

BEFORE THE ARIZONA CORPORATION



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Arizona Corporation Commission

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

DOCKETED

FEB 01 2001

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6 In the matter of)
7)
8 PROPOSED RULEMAKING)
9 TO PROVIDE AN EXEMPTION)
10 FOR TRANSACTIONS EFFECTED BY)
11 CANADIAN DEALERS AND SALESMEN)
12)

DOCKET NO. RS-00000A-99-0691

DECISION NO. 63321

ORDER

13 Open Meeting
14 January 30 and 31, 2001
15 Phoenix, AZ

16 BY THE COMMISSION:

17 INTRODUCTION

18 The Securities Division of the Arizona Corporation Commission (the "Commission") has
19 forwarded to the Commission a proposal recommending that the Commission add new section
20 A.A.C. R14-4-148 ("rule 148") to the Arizona Administrative Code rules governing the
21 administration of the securities statutes. The Securities Division is seeking permission from the
22 Commission to publish a notice of supplemental proposed rulemaking concerning rule 148.

23 FINDINGS

24 1. On July 18, 2000, the Commission granted permission to publish a notice of
25 proposed rulemaking for the purpose of obtaining public comment on proposed rules A.A.C. R14-
26 4-201 through A.A.C. R14-4-209 ("article 2"). Article 2 proposed to create a limited registration
for Canadian dealers and their salesmen effecting transactions in certain Canadian retirement
accounts or on behalf of Canadian citizens.

2. The Securities Division received substantial public comment concerning proposed
article 2 from Canadian industry and regulatory representatives. Based upon the comments

1 received, the Securities Division amends its proposed rulemaking to reflect an exemption in the
2 form of proposed rule 148.

3 3. Rule 148 is proposed to add a class of exempt transactions to A.R.S. § 44-1844 for
4 certain transactions effected by Canadian dealers and their salesmen.

5 4. The Securities Division has recommended that rule 148 be made to (i) provide for an
6 exemption for certain transactions effected by Canadian dealers and their salesmen; (ii) detail the
7 requirements for the grant and maintenance of the exemption; (iii) enumerate the application and
8 renewal requirements for the exemption; and (iv) detail the extent of the activity permitted in Arizona
9 under the exemption.

10 5. The Securities Division has recommended that a notice of supplemental proposed
11 rulemaking regarding the making of rule 148 be forwarded to the secretary of state. The Division
12 also has recommended that the Hearing Division schedule a public proceeding on rule 148 no
13 sooner than April 2, 2001.

14 CONCLUSION OF LAW

15 The Commission has the authority for the proposed rulemaking under the Arizona
16 Constitution Article XV §§ 4, 6, and 13, and under A.R.S. §§ 44-1821 and 44-1845.

17 ORDER

18 THEREFORE IT IS ORDERED that a hearing be set by the Hearing Division on this
19 matter at the Commission Offices in Phoenix, Arizona, no earlier than April 2, 2001.

20 IT IS FURTHER ORDERED that the Division prepare a notice of supplemental proposed
21 rulemaking and forward it to the office of the secretary of state for publication in the Arizona
22 Administrative Register.

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25 ...

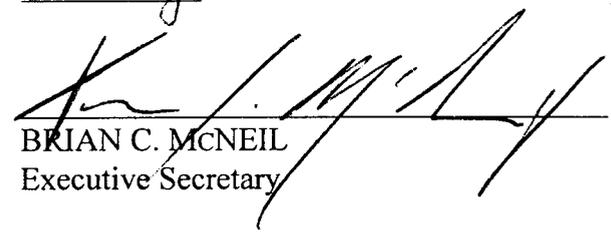
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1 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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 4 
 5 CHAIRMAN COMMISSIONER COMMISSIONER

6 IN WITNESS WHEREOF, I, BRIAN C. MCNEIL, EXECUTIVE SECRETARY OF
 7 THE ARIZONA CORPORATION
 8 COMMISSION, HAVE HEREUNTO SET
 9 MY HAND AND CAUSED THE OFFICIAL
 10 SEAL OF THE COMMISSION TO BE
 11 AFFIXED AT THE CAPITOL, IN THE
 12 CITY OF PHOENIX, THIