

**COMMISSIONERS**  
MARC SPITZER - Chairman  
JIM IRVIN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON



ARIZONA CORPORATION COMMISSION

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MEMORANDUM

**TO:** Marc Spitzer, Chairman  
Jim Irvin  
William A. Mundell  
Jeff Hatch-Miller  
Mike Gleason

**FROM:** Matt Neubert *mjn*  
Acting Director of Securities

**DATE:** August 5, 2003

**RE:** Proposed Default Order Against Respondents

**CC:** James G. Jayne, Interim Executive Secretary

Arizona Corporation Commission  
**DOCKETED**  
AUG 07 2003

DOCKETED BY *CHC*

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DOCUMENT CONTROL

Attached is a proposed Default Order to Cease and Desist, Order for Restitution, and Order for Administrative Penalties with Respect to Respondents Ocean International Marketing, Ltd. ("Ocean"), Heros Global Marketing, Ltd. ("Heros"), and Seed International, Ltd. ("Seed") (collectively the "Ocean Respondents") (the "Default Order"). The Default Order requires the Ocean Respondents to cease and desist from violations of the Securities Act of Arizona, to pay restitution to investors in the amount of at least \$99,689.22, and to pay an administrative penalty of \$25,000 each, for a total penalty of \$75,000.

The Securities Division issued a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing (the "Temporary Order") on or about April 15, 2003, and served each of the Ocean Respondents with a copy of the Temporary Order by certified mail, return receipt requested, pursuant to the terms of the Hague Convention governing international service of process. The Division received signed receipt cards with respect to its service on Ocean and Heros. Although it did not receive a signed card from Seed, Seed did fax correspondence to the Division attorney responsible for this case, indicating it had received and would abide by the Temporary Order, and further indicating it did not intend to request a hearing. None of the Ocean Respondents requested a hearing within the time provided for in the Temporary Order.

The Default Order includes findings of fact and conclusions of law that describe the program offered by the Ocean Respondents. The Ocean Respondents typically targeted successful doctors and dentists. Essentially, the Ocean Respondents, all non-American companies, offered an investment contract in "fine wine." The Ocean Respondents represented that they would obtain funds from investors and invest those funds into "fine wine" that the Ocean Respondents believed would appreciate in value. They represented that they would manage a portfolio of such wines for each investor which, though normally held by the Ocean Respondents, could nevertheless be delivered directly to the investor upon request. In practice, the investors did not receive the wines. Furthermore, few investors received any appreciable return on their investment. Instead, they were solicited for increasing investment amounts and sent lulling letters and statements allegedly showing that their "fine wine" was steadily increasing in value. Those investors who did request money from the Ocean Respondents instead continued to be dunned for additional monies, without which their investments allegedly would be in jeopardy.

The Division recommends this proposed Order on the following grounds: The order provides for full restitution to all known Arizona investors, and the requested administrative penalty is reasonable in light of the Ocean Respondents' activities. At this time, the Division is advised that the Securities & Exchange Commission, as well as a number of other state securities regulators, are investigating this program. The Division will cooperate with any such agencies in hopes of obtaining some satisfaction for investors.

Originator: Kathleen Coughenour DeLaRosa



1 On April 15, 2003, the Securities Division ("Division") of the Arizona Corporation  
2 Commission ("Commission") filed a Temporary Order to Cease and Desist and Notice of  
3 Opportunity for Hearing ("Temporary Order") with respect to Respondents OCEAN  
4 INTERNATIONAL MARKETING, LTD. ("OCEAN"), HEROS GLOBAL MARKETING,  
5 LTD. ("HEROS"), and SEED INTERNATIONAL, LTD. ("SEED") (collectively the "OCEAN  
6 RESPONDENTS"). The Division served the Temporary Order on each of the OCEAN  
7 RESPONDENTS via certified mail, return receipt requested, as is permitted pursuant to the terms  
8 of the Hague Convention governing international service of process. The Temporary Order  
9 specified that the OCEAN RESPONDENTS would be afforded an opportunity for an  
10 administrative hearing regarding this matter upon filing a written request with Docket Control of  
11 the Commission within ten days of receipt of the Temporary Order. The OCEAN  
12 RESPONDENTS failed to request a hearing within the required time.

13 **I.**

14 **FINDINGS OF FACT**

15 1. OCEAN is a foreign business entity with its primary place of business in Rotterdam,  
16 The Netherlands. OCEAN was served with the Temporary Order by certified mail, pursuant to the  
17 Hague Convention, on or about April 15, 2003. OCEAN did not request a hearing or provide an  
18 Answer to the Temporary Order within the time provided therefor in the Temporary Order.

