ORIGINAL NEW APPLICATION

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AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

In the matter of: Norstreet Portfolio, LLC, an Arizona limited liability company, 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.	DOCKET NO. S-20759A-10-0387 **NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, FOR RESTITUTION, FOR ADMINISTRATIVE PENALTIES, AND FOR OTHER AFFIRMATIVE ACTION**

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.

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

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

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

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

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

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

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

9. At all times relevant, Respondent Nordstrom and Respondent Clague were acting for their own benefits and for the benefits or in furtherance of their and their respective Respondent Spouses' marital communities.

III.

FACTS

10. In or around May 2007, Nordstrom and Clague discussed raising capital to fund Norstreet real estate development projects. Clague was tasked with finding investors to provide capital to Norstreet.

11. Nordstrom and Clague agreed that there would be a five percent (5%) commission paid to the party that secured the investment capital. The five percent (5%) would be based on the total amount invested by an investor.

12. Clague received at least $31,000 in commissions from Norstreet for securing investment capital.

13. In or around May 2007, Clague became the vice president of acquisitions for Norstreet.

14. On or about May 8, 2007, Nordstrom and Clague executed an Operating Agreement for Norstreet Portfolio, LLC ("Operating Agreement").

15. The Operating Agreement included the following relevant terms or provisions:

a) "1.3. *Purpose*. The purpose and business of this Company shall be to raise capital to fund real estate development. [....]. The Company may engage in other business or acquire other assets only on the vote of the Managing Members;

b) "4.1.1.1. First, Profits shall be allocated proportionately among the Members until the cumulative Profits allocated to each Member [...] equal the cumulative Priority Return (22%) [....];

c) "4.1.1.2. Second, any profits greater than the Priority Return shall be allocated to the Managing Members in accordance with their Percentage Interests;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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IV.

VIOLATION OF A.R.S. § 44-1841

(Offer or Sale of Unregistered Securities)

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

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

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

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

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

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

VI.

VIOLATION OF A.R.S. § 44-1991

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

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

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

In addition, Norstreet did not execute a deed of trust, for the benefit of investors or Norstreet, on the project properties.

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

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

51. Nordstrom is a person controlling Norstreet within the meaning of A.R.S. § 44-1999. Therefore, Nordstrom is jointly and severally liable to the same extent as Norstreet for violations of A.R.S. § 44-1991.

52. Clague is a person controlling Norstreet within the meaning of A.R.S. § 44-1999. Therefore, Clague is jointly and severally liable to the same extent as Norstreet for violations of A.R.S. § 44-1991.

53. This conduct violates A.R.S. § 44-1991.

VII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;

2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order Respondents 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 communities of Respondents and Respondent Spouses be 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.

VIII.

HEARING OPPORTUNITY

Each respondent, including Respondent Spouses, may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. 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 http://www.azcc.gov/divisions/hearings/docket.asp.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A.

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

IX.

ANSWER REQUIREMENT

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

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

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

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

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

Dated this 23 day of September, 2010.

Matthew J. Neubert
Director of Securities