



0000117532

ORIGINAL

29

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2001 MAY 30 P 3:18

AZ CORP COMMISSION
DOCUMENT CONTROL

1
2
3 WILLIAM A. MUNDELL
4 Chairman
5 JIM IRVIN
6 Commissioner
7 MARC SPITZER
8 Commissioner

9 In the matter of:)
10)
11 TOWER EQUITIES, INC.)
12 8141 N. Main Street)
13 Dayton, Ohio 45415-1747)
14 CRD #16195)
15)
16 PHILIP A. LEHMAN)
17 Tower Equities, Inc.)
18 8141 N. Main Street)
19 Dayton, Ohio 45415-1747)
20 CRD #1345038,)
21 Respondents.)

DOCKET NO. S-03439A-00-0000

JOINT PRE-HEARING
STATEMENT

Arizona Corporation Commission

DOCKETED

MAY 30 2001

DOCKETED BY [Signature]

14 The Securities Division (the "Division") of the Arizona Corporation Commission (the
15 "Commission") and respondents Tower Equities, Inc., and Philip A. Lehman ("Tower" and
16 "Lehman," or collectively, "Respondents"), by their undersigned counsel, hereby make
17 stipulations of fact, identify issues of fact as to which an evidentiary hearing is requested, and
18 identify issues of law and policy which, in the parties' view, require a ruling by the Hearing
19 Officer.

20 **Stipulated Facts/Procedural:**

- 21 1. The Division filed a Notice of Opportunity for Hearing in this matter on December
22 27, 2000.
23 2. The Respondents were served with copies of the Notice by certified mail.
24 3. On January 18, 2001 the Respondents filed an Answer and Request for Hearing.
25 4. On January 23, 2001, a Procedural Order was entered, scheduling a pre-hearing
26 conference for February 8, 2001.

- 1 5. The pre-hearing conference occurred on February 8, 2001, and during that
- 2 conference the parties agreed to set the hearing date on April 10, 2001 at 9:30 a.m.
- 3 6. On April 3, 2001, the parties requested a continuance of the proceeding for at least
- 4 45 days, to narrow the issues and to complete the production of documents.
- 5 7. By Procedural Order dated April 4, 2001, the hearing was continued from April 10,
- 6 2001 to May 30, 2001 at 9:30 a.m.
- 7 8. The Respondents filed a Motion to Extend Time on May 18, 2001, on the ground
- 8 that they had failed to receive a copy of the April 4 Procedural Order in the mail
- 9 from Docket Control, had learned of the April 4 Procedural Order's existence on
- 10 May 15, 2001, and needed additional time to prepare for hearing.
- 11 9. The Division filed the Division's Opposition to Respondents' Motion to Continue
- 12 Hearing on May 21, 2001.
- 13 10. On May 22, 2001, discussion of the Motion to Extend Time was had via telephone
- 14 conference call among the Hearing Officer, counsel for the Division and counsel for
- 15 the Respondents. During the call the Hearing Officer instructed the parties to
- 16 attempt to reach stipulations of fact, in order to streamline or eliminate the need for
- 17 the hearing. An additional conference call was scheduled for May 25 at 9:00 a.m.

18 **Stipulated Facts/Substantive**

- 19 1. Tower is an Ohio corporation, the address of which is 8141 N. Main Street, Dayton,
- 20 Ohio 45415-1747.
- 21 2. Tower is a registered securities dealer in Arizona, and has been a registered securities
- 22 dealer in Arizona since January 6, 1998. Tower is also an investment adviser
- 23 registered with the United States Securities and Exchange Commission (the "SEC")
- 24 since in or about 1988.

- 1 3. Lehman, whose business address is that of Tower Equities, Inc., is a registered
2 securities salesman in Arizona, and has been a registered securities salesman in
3 Arizona since November 20, 1998.
- 4 4. From at least January 1, 1997 until October 1, 2000, Lehman was the sole shareholder,
5 chairman, vice president and chief compliance officer of Respondent Tower.
- 6 5. From at least January 1, 1997 until October 1, 2000, Lehman was a person controlling
7 Respondent Tower.
- 8 6. On or about September 7, 2000, the SEC entered its order in Administrative
9 Proceeding No. 3-10024 before the SEC. Among other things in the order, the
10 SEC:
- 11 a. Suspended Lehman from association with any broker, dealer, investment
12 adviser or investment company for a period of nine months, effective on the
13 second Monday following entry of the order;
- 14 b. Ordered Lehman to cease and desist from committing or causing any violation
15 of the anti-fraud provisions of the federal securities laws or investment adviser
16 law; and
- 17 c. Ordered Tower to cease and desist from committing or causing any violation of
18 the anti-fraud provisions of the federal securities laws or investment adviser
19 law.
- 20 7. Attached to this Joint Pre-Hearing Statement, marked as "Exhibit S-10," is a true
21 and correct copy of the SEC's order dated September 7, 2000.
- 22 8. The SEC order resulted from Offers of Settlement submitted by Tower and Lehman
23 after public administrative proceedings and cease and desist proceedings had been
24 commenced against them by the SEC on September 22, 1999.
- 25 9. The SEC found that Tower and Lehman had willfully violated the Securities Act of
26 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of

1 1940, in that they made misrepresentations of material facts and omitted to state
2 material facts to investors regarding several offerings. These offerings were:

- 3 a. Tower Venture 97-A, Ltd., an Ohio limited liability company ("Tower
4 Venture"),
5 b. Lifetime Assets, LLC, an Ohio limited liability company of which Lehman was
6 the president and managing partner ("Lifetime Assets"),
7 c. Baylor/Gavic, LLC, an Ohio limited liability company of which Lehman was
8 the president and managing partner ("Baylor/Gavic"), and
9 d. Wellington, LLC, an Ohio limited liability company of which Lehman was the
10 president and managing partner ("Wellington").

11 10. From in or about February 1997 to in or about December 1998, Tower and Lehman
12 raised a total of approximately \$10,125,000 from their investment advisory clients
13 for the four issues just listed.

14 11. Lehman invested no money of his own in any of the four issues.

