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NEW

BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

2001 DEC 14 A 10:14

AZ CORP COMMISSION
DOCUMENT CONTROL

In the matter of:

JAMES T.M. VERBIC
(CRD # 2125770)
7880 N. 71st Street
Paradise Valley, Arizona 85253

Respondent.

) DOCKET NO. S-03435A-01-0000
)
) **NOTICE OF OPPORTUNITY FOR HEARING**
) **REGARDING PROPOSED ORDER**
) **OF REVOCATION AND FOR**
) **OTHER AFFIRMATIVE ACTION**

NOTICE: RESPONDENT HAS 10 DAYS TO REQUEST A HEARING

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that facts exist which warrant revocation of Respondent's registration as a securities salesman in Arizona, pursuant to the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

I.

JURISDICTION

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

II.

RESPONDENT

2. Respondent James Timothy Michael Verbic ("VERBIC") became a registered securities salesman in Arizona on June 28, 1991. He was associated with Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("Merrill") from that date until his termination on January 3, 2000. During the

1 period of his association with Merrill, VERBIC worked in Merrill's Scottsdale, Arizona branch.
2 VERBIC's last known address is 7880 North 71st Street, Paradise Valley, Arizona 85253.

3 3. Pursuant to A.R.S. § 44-1949, VERBIC's registration was automatically suspended on
4 the date of his termination by Merrill, January 3, 2000. Since that date, VERBIC has not been
5 registered in association with a dealer, and accordingly his registration expired on December 31,
6 2000, pursuant to A.R.S. § 44-1947(B). Nonetheless, pursuant to A.R.S. §§ 44-1963(D) and 44-
7 1947(D), the Commission has the power to bring this action and to suspend or revoke VERBIC's
8 registration as a securities salesman.

9 III.

10 FACTS

11 3. Brenda Verbic is VERBIC's wife. Her maiden name is Brenda Jo Barger. Since the
12 Verbics' marriage in November 1992 or 1993, through at least November 13, 2000, Brenda Verbic
13 was a homemaker, who had no work experience, no earned income, and no assets apart from
14 jewelry and household furnishings received as gifts from her family. VERBIC was the sole
15 supporter of Brenda Verbic and their children.

16 4. All the acts of VERBIC or of Brenda Verbic alleged in this Notice, were done in
17 furtherance of the interests of the marital community of VERBIC and Brenda Verbic.

18 5. From in or about 1993, until in or about April 1999, Gary M. Paster ("Paster") and his
19 wife, Cynthia J. Paster, were customers of Merrill, with accounts serviced by Merrill's Scottsdale
20 branch office. During that entire period, VERBIC was the Merrill "Financial Consultant" (i.e.,
21 registered securities salesman) with responsibility for the Pastors' accounts with Merrill.

22 6. Neither Gary nor Cynthia Paster is a relative of VERBIC.

23 7. Neither Gary nor Cynthia Paster was a person in the business of lending funds during
24 the time period relevant to this Notice.

25 8. In or about October 1996, VERBIC asked Paster to invest \$30,000 outside of Merrill.
26

1 9. VERBIC told Paster, that VERBIC had become aware that a person who was building
2 homes or storage facilities was seeking to borrow money, to fund construction costs.

3 10. Paster did not know the "builder," nor did he ask to meet him. Paster did not request
4 or receive financial statements of the builder, or any other information a lender would normally
5 review prior to making a business loan.

6 11. Instead, Paster agreed to make a \$30,000 loan to VERBIC himself. VERBIC's
7 obligation to repay the loan was not evidenced by a promissory note or other writing. The loan
8 was accomplished by means of a personal check for \$30,000, written by Paster, payable to the
9 order of Brenda Verbic, with the word "loan" on the memo line of the check.

10 12. The 1996 loan, together with interest, was repaid to Paster by means of five bank
11 checks totaling \$37,480.00, plus a final cash payment of \$2,880.00. Brenda Verbic purchased each
12 of the five bank checks. Brenda Verbic sent the checks to Paster at his home in Sedona between
13 November 15, 1996, and December 12, 1998, in each case using the name "Barger" as the name of
14 the "sender" of the package. Brenda Verbic delivered the final cash payment relating to the 1996
15 loan, to Gary Paster in person, at a meeting at Scottsdale Fashion Square, Scottsdale and
16 Camelback Roads, Scottsdale, Arizona, some time after December 12, 1998.

17 13. In 1997, VERBIC recommended that Paster make a second investment outside of
18 Merrill.

19 14. Upon VERBIC's advice, Paster decided to invest \$50,000 in common stock of a
20 corporation known as "Internext." In addition, Paster lent VERBIC another \$50,000 so that
21 VERBIC could purchase Internext common stock as well.

22 15. The 1997 loan was accomplished in the form of a check in the amount of \$100,000,
23 payable to the order of Internext, which Paster made and sent to Robert Kondamoori (a promoter of
24 Internext) on August 8, 1997. Accompanying the check, Paster sent an instruction that \$50,000
25 was to be applied to effect a purchase of Internext common stock for himself, and \$50,000 was to
26 be applied to effect a purchase of Internext common stock in the name of VERBIC.

1 16. On August 8, 1997, VERBIC sent to Paster by facsimile, an "IOU" signed by Brenda
2 Verbic in the amount of \$50,000.

