Respondents would sell the properties at a profit to repay the investors' principal and interest.

9 23. Nordstrom and/or Clague told investors that a rate of return of twenty-two percent
10 (22%) could be obtained from the investments.

11 24. Nordstrom and/or Clague provided investors with projected financials for the
12 Hawaii Project and the D.C. Project, which showed projected rates of return of twenty-two percent
13 (22%) or greater.

14 25. Nordstrom and/or Clague told at least one investor that Norstreet had acquired the
15 Hawaii properties from the property owners through foreclosure bailouts.

16 26. Nordstrom and/or Clague told at least one investor that the investor's money would
17 be used solely to rehabilitate, renovate, or construct the residential properties located in Hawaii
18 and/or Washington D.C.

19 27. Nordstrom and/or Clague told investors that their investments would be secured by
20 real estate of the project property; however, Norstreet did not have title, free and clear, on the D.C.
21 Project property or the Hawaii Project properties to secure the investors' investments. In addition,
22 Norstreet did not execute a deed of trust, for the benefit of investors or Norstreet, on the project
23 properties.

24 28. Nordstrom and/or Clague stated to the investors that upon completion of one or
25 more projects, Respondents would create additional investment opportunities by purchasing,
26 rehabilitating, and reselling more real estate properties. Investors could choose to withdraw their

1 principal and profits or roll them over into a new real estate investment opportunity created by
2 Respondents.

3 29. At least six Arizona residents invested after a meeting and/or discussion with
4 Nordstrom or Clague.

5 30. Between the periods of May 14, 2007, to July 1, 2008, at least six investors
6 executed a document titled, Amendment to Operating Agreement of Norstreet Portfolio, LLC
7 (“Amendment”). The Amendment was also signed by Nordstrom and Clague, as managing
8 members.

9 31. The Amendment stated that the investor would become a member of Norstreet on
10 the effective date listed in the document. The investor’s membership interest would be based on the
11 amount of investment.

12 32. The Amendment also evidenced each investor’s investment amount by specifying
13 the amount of money provided to Norstreet.

14 33. The Amendment stated that an investor could earn up to twenty-two percent (22%)
15 per annum.

16 34. Though each investor was made a member of Norstreet, the Amendment stated that
17 the investor had no management authority, no voting power, and no ownership in Norstreet. The
18 investor did not have any day-to-day or operational control over the Hawaii Project or the D.C.
19 Project.

20 35. Nordstrom and Clague made trips out to Hawaii and Washington, respectively,
21 during development of the projects.

22 36. Nordstrom and Clague were in charge of the day-to-day operations, such as
23 choosing and overseeing the construction contractor, choosing the manner and method of
24 rehabilitation or renovation, and overseeing the sales of the properties. Nordstrom and/or Clague
25 met with several builders, interviewed the builders, obtained cost breakdowns, met with architects,
26 and met with an attorney to start the condominium property regime (“CPR”) process.

1 37. In addition, Nordstrom and/or Clague determined which project to allocate the
2 investor monies to, what costs to incur, and the order of development.

3 38. Respondents chose to re-plat one of the Hawaii properties and construct an
4 additional residential structure. In general, a CPR and a public report filed with the state of Hawaii
5 are required to offer for sale such a re-plat and residential structure addition.

6 39. Nordstrom and/or Clague failed to disclose that the Hawaii Project was not ready
7 for resell as a project within the three-month time frame discussed because Respondents had failed
8 to obtain all required approvals from the state of Hawaii. In fact, the state of Hawaii CPR
9 application for the project did not get filed until on or about April 16, 2008, and a final public
10 report did not become effective until November 18, 2009.

11 40. Pursuant to Hawaii Revised Statutes, chapter 514A-31(a), “[n]o offer of sale or sale
12 shall be made until the project has been registered with the commission and the commission has
13 issued an effective date for the project's preliminary, contingent final, or final public report.”

14 41. Nordstrom and/or Clague failed to disclose to the investors that some of the
15 investors' monies were used for purposes other than for rehabilitation, renovations and
16 construction. Respondents submitted payments to the mortgagors of the properties to allow the
17 mortgagors to make mortgage interest payments that were still due and outstanding on the
18 properties. In addition, investor monies were used by Nordstrom to make multiple loans to the
19 Hawaii mortgagor.

20 42. To date, neither the Hawaii Project nor the D.C. Project has been sold by Norstreet.

21 43. At all times relevant, Respondents were not registered as salesmen or dealers.

22 44. Respondents raised at least \$1,076,000 from at least six investors.

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1 IV.

2 VIOLATION OF A.R.S. § 44-1841

3 (Offer or Sale of Unregistered Securities)

4 45. From on or about May 14, 2007, to July 1, 2008, Respondents offered or sold
5 securities in the form of investment contracts, within or from Arizona.

6 46. The securities referred to above were not registered pursuant to Articles 6 or 7 of the
7 Securities Act.

8 47. This conduct violates A.R.S. § 44-1841.

9 V.

10 VIOLATION OF A.R.S. § 44-1842

11 (Transactions by Unregistered Dealers or Salesmen)

12 48. Respondents offered or sold securities within or from Arizona while not registered as
13 dealers or salesmen pursuant to Article 9 of the Securities Act.

14 49. This conduct violates A.R.S. § 44-1842.

15 VI.

16 VIOLATION OF A.R.S. § 44-1991

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

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

24 a) Nordstrom and/or Clague told investors that their investments would be
25 secured by real estate of the project property; however, Norstreet did not have title, free and clear,
26 on the D.C. Project property or the Hawaii Project properties to secure the investors' investments.

1 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
2 Requests should be made as early as possible to allow time to arrange the accommodation.

3 **IX.**

4 **ANSWER REQUIREMENT**

5 Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing,
6 the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for
7 Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix,
8 Arizona 85007, within 30 calendar days after the date of service of this Notice. Filing instructions
9 may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet
10 web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

11 Additionally, the answering respondent must serve the Answer upon the Division.
12 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
13 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix,
14 Arizona, 85007, addressed to Phong (Paul) Huynh.

15 The Answer shall contain an admission or denial of each allegation in this Notice and the
16 original signature of the answering respondent or respondent's attorney. A statement of a lack of
17 sufficient knowledge or information shall be considered a denial of an allegation. An allegation
18 not denied shall be considered admitted.

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

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