15 12. In the Tower Venture offering, Tower and Lehman represented to investors that \$10
16 million in investor funds would be used to make a "loan premium payment" to
17 Credit Austerlitz Finances, Ltd. ("Credit Austerlitz"), a European entity.

18 13. Tower and Lehman represented that in return for this \$10 million payment, Credit
19 Austerlitz would provide a \$30 million, "self-liquidating loan" to a joint venture in
20 which Tower Venture would be a partner. Respondents Tower and Lehman
21 represented that receipt of the \$30 million "loan proceeds" by the joint venture
22 would be secured by a standby letter of credit ("SLC") issued by a major European
23 bank and confirmed by a major U.S. bank.

24 14. No interest rate was stated for this \$30 million "loan." Respondents Tower and
25 Lehman represented to investors that over a ten-year period, the \$10 million "loan
26

- 1 premium payment” would be used to “liquidate” the obligation to repay \$30
2 million, and that the \$20 million difference would never have to be repaid.
- 3 15. The SEC found that “this ‘loan’ transaction did not, and could not, exist.”
- 4 16. The SEC found that “none of the European banks identified by Tower and Lehman
5 would have issued a standby letter of credit for the Tower Venture ‘loan’
6 transaction.”
- 7 17. In the Tower Venture offering, Tower and Lehman represented to investors that a
8 portion of the “loan” proceeds would be used to purchase viatical insurance
9 policies, for which investors could expect to earn a return of approximately 33% on
10 their invested funds after one year.
- 11 18. The SEC found that Tower and Lehman had no reasonable basis for this
12 representation since they had no agreement with any viatical company to purchase
13 viatical insurance policies and had not conducted adequate due diligence.
- 14 19. With regard to each of the other three offerings listed above (Lifetime Assets,
15 Baylor/Gavic and Wellington), the SEC found that the purported use of investment
16 proceeds in each of the offerings was “a ‘transaction’ with a ‘trading company’
17 sponsored by a ‘transaction bank’ in Europe.”
- 18 20. The SEC found that Tower and Lehman had “no basis for these representations”
19 and that “Lehman and Tower Equities never had any agreement with any European
20 bank to ‘sponsor’ the transaction, never had any agreement with any ‘trading
21 company’ and never identified any ‘transaction.’”
- 22 21. In at least one of the three offerings, Respondents Tower and Lehman told investors
23 they could expect to earn returns of up to 100% on their investment within 25 days,
24 or an annualized rate of 1,440 percent, with minimal risk.
- 25 22. In its order the SEC imposed sanctions of censure and entry of a cease and desist
26 order against Tower. The SEC did not suspend Tower’s broker-dealer or

1 investment adviser license. The SEC did not require Tower to pay a financial
2 penalty, stating its reason as follows: "The Commission has reviewed the sworn
3 financial statement and other evidence provided by Tower Equities and has
4 determined that Tower Equities does not have the financial ability to pay a civil
5 penalty."

6 23. No Arizona residents invested in any of the four offerings that were the subject of
7 the SEC order. The investors were residents of at least fifteen different states,
8 including New York, Illinois, Rhode Island, Georgia, Ohio, Nevada, Michigan,
9 Missouri, Tennessee, California, South Carolina, Utah, Kentucky, Florida, and
10 Wisconsin.

11 24. All investors' monies were refunded to them, with interest.

12 25. Tower did not receive compensation for its participation in any of the four offerings
13 that were the subject of the SEC order.

14 26. Since October 1, 2000, Respondent Tower has been wholly-owned by a holding
15 company, Tower Investment Services, Inc.

16 27. From October 1, 2000, to May 1, 2001, the ownership of the holding company, Tower
17 Investment Services, Inc., was as follows: 50% S&P Business Trust, 16.66% Heath
18 Lehman, 16.66% Greg Merrick, and 16.66% Kenneth Wiseman.

19 28. S&P Business Trust is an Ohio business trust. For purposes of the present proceeding
20 only, the Division and Respondents stipulate that this business trust is 100% owned by
21 Sara Ann Merrick, wife of Respondent Philip Lehman. Accordingly, Lehman's wife
22 has indirectly held ownership of at least 50% of Respondent Tower since October 1,
23 2000.

24 29. Sara Merrick is not registered or licensed as a securities dealer or salesman, or as an
25 investment adviser or investment adviser representative, in any jurisdiction of the
26 United States.

- 1 30. Heath Lehman is the son of Philip Lehman.
- 2 31. Greg Merrick is the son of Sara Merrick and stepson of Philip Lehman.
- 3 32. Since October 1, 2000, Respondent Lehman has not been a director or officer of
4 Tower.
- 5 33. On or about May 1, 2001, Heath Lehman ceased to own his 16.66% share of the
6 holding company, Tower Investment Services, Inc., and that share became treasury
7 stock of the corporation. This action had the effect of concentrating the voting control
8 of the remaining shareholders of the holding company, including Sara Merrick who
9 indirectly holds 50% ownership of Respondent Tower. Accordingly, Sara Merrick
10 presently holds, in substantive effect, more than 50% voting control of Respondent
11 Tower.
- 12 34. Kenneth Wiseman is a certified public accountant and has been secretary/treasurer
13 and a director of Respondent Tower since 1984. Wiseman is the chief financial
14 officer of Respondent Tower.
- 15 35. Kenneth Wiseman was a sponsor of Tower Venture 97-A, Ltd. (one of the four
16 issues that were the subject of the SEC order described above), and was a director
17 of the "forming and managing member" of Tower Venture 97-A, Ltd.
- 18 36. Respondent Tower presently has six securities salesmen associated with it, who are
19 registered securities salesmen in Arizona. All six of these salesmen reside in and
20 conduct their business from states other than Arizona. Among them they have nine
21 Arizona accounts, which belong to not more than six Arizona families. These
22 salesmen include Kenneth Wiseman, and Philip Lehman, who is presently
23 suspended by the SEC pursuant to the order described above.
- 24 37. Tower employs over 140 registered representatives nationwide.
- 25 38. Tower introduces its Arizona accounts, on a fully-disclosed basis, to other broker-
26 dealer firms which act as clearing brokers with respect to the accounts.