19 2. HEROS is a foreign business entity with its primary place of business in Rotterdam,  
20 The Netherlands. HEROS was served with the Temporary Order by certified mail, pursuant to the  
21 Hague Convention, on or about April 15, 2003. HEROS did not request a hearing or provide an  
22 Answer to the Temporary Order within the time provided therefor in the Temporary Order.

23 3. SEED is a foreign business entity with its primary place of business in Grand  
24 Cayman. SEED was served with the Temporary Order by certified mail on or about April 15, 2003.  
25 Although SEED responded to the Temporary Order with a letter addressed to the Division, SEED  
26 specifically stated in that letter that SEED did not intend to request a hearing.

1           4.       Beginning in or before March, 1997, the OCEAN RESPONDENTS, directly or  
2 through their agents and/or employees, contacted Arizona residents, offering to sell Arizona  
3 residents an investment in "fine wine" on behalf of SEED.

4           5.       During February of 2001, at least one known Arizona resident received, directly or  
5 through agents and/or employees of the OCEAN RESPONDENTS, an unsolicited mailing from the  
6 OCEAN RESPONDENTS, offering to sell an investment in "fine wine" on behalf of SEED.

7           6.       The written materials represented that:

8                   Seed International is responsible for the following:

- 9                   •     Sourcing collectables and negotiating their purchase from third
- 10                   •     parties at below market prices.
- 11                   •     Acting as an agent for each successive purchaser.
- 12                   •     Managing the collection portfolio for each individual Member.
- 13                   •     Acting on behalf of each Member in inviting and admitting new
- Members into the Programme.

14       The written materials further stated:

15                   Our independent team of specialists and financial analysts make it  
16 possible for our clients to acquire wine assessed as having the  
17 potential to increase in value. An added bonus is that each client's  
collection portfolio is managed on their behalf by Seed International.

18                   The Company's network on wine experts operates globally to  
19 identify stock worthy of collection. Authenticity and marketability is  
20 thoroughly evaluated before Seed International judges it worthy of  
21 any client's attention. By this reliable route, Seed International is  
able to recommend purchases at levels below actual market value,  
likely to appreciate in value, and provide resale potential for the  
client.

22           7.       From or about January, 1997 through at least April 26, 2002, the OCEAN  
23 RESPONDENTS, directly or through their agents and/or employees, offered or sold investment  
24 contracts in "fine wine" within or from Arizona to at least three Arizona residents.

25       ...

26       ...

II.

CONCLUSIONS OF LAW

1  
2  
3 5. The Commission has jurisdiction over this matter pursuant to Article XV of the  
4 Arizona Constitution and the Securities Act.

5 6. Beginning in or about January, 1997, the OCEAN RESPONDENTS offered or sold  
6 securities in the form of investment contracts or commodity investment contracts, within or from  
7 Arizona.

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

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

11 9. THE OCEAN RESPONDENTS have offered or sold securities within or from  
12 Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

13 10. This conduct violates A.R.S. § 44-1842.

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

21 a) Failure to provide prospective investors with adequate information to enable  
22 them to evaluate fully the potential risks of the investment, particularly including the  
23 financial background of the OCEAN RESPONDENTS, e.g., audited financial statements;

24 b) Specifically stating that risk of loss is "extremely improbable" in connection  
25 with the investment program promoted by the OCEAN RESPONDENTS, without providing  
26 any basis in fact for that representation;



1 IT IS FURTHER ORDERED that the Commission shall retain jurisdiction to reopen this  
2 matter to adjust the restitution amount if more investors come to the attention of the Division after  
3 entry of this Order.

4 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that the OCEAN  
5 RESPONDENTS shall each pay an administrative penalty in the amount of \$25,000.00, payable to  
6 the "State of Arizona," for a total penalty of \$75,000.00. Any amount outstanding shall accrue  
7 interest at the rate of 10% per annum from the date of this Order until paid in full.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

9  
10 \_\_\_\_\_  
CHAIRMAN

COMMISSIONER

COMMISSIONER

11 \_\_\_\_\_  
COMMISSIONER

COMMISSIONER

12  
13 IN WITNESS WHEREOF, I, JAMES G. JAYNE, Interim  
14 Executive Secretary of the Arizona Corporation Commission,  
15 have hereunto set my hand and caused the official seal of the  
Commission to be affixed at the Capitol, in the City of  
Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2003.

16 \_\_\_\_\_  
JAMES G. JAYNE  
17 Interim Executive Secretary

18 \_\_\_\_\_  
DISSENT

19 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,  
20 voice phone number 602-542-3931, E-mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us)

21 N:\ENFORCE\CASES\Ocean.kcd\PLEADING\Ocean Respondents Default Order.doc (KCD)