3 17. As of November 2000, Paster's \$100,000 check to Internext had not been cashed.
4 Accordingly, there were no payments of principal or interest subsequently made on this 1997 loan.
5 Nonetheless, VERBIC borrowed \$50,000 from Paster on August 8, 1997.

6 18. VERBIC did not seek or receive prior written approval from Merrill to offer common
7 stock of Internext to Paster. Paster's and VERBIC's orders to buy \$50,000 worth apiece of
8 Internext common stock, were not reflected on the books and records of Merrill.

9 19. In or about January, 1999, VERBIC requested that Paster make another investment
10 outside of Merrill.

11 20. On or about January 18, 1999, Paster received two promissory notes, one handwritten
12 and the other typewritten, each of them signed by VERBIC and Brenda Verbic as makers. In the
13 handwritten version the makers promised to pay Paster \$30,000 plus 22% interest, on or before
14 May 15, 1999. In the typewritten version the makers promised to pay Paster in two installments as
15 follows: \$7,000 plus 22% interest by February 18, 1999, and \$23,000 plus 22% interest by May
16 15, 1999. The typewritten version included the following language: "THIS NOTE WILL BE
17 SURRENDERED TO JAMES VERBIC UPON FINAL PAYMENT< ALL COPIES WILL BE
18 DESTROYED."

19 21. On or about January 20, 1999, Paster funded a loan to VERBIC and Brenda Verbic in
20 the amount of \$30,000.00.

21 22. Paster initially obtained the funds for the 1999 loan from his consumer credit line at
22 Bank of America. Subsequently, Paster complained to VERBIC about the interest he was incurring
23 on the Bank of America credit line. VERBIC suggested that Paster take \$30,000 from his IRA
24 account at Merrill to pay down the consumer credit line, and then put \$30,000 back into his IRA
25 account within 60 days to avoid the taxes and penalties he otherwise would have owed on account
26 of an early withdrawal from the IRA. Paster accepted and acted upon this suggestion.

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(1) failed to disclose to Merrill, and/or pursued a course of concealing from Merrill, the three above-described transactions, over a four-year period, and/or

(2) offered Internext common stock to Paster without having first obtained approval of Merrill to do so, and made one or more orders to buy Internext common stock that were not reflected on Merrill's books and records, and/or

c) Is lacking in integrity, as specified in A.R.S. § 44-1962(A)(4), in that he:

(1) failed to disclose to Merrill, and/or pursued a course of concealing from Merrill, the three above-described transactions, over a four-year period; and/or

(2) offered Internext common stock to Paster without having first obtained approval of Merrill to do so, and made one or more orders to buy Internext common stock that were not reflected on Merrill's books and records.

V.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief against

VERBIC:

1. Order the revocation of VERBIC's registration as a securities salesman pursuant to A.R.S. § 44-1962; and
2. Order any other relief that the Commission deems appropriate.

VI.

HEARING OPPORTUNITY

VERBIC may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. A request must be in writing and received by the Commission within 10 business days after service of

1 this Notice of Opportunity for Hearing. VERBIC or his attorney must deliver or mail the request to
2 Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007.
3 A Docket Control cover sheet must accompany the request. A cover sheet form and instructions
4 may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet
5 web site at www.cc.state.az.us/utility/forms/index.htm.

6 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin
7 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the
8 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission
9 may, without a hearing, enter an order against VERBIC granting the relief requested by the Division
10 in this Notice of Opportunity for Hearing.

11 Persons with a disability may request a reasonable accommodation such as a sign language
12 interpreter, as well as request this document in an alternative format, by contacting Shelly M.
13 Hood, ADA Coordinator, voice phone number 602-542-3931, e-mail shood@cc.state.az.us.
14 Requests should be made as early as possible to allow time to arrange the accommodation.

15
16 Dated this 14th day of December, 2001.

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19 Mark Sendrow
20 Director of Securities

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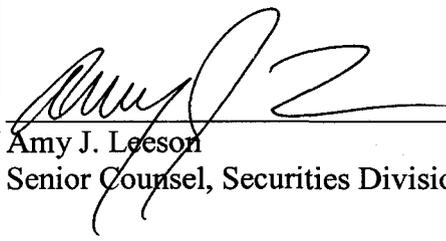
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This Notice of Opportunity for Hearing was served upon Respondent, James T.M. Verbic, pursuant to his agreement, by certified mail addressed to his attorney, as follows:

Jesse B. Simpson, Jr., Esq.
Lewis & Roca, LLP
40 N. Central Avenue
Phoenix, AZ 85004-4429

 12/14/01
Amy J. Leeson
Senior Counsel, Securities Division

Memorandum

RECEIVED

2001 DEC 14 A 10: 14

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: December 14, 2001
TO: Nancy Cole
Docket Control
FROM: Amy Leeson
Securities Division
RE: Matter of James T.M. Verbic
Docket No. S-03435A-01-0000
Assigned Staff
CC: Mabel Aldridge

This is to notify you that the following individuals have been assigned to the above-mentioned case.

- Mark Sendrow
- LeRoy Johnson
- Matthew Neubert

Amy Leeson (Staff Attorney)

Lisa Busse (Staff Investigator)

Note: The Assistant Attorney General assigned to this matter is: Moira McCarthy.