1 **Division's Proposed Finding of Fact**

- 2 1. Respondent Philip A. Lehman remains "a person controlling" Respondent Tower
3 Equities, Inc., as that phrase is used in A.R.S. § 44-1961(B).

4 **Respondents' Proposed Finding of Fact**

- 5 1. Lehman does not control any of the operations of either Tower Equities, Inc. or Tower
6 Investment Services, Inc.

7 **Joint Statement of Questions of Law and Policy**

8 The parties here state issues that they believe will need to be resolved by the Hearing
9 Officer, and in the following sections they offer proposed conclusions of law and a brief summary
10 of their respective positions. The questions of law and policy are:

- 11 1. Whether there are sufficient grounds to revoke Tower's dealer registration under
12 A.R.S. §44-1961(A)(9), which provides for suspension or revocation "if the
13 Commission finds that . . . [t]he dealer is permanently or temporarily enjoined by
14 order, judgment or decree of an administrative tribunal or a court of competent
15 jurisdiction from engaging in or continuing any conduct or practice in connection
16 with the sale or purchase of securities."
17 2. Whether there are sufficient grounds to revoke Tower's dealer registration under
18 A.R.S. § 44-1961, where subsection (B) provides in relevant part: "It is sufficient
19 cause for . . . revocation or suspension of registration of a dealer as provided in this
20 section [1961], if the dealer is a . . . corporation . . . , that . . . an officer or director of
21 the corporation . . . , or a person controlling . . . the dealer, has been guilty of any act
22 or omission which would be sufficient ground for denying or revoking the
23 registration of an individual dealer." The "act[s] or omission[s] which would be
24 sufficient" are specified in subsection (A) and include (paragraphs 11 and 10):
25 "The dealer has been guilty of any fraudulent act or practice in connection with the
26 purchase or sale of securities," and "The dealer is subject to an order of . . . the SEC

1 . . . suspending . . . membership or registration as a broker or dealer in securities or
2 an investment adviser or investment adviser representative for at least six months.”

- 3 3. Whether, in light of all the facts and circumstances shown, revocation of
4 Respondent Tower’s dealer registration is an appropriate sanction.

5 **Division’s Proposed Conclusions of Law and Summary of Position**

- 6 1. Division’s Proposed Conclusion of Law: Because Lehman was a person
7 controlling Tower at the time of the fraudulent conduct as found by the SEC
8 (February 1997 – December 1998), Tower’s registration as a dealer is subject to
9 revocation in Arizona pursuant to A.R.S. § 44-1961(B). In addition, because
10 Lehman was a person controlling Tower at the time of the fraudulent conduct as
11 found by the SEC (February 1997 – December 1998), and Lehman is subject to an
12 order of the SEC suspending his registration for at least six months as a result of
13 such conduct, Tower’s registration as a dealer is subject to revocation in Arizona
14 pursuant to A.R.S. § 44-1961(B). Alternatively, because Lehman remains a person
15 controlling Tower today, Tower’s registration as a dealer is subject to revocation
16 pursuant to A.R.S. § 44-1961(B).

17 a. Summary of Division’s Position:

- 18 i. Subsection 1961(B) provides that the existence of the SEC order, by
19 itself, is sufficient proof that Lehman and Tower have been guilty of
20 fraudulent acts and practices in connection with the purchase or sale of
21 securities, for purposes of determining that Tower is ineligible for
22 continued registration in Arizona. The fact that there was control at the
23 time when the fraudulent conduct occurred is a sufficient basis for
24 application of Subsection 1961(B); otherwise it would be too easy for
25 perpetrators to avoid the consequences of their conduct, as Respondents
26 are attempting to do here, by transferring nominal ownership of stock to

1 family members. In addition, there is no question that Lehman is subject
2 to an order of the SEC suspending his registration for at least six
3 months, and such lengthy suspension “would be sufficient ground for
4 denying or revoking the registration of an individual dealer.”

5 ii. Respondents’ grammatical argument is, frankly, flat wrong. In the
6 phrase “a person controlling,” the word “controlling” is a participle
7 functioning as an adjective in the sentence, modifying the noun
8 “person.” As such, it is indefinite as to tense – neither present nor past
9 tense unless the context requires one or the other. Similarly, the passive
10 construction “controlled by” functions as an adjective modifying the
11 noun “person,” and is neither present nor past tense unless the context
12 makes one or the other clear. In the prepositional phrase “under
13 common control,” the word “control” is a noun. In the English
14 language, nouns are incapable of carrying “tense.” As to the context, the
15 Division notes that this series of phrases is immediately followed in the
16 statute by the past tense phrase “has been guilty.” Accordingly, the
17 language of the statute supports the Division’s position.

18 iii. Alternatively, the Division believes that the evidence shows that Philip
19 Lehman remains a person controlling Tower today. Regarding the
20 judicial construction of the word “control,” Respondents cite a federal
21 decision that was rendered in a case of private litigation seeking an
22 award of damages through application of vicarious liability principles.
23 In Arizona, different standards apply to government regulatory actions
24 than to private litigation for damages. Moreover, Respondents have
25 omitted to state part of the standard, which is that the control person
26 must have had “some kind of participation *in the activities of the*

1 *controlled person which are claimed to be violative of the securities*
2 *laws*” for liability to attach. Obviously, Lehman was up to his elbows in
3 the fraudulent activities here, as the SEC found.

4 iv. In addition, in Arizona the courts interpret the securities laws differently
5 than the federal courts, applying a central principle of the Arizona
6 statutes: “the Arizona policy of protecting the public from unscrupulous
7 investment promoters.” *Siporin v. Carrington*, Slip Op. at 16 (1st Dep’t
8 April 19, 2001); see also *State v. Baumann*, 610 P.2d 38, 45, 125 Ariz.
9 404 (1980) (*en banc*), quoting *Jackson v. Robertson*, 368 P.2d 645, 648,
10 90 Ariz. 405, 409-10 (1962) (Arizona securities statutes should be
11 applied in a way that is preventive if possible, remedial only if
12 necessary). The federal securities laws are designed only to make sure
13 investors receive full disclosure of facts, while Arizona’s are highly
14 protective of investors. This is why the Division conducts merits
15 reviews of new issues of securities, while the SEC does not.

16 v. Finally, courts have recognized that effective control may exist even
17 where nominal stock ownership and officer’s and directors’ titles rest in
18 hands other than the control person’s. E.g., *Ellison v. American Image*
19 *Motor Co.*, 36 F.Supp.2d 628, 638 (SDNY 1999) (“Stock ownership is
20 not the exclusive means of exercising control . . . Other means include
21 business relationships, interlocking directors, *family relationships*, and
22 the power to influence and control the activities of another) (emphasis
23 supplied, citation omitted). At oral argument, the Division will
24 summarize the evidence that the Division believes establishes Lehman’s
25 control of Respondent Tower.

1 2. Division's Proposed Conclusion of Law: Tower's registration as a dealer is subject
2 to revocation in Arizona pursuant to A.R.S. § 44-1961(A)(9), because Tower has
3 been permanently enjoined by order of an administrative tribunal (the SEC) from
4 engaging in or continuing its fraudulent conduct in connection with the sale or
5 purchase of securities.

6 a. Summary of Division's Position: Respondents take the position that only an
7 order bearing the caption "INJUNCTION" is sufficient for purposes of Section
8 1961(A)(9), and the SEC's cease and desist order does not count. Respondents'
9 position would render portions of the statute meaningless. In Arizona, only a
10 court can issue an order denominated an "injunction." Administrative agencies
11 issue "orders." Yet the statute by its plain language says it applies to an "order
12 . . . of an administrative tribunal." The principles of statutory construction
13 require the conclusion of law stated above. Further, the phrase "an
14 administrative tribunal or" was just recently added to paragraph (A)(9) of
15 Section 1961 by Laws 2000, Ch. 108, § 301. Prior to that amendment the
16 paragraph referred only to an "order, judgment, or decree of a court of
17 competent jurisdiction." A copy of the black lined version of paragraph (A)(9)
18 of the statute, showing the amendment, is appended to this Joint Pre-Hearing
19 Statement. The amendment last year that added the phrase "an administrative
20 tribunal or," requires rejection of the Respondents' position that only an
21 "injunction" from a court can form the basis of a revocation under Section
22 1961(A)(9). The word "enjoined" in the statute does not require a paper called
23 an "injunction," but is a verb synonymous with "forbidden" or "prohibited."

24 3. Division's Proposed Conclusion of Law: Lehman's registration as a securities
25 salesman is subject to revocation in Arizona pursuant to A.R.S. § 44-1962(A)(7),
26 because he has been permanently enjoined by order of an administrative tribunal

1 (the SEC) from engaging in or continuing his fraudulent conduct in connection with
2 the sale or purchase of securities.

3 a. Summary of Division's Position: The same argument stated in paragraph 2
4 immediately above applies here.

5 4. Division's Proposed Conclusion of Law: Lehman's registration as a securities
6 salesman is subject to revocation in Arizona pursuant to A.R.S. §44-1962(A)(8),
7 because Lehman is subject to an order of the SEC suspending him from association
8 with any broker, dealer, investment adviser or investment company for a period of
9 at least six months.

10 a. Summary of Division's Position: Respondents do not appear to disagree with
11 this.

12 5. Division's Proposal re Sanction: Respondent Tower's dealer registration ought to
13 be revoked.

14 a. Summary of Division's Position:

15 i. Philip Lehman was one of the creators and sponsors of the four
16 fraudulent offerings, and Respondent Tower was the underwriter of all
17 of them. Lehman and Tower were directly responsible for writing the
18 offering memoranda in which the fraudulent misrepresentations were
19 made to investors. Lehman invested none of his own money in these
20 offerings, unlike a number of other Arizona salesmen who have been
21 able to credibly claim that they were fooled by others into believing an
22 offering was legitimate when they sold it. Lehman is without excuse.
23 The SEC specifically found that Lehman and Tower had "willfully"
24 committed securities fraud. Moreover, ample evidence exists to support
25 the inference that Lehman remains a person controlling Tower today.
26 (Such a finding need not be made to revoke Tower's dealer registration

1 under Arizona law, as discussed above, but this contention of “present
2 control” is offered in the alternative, and in opposition to Respondents’
3 “policy” argument that the dealer should not be revoked because
4 Lehman allegedly no longer controls it).

5 ii. The Division requested account statements regarding all of the firm’s
6 Arizona accounts on February 9, 2001, but to date those have not been
7 provided by Tower. The incomplete information that the firm has
8 supplied concerning its Arizona accounts shows that, at most, six
9 Arizona families will have to find a new registered representative if the
10 firm’s registration is revoked. Because Tower introduces business on a
11 fully-disclosed basis to other, “clearing” broker-dealer firms, customers
12 will be able to transact business on an interim basis directly through the
13 clearing firm that services their accounts, until they have selected a new
14 introducing firm. This will cause minimal disruption to these customers,
15 and the legitimate Arizona brokerage community is certainly adequate to
16 service these few customers. Customers are not “harmed,” but
17 protected, when a dealer with a record of committing fraud is removed
18 from servicing their accounts.

19 iii. The five Arizona-registered salesmen that Tower currently has
20 associated, are all residents of distant states. Each has only one or two
21 accounts in Arizona, and the incomplete information that Tower has
22 supplied fails to show more than a negligible amount of business in
23 those accounts. Tower has failed to substantiate any likelihood of
24 “harm” to customers or salesmen.

25 iv. Respondents ask the Hearing Officer to draw inferences that cannot
26 legitimately be drawn, from the actions of the SEC and the Ohio and

1 Indiana securities regulators. Each of those regulatory bodies acts, in
2 enforcement proceedings, in a quasi-prosecutorial role. Accordingly,
3 the principle of prosecutorial discretion applies. Therefore, no
4 inferences may legitimately be drawn from those agencies' choices not
5 to seek suspension of Respondent Tower's license. In addition, the SEC
6 order was a consent order, and it is in the nature of settlement
7 negotiations that the ultimate settlement typically reflects less severe
8 sanctions than the firm would have been exposed to had there been a full
9 hearing.

10 v. Finally, the SEC, Ohio and Indiana all operate under statutes other than
11 the Arizona Securities Act. Arizona's securities laws are to be applied
12 with the highest level of protectiveness towards investors, as discussed
13 above. Consequently the sanctions applied in other jurisdictions do not
14 impose a ceiling upon the sanctions that may be applied in Arizona.

15 6. Division's Proposal re Sanction: Respondent Lehman's securities salesman's
16 registration ought to be revoked.

17 a. Summary of Division's Position: Respondents do not appear to disagree with
18 this.

19 **Respondents' Proposed Conclusions of Law and Summary of Position**

20 Respondent's primary conclusion of law is that there is no statutory basis to bring an
21 action to revoke the license of the broker-dealer, Tower Equities, Inc., because the elements of
22 A.R.S. 44-1961 (A) (9) and A.R.S. 44-1961 (B), the bases upon which the Notice of Hearing has
23 been brought, have not been met.

24 1. Tower Equities is not under the "control" of Philip A. Lehman.

25 Section 44-1961 (B) sets forth the grounds upon which the Commission may bring an
26 action to revoke the license of a broker-dealer, which if it is a corporation, may be brought if an

1 officer or director or a person controlling (the corporation) has been guilty of an act or omission
2 that would be sufficient grounds for denying or revoking the registration of an individual dealer.

3 Philip A. Lehman, as stated in the stipulated facts, is not currently an officer or director of
4 Tower Equities or its parent Tower Investment Services, Inc., and has not been since October
5 2000. Nor does he own any shares in either Tower or its parent, as evidenced by the October 3,
6 Form B-D amendment filing with the NASD's CRD system. In Christoffel v. E.F. Hutton, 588 F.
7 2d 665 (Arizona 1978), the Court set forth its view concerning the concept of corporate control. In
8 that case, the Court stated that "controlling" as used in the securities law context should be
9 construed broadly, but "require **some kind of participation by the controlling person** of the
10 activities of the controlled person."

11 Philip Lehman has no ownership interest in Tower Investment Services, Inc., or
12 Respondent Tower, and holds no position as an officer or director of either company. He has **no**
13 **kind of participation** with either company. Therefore, he is not a "controlling person" of Tower,
14 and his SEC sanction should not serve as a basis for an action for revocation against a separate and
15 distinct company.

16 Moreover, the statute is specific as to tense. The Division states that because Lehman
17 formerly controlled Tower his current action can now be retro-fitted to make the corporate broker-
18 dealer liable. However, the Division has provided no legal support for its position. The
19 Respondent, on the other hand relies upon the precise language of A.R.S. 44-1961(B). That
20 Arizona Statute specifically refers to a "person controlling" (present tense) or controlled by
21 (passive tense) "or under common control (present tense). It does not state "was controlled by or
22 formerly controlled by." Therefore, the basis against Tower is faulty in that the action is derived
23 from Lehman, who does not meet the criteria of "is controlling,, or controlled by or under
24 common control" with Tower Equities. Therefore, that basis should be stricken from the order.

1 2. Tower has not been “permanently enjoined” as required by Section 44-1961(A) (9).

2 The Commission in its Notice sets forth Section 44-1961 (A)(9) as a basis for the action
3 against Tower, the broker-dealer, stating that because of the SEC order it has been permanently
4 enjoined. The Respondent’s argue that the settled and consented Cease and Desist Order does not
5 amount to the injunction that is implied in the statute. Therefore, Tower seeks to have this basis
6 removed as grounds for an action against Tower.

7 The Respondent, Tower requests that both bases for the Arizona revocation action,
8 Sections 44-1961(A) (9) and 44-1961 (B) be stricken so that there is no basis for an action agains
9 the firm.

10 **Respondents’ Position on the Policy Matter**

11 Respondents advocate that a revocation of the license of Tower, as a policy matter would
12 be unfair.

13 The revocation of a license is the severest sanction the Arizona Corporation Commission
14 may render. As such, it may be employed for any violation that meets the statutory basis - for
15 instance, where there was misappropriation of great sums of monies from investors and investors
16 were irreparably harmed to an action brought for a books and record violation. The Commission,
17 therefore must examine some criteria to differentiate among the cases so that the proverbial
18 sledgehammer is not used to kill the fly. Some of the criteria to consider, in this case, would be
19 that Tower Venture 97-A and the other three offerings returned all monies to investors with
20 interest. Moreover, Tower never received a penny in compensation from any of the offerings, and
21 the fact that there were no Arizona investors. Respondent, Tower Equities pleads that these are
22 mitigating circumstances which compel a sanction that is less than a revocation of an operating
23 broker-dealer’s license.

24 Secondly, the SEC determined that a censure and cease and desist were sufficient sanctions
25 for this company and did not impose a single day’s suspension. Moreover, Ohio, where the bulk
26 of the investors reside, did not bring an action against Tower but only Lehman as a securities

1 salesman. Likewise, Indiana. Therefore, as matter of policy it is blatantly unfair, that Arizona,
2 where no investors reside, should seek to revoke the license of a broker-dealer whose home state
3 did not determine to do so.

4 In this action, there were no Arizona investors involved.

5 Dated this 30th day of May, 2001.

6
7 **Janet Napolitano**
Attorney General for the State of Arizona

8 

9 **Moira McCarthy**
Assistant Attorney General

10 **Amy J. Leeson**
Special Assistant Attorney General
11 Attorneys for the Securities Division of the
12 Arizona Corporation Commission

13 **Mallon & Johnson, P.C.**

14 _____
15 **Barbara A. Mallon**
Attorneys for Respondents

16 Original and Ten Copies
17 filed with Docket Control
on May 30th, 2001.

18
19 Copy delivered by hand to office of
Hearing Officer Marc Stern
20 on May 30th, 2001.

21 N:\ENFORCE\IO\Lehman.aj\JOINT PRE-HG STATEMENT

1 mitigating circumstances which compel a sanction that is less than a revocation of an operating
2 broker-dealer's license.

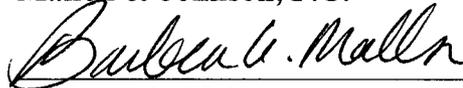
3 Secondly, the SEC determined that a censure and cease and desist were sufficient sanctions
4 for this company and did not impose a single day's suspension. Moreover, Ohio, where the bulk
5 of the investors reside, did not bring an action against Tower but only Lehman as a securities
6 salesman. Likewise, Indiana. Therefore, as matter of policy it is blatantly unfair, that Arizona,
7 where no investors reside, should seek to revoke the license of a broker-dealer whose home state
8 did not determine to do so.

9 Dated this 30th day of May, 2001.

10
11 **Janet Napolitano**
Attorney General for the State of Arizona

12
13 **Moira McCarthy**
Assistant Attorney General
14 **Amy J. Leeson**
Special Assistant Attorney General
15 Attorneys for the Securities Division of the
16 Arizona Corporation Commission

17 **Mallon & Johnson, P.C.**

18 

19 **Barbara A. Mallon**
Attorneys for Respondents

20 Original and Ten Copies
21 filed with Docket Control
on May 30th, 2001.

22
23 Copy delivered by hand to office of
24 Hearing Officer Marc Stern
on May 30th, 2001.

EXHIBIT S-10



UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST

that:

*Attached is a copy of, order of this Commission dated September 7, 2000,
making findings, ordering respondents to cease and desist and imposing
remedial sanctions, in the matter of Philip A. Lehman and Tower Equities,
Inc., Administrative Proceeding File No. 3-10024.*

on file in this Commission
November 6, 2000
(Date)

Larry Mills
Larry Mills
Records Officer

It is hereby certified that the Associate Executive Director, Office of Filings and Information Services, U.S. Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is official custodian of the records and files of said Commission, and all records and files created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he/she, and persons holding the positions of Deputy Director, Associate Directors, Special Assistant to the Director, Records Officer, and the Branch Chief of Records Management, or any one of them, are authorized to execute the above attestation.

For the Commission
Jonathan G. Katz
Jonathan G. Katz
Secretary

EXHIBIT
S-10

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 7889 / September 7, 2000

SECURITIES EXCHANGE ACT OF 1934

Release No. 43262

INVESTMENT ADVISERS ACT OF 1940

Release No. 1896

INVESTMENT COMPANY ACT OF 1940

Release No. 24636

SECURITIES & EXCHANGE COMMISSION
MAILED FOR SERVICE

SEP 08 2000

ADMINISTRATIVE PROCEEDING
File No. 3-10024

CTFD. NO. 8043187-3189

In the Matter of

PHILIP A. LEHMAN and
TOWER EQUITIES, INC.,

Respondents.

ORDER MAKING FINDINGS, ORDERING
RESPONDENTS TO CEASE AND DESIST
AND IMPOSING REMEDIAL SANCTIONS

I.

On September 22, 1999, the Securities and Exchange Commission (Commission) instituted public administrative proceedings and cease and desist proceedings, pursuant to Section 8A of the Securities Act of 1933 (Securities Act), Sections 15(b), 19(h) and 21C of the Securities Exchange Act of 1934 (Exchange Act), Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 (Advisers Act) and Section 9(b) of the Investment Company Act of 1940 (Investment Company Act), against Philip A. Lehman (Lehman) and Tower Equities, Inc. (Tower Equities).

In response to the institution of these proceedings, Lehman and Tower Equities have submitted Offers of Settlement (Offers) which the Commission has determined to accept. Solely for the purpose of this proceeding and any other proceeding brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except the Commission's jurisdiction and the findings contained in Paragraphs II.A and II.B. below, which are admitted, Lehman and Tower Equities consent to the entry of this

Order Making Findings, Ordering Respondents to Cease and Desist and Imposing Remedial Sanctions (Order).

II.

On the basis of this Order and the Offers submitted by Lehman and Tower Equities, the Commission finds that:

A. Tower Equities is an Ohio corporation based in Dayton, Ohio, has been a broker-dealer registered with the Commission pursuant to Section 15(a) of the Exchange Act since in or about 1985, and has been an investment adviser registered with the Commission pursuant to Section 203(c) of the Advisers Act since in or about 1988.

B. At all relevant times, Lehman, age 60, was the sole shareholder, chairman, vice president and chief compliance officer of Tower Equities. At all relevant times, Lehman was a person associated with both a broker-dealer and an investment adviser.

C. At all relevant times, Tower Venture 97-A, Ltd. (Tower Venture) was an Ohio limited liability company based in Dayton, Ohio.

D. At all relevant times, Lifetime Assets, LLC (Lifetime) was an Ohio limited liability company based in Dayton, Ohio. At all relevant times, Lehman was the president and managing partner of Lifetime.

E. At all relevant times, Baylor/Gavic, LLC (Baylor) was an Ohio limited liability company based in Dayton, Ohio. At all relevant times, Lehman was the president and managing partner of Baylor.

F. At all relevant times, Wellington, LLC (Wellington) was an Ohio limited liability company based in Dayton, Ohio. At all relevant times, Lehman was the president and managing partner of Wellington.

The Tower Venture Offering

G. In or about February 1997, Lehman and Tower Equities offered to sell to investors the securities of Tower Venture, in the form of units, for \$25,000 per unit. The offering was on an all-or-none basis for approximately 420 units for approximately \$10.5 million. The closing date for the offering was on or about March 30, 1998. Tower Equities underwrote the offering. From in or about February 1997 through in or about October 1997, Lehman and Tower Equities sold approximately 173 units of Tower Venture to their investment advisory clients.

H. Lehman and Tower Equities, through various means including, but not limited to, the Private Placement Memorandum for Tower Venture, which they distributed to investors, made various misrepresentations of material facts and omitted to state material facts to investors regarding Tower Venture, including the following:

1. Lehman and Tower Equities misrepresented that, after paying approximately \$500,000 for investment advisory, bank escrow and other fees, the remaining amount raised from the offering, approximately \$10 million, would be used to make a "loan premium payment" to Credit Austerlitz Finances, Ltd. (Credit Austerlitz), a European entity, as payment for the receipt of a "self-liquidating" loan in the amount of approximately \$30 million. Due to the "self-liquidating" nature of the loan, Credit Austerlitz would, in essence, pay itself back and, as a result, Tower Venture would never have to repay the remaining amount, approximately \$20 million that it received from Credit Austerlitz. In fact, this "loan" transaction did not, and could not, exist;

2. Lehman and Tower Equities misrepresented that the \$10 million "loan premium payment" would not be paid until Tower Venture received a valid standby letter of credit obtained by Credit Austerlitz and issued by one of several major European banks identified by Lehman and Tower Equities, and confirmed by an American bank. The standby letter of credit would guarantee the receipt of the \$30 million "loan." In fact, none of the European banks identified by Lehman and Tower Equities would have issued a standby letter of credit for the Tower Venture "loan" transaction;

3. Lehman and Tower Equities misrepresented that, after the receipt of the \$30 million "loan" proceeds, Tower Venture would repay to each investor a "primary distribution" consisting of his or her entire investment plus an interest payment equal to an annual return of approximately 23.5 percent. Since the loan transaction did not exist and Lehman and Tower Equities had not conducted adequate due diligence, they had no reasonable basis for this representation;

4. Lehman and Tower Equities misrepresented that Tower Venture would use the remaining portion of the "loan" proceeds to invest in viatical insurance policies for which investors could expect to earn an additional return of approximately 33 percent after one year. Since Lehman and Tower Equities, however, had no agreement with any viatical companies to purchase viatical insurance policies and had not conducted adequate due diligence, they had no reasonable basis for this representation;

5. Lehman and Tower Equities misrepresented to one investor who was approximately 70 years old and retired:

a) that Tower Venture was a suitable investment for his individual retirement account (IRA) when, in fact, it was not suitable in light of the conservative nature of the investor's IRA account; and

b) that the Tower Venture offering would be successfully completed within approximately four weeks when, in fact, Lehman and Tower Equities had no reasonable basis to believe that there would be a sufficient amount of new funds invested to complete the offering within that period; and

6. Lehman and Tower Equities omitted to state that they, among other things:

- a) never reviewed any Credit Austerlitz financial statements or other financial information about Credit Austerlitz;
- b) never reviewed any contracts entered into by Credit Austerlitz with third parties;
- c) never conducted any inquiries about Credit Austerlitz; and
- d) failed to take any steps to determine if any of the European banks listed in the Tower Venture offering materials would issue a standby letter of credit.

Offerings in Lifetime, Baylor and Wellington

I. From on or about August 15, 1998 to on or about December 15, 1998, Lehman and Tower Equities, in three separate private placement offerings, offered and sold units in Lifetime, Baylor and Wellington to their investment advisory clients. Each of the offerings was to raise a minimum of approximately \$1 million and a maximum of approximately \$50 million.

J. When the offerings described in Paragraph II.I above closed, on or about December 15, 1998, Lifetime had raised approximately \$3.3 million, Baylor had raised approximately \$1.9 million and Wellington had raised approximately \$600,000 from approximately 35 investors for all three offerings, collectively.

K. Lehman and Tower Equities, through various means, including, but not limited to, the Private Placement Memoranda for Lifetime, Baylor and Wellington, which they distributed to investors, made misrepresentations of material fact and omitted to state material facts regarding these offerings. Specifically, Lehman and Tower Equities represented to investors that they would invest the funds raised from the investors in a "transaction" with a "trading company" sponsored by a "transaction bank" in Europe. They also told the investors that they could expect to earn 100 percent on their investment within 25 days, or an annualized rate of 1,440 percent, with minimal risk to their principal. Lehman and Tower Equities, however, had no basis for these representations. While the funds were, in fact, deposited in an escrow account, Lehman and Tower Equities never had any agreement with any European bank to "sponsor" the transaction, never had any agreement with any "trading company" and never identified any "transaction." Moreover, neither Lehman nor Tower Equities ever had any agreement with anyone for any transaction for the funds raised in the Lifetime, Baylor and Wellington offerings.

L. From in or about February 1997 to in or about December 1998, Lehman and Tower Equities willfully violated and committed or caused violations of Section 17(a) of the Securities Act in that they, by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly, in the offer or sale of securities described in Paragraphs II.G and II.I above, employed devices, schemes or artifices to defraud; obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon

purchasers or prospective purchasers of such securities. As a part of this conduct, they made misrepresentations or omissions of material facts to investors, as described in Paragraphs II.H and II.K above.

M. From in or about February 1997 to in or about December 1998, Lehman and Tower Equities willfully violated and committed or caused violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder in that they, in connection with the purchase or sale of securities described in Paragraphs II.G and II.I above, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, employed devices, schemes or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchasers of the securities. As a part of this conduct, they made misrepresentations or omissions of material facts to investors, as described in Paragraphs II.H and II.K above.

N. From in or about February 1997 to in or about December 1998, Tower Equities willfully violated and committed or caused violations of Section 15(c)(1) of the Exchange Act and Rule 15c1-2 thereunder in that it, while acting as a broker-dealer, by the use of the mails or of the means or instrumentalities of interstate commerce, effected transactions in, or induced or attempted to induce the purchase or sale of the securities described in Paragraphs II.G and II.I above, by means of manipulative, deceptive or other fraudulent devices or contrivances, including acts, practices or courses of business which operated or would operate as a fraud or deceit or made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, which statements or omissions were made with knowledge or reasonable grounds to believe they were untrue or misleading. As a part of this conduct, it made misrepresentations or omissions of material facts to investors, as described in Paragraphs II.H and II.K above.

O. From in or about February 1997 to in or about December 1998, Tower Equities willfully violated and committed or caused violations of Sections 206(1) and 206(2) of the Advisers Act in that it, while acting as an investment adviser, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, employed devices, schemes or artifices to defraud clients or prospective clients or engaged in transactions, practices, or courses of business which operated as a fraud or deceit upon clients or prospective clients. As a part of this conduct, it made misrepresentations or omissions of material facts to investors, as described in Paragraphs II.H and II.K above.

P. From in or about February 1997 to in or about December 1998, Lehman willfully aided and abetted and caused Tower Equities' violations of Sections 206(1) and 206(2) of the Advisers Act as described in Paragraph II.O above, in that he, as principal of Tower Equities, was aware that his role was part of an overall activity that is improper and knowingly and substantially assisted Tower Equities in its violations.

Q. Respondent Tower Equities has submitted a sworn financial statement and other evidence and has asserted its financial inability to pay a civil penalty. The Commission has reviewed the sworn financial statement and other evidence provided by Tower Equities and has determined that Tower Equities does not have the financial ability to pay a civil penalty.

III.

In view of the foregoing, it is in the public interest to impose the sanctions specified in the Offers.

Accordingly, **IT IS ORDERED THAT:**

A. Lehman, pursuant to Sections 15(b) and 19(h) of the Exchange Act, Sections 203(e) and 203(f) of the Advisers Act and Section 9(b) of the Investment Company Act, be suspended from association with any broker, dealer, investment adviser or investment company for a period of nine (9) months, effective on the second Monday following entry of this Order. Within thirty (30) days after the end of the suspension period, Lehman shall provide an affidavit, stating that he has complied with this sanction, via certified mail to Mary E. Keefe, Regional Director, Securities and Exchange Commission, Midwest Regional Office, 500 West Madison Street, Suite 1400, Chicago, Illinois 60661;

B. Lehman, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act and Section 203(k) of the Advisers Act, cease and desist from committing or causing any violation and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Sections 206(1) and 206(2) of the Adviser's Act;

C. Lehman, pursuant to Section 21B of the Exchange Act, Section 203(i) of the Advisers Act and Section 9(d) of the Investment Company Act, pay a civil penalty of \$10,000 within sixty (60) days of entry of the Order. Such payment to be: (a) made by United States postal money order, certified check, bank cashier's check or bank money order; (b) made payable to the Securities and Exchange Commission; (c) hand-delivered or mailed to the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (d) submitted under cover letter that identifies Philip A. Lehman as a Respondent in this matter, the case number of this matter, a copy of which cover letter and money order or check shall be sent to Jerrold H. Kohn, Senior Attorney, Securities and Exchange Commission, 500 West Madison Street, Chicago, IL 60661;

D. Tower Equities, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act and Section 203(k) of the Advisers Act, cease and desist from committing or causing any violation and any future violations of Section 17(a) of the Securities Act, Sections 10(b) and 15(c)(1) of the Exchange Act and Rules 10b-5 and 15c1-2 thereunder and Sections 206(1) and 206(2) of the Advisers Act;

E. Tower Equities is hereby censured;

F. The Division of Enforcement may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Tower Equities provided accurate and complete financial information at the time such representations were made; (2) determine the amount of the civil penalty to be imposed; and (3) seek any additional remedies that the Commission would be authorized to impose in this proceeding if Tower Equities' offer of settlement had not been accepted. No other issues shall be considered in connection with this petition other than whether the financial information provided by Tower Equities was fraudulent, misleading, inaccurate or incomplete in any material respect, the amount of civil penalty to be imposed and whether any additional remedies should be imposed. Tower Equities may not, by way of defense to any such petition, contest the findings in this Order or the Commission's authority to impose any additional remedies that were available in the original proceeding.

By the Commission.



Jonathan G. Katz
Secretary

SERVICE LIST

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Making Findings, Ordering Respondents to Cease and Desist and Imposing Remedial Sanctions on each person named as a party in the order or their legal agent.

The attached Order Instituting Public Proceedings, Making Findings and Imposing Remedial Sanctions has been sent to the following parties and other persons entitled to notice:

The Honorable Lillian A. McEwen
Securities and Exchange Commission
Room 11500
450 5th Street, N.W.
Washington, D.C. 20549-1106

Steven A. Yadegari, Esq.
Securities and Exchange Commission
Room 8123
450 5th Street, N.W.
Washington, D.C. 20549-0809

Jerrold H. Kohn
Senior Attorney
Securities and Exchange Commission
Midwest Regional Office
500 West Madison Street
Suite 1400
Chicago, IL 60661

Barbara A. Mallon, Esq.
Mallon & Johnson, P.C.
19 South LaSalle Street
Suite 1202
Chicago, IL 60603

Philip A. Lehman
c/o Tower Equities, Inc.
8141 North Main Street
Dayton, OH 45415

Tower Equities, Inc.
c/o Philip A. Lehman, Chairman
8141 North Main Street
Dayton, OH 45415

APPENDIX TO JOINT PRE-HEARING STATEMENT

Black Lined Copy of Laws 2000, Ch. 108, § 301

the salesman has complied with all requirements in accordance with a temporary agent transfer program utilized by the CRD system and the commission.

...

§ 44-1961. Grounds for the denial, revocation, or suspension of dealer registration of dealer; grounds

A. The commission may, after a hearing or notice and opportunity for a hearing as provided in article 11 of this chapter, enter an order suspending for a period not to exceed one year, denying, or revoking, or suspending for a period of not to exceed one year the registration of a dealer if the commission finds that:

Purpose of Amendment: Clarification.

The division proposes moving the modifier to prevent confusion previously experienced regarding the terms to which the modifying phrase applies.

...

9. The dealer is permanently or temporarily enjoined by order, judgment, or decree of an administrative tribunal or a court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the sale or purchase of securities.

10. The dealer is subject to an order of an administrative tribunal, SRO, or the SEC ~~the securities and exchange commission~~ denying, suspending, or revoking membership or registration as a broker or dealer in securities or an investment adviser or investment adviser representative under the securities exchange act of 1934, or is subject to an order denying or revoking membership in a national securities association registered under the securities exchange act of 1934, or has been suspended for a period of exceeding six months or more expelled from membership in a national securities exchange registered under the securities exchange act of 1934.

Purpose of Amendment: Clarification and uniformity.

The above provision currently treats expulsion from a registered association and from a registered exchange differently. The division proposes the above change to create uniformity and clarity regarding the entities in connection with, and circumstances under, which a dealer's registration may be denied, suspended, or revoked. This change is uniform with those proposed for A.R.S. § 44-1901, § 44-1921, § 44-1962, and § 44-3201. Additionally, the division proposes the inclusion of "administrative tribunal" to provide uniformity with the division's powers under § 44-3201 of the Investment Management Act.

...

C. If the registration of a dealer is revoked or denied, that dealer may not file with the commission an application for registration under this chapter or for licensure under chapter 13 for a period of not less than one year from the date of such revocation or denial.

Purpose of Amendment: Efficiency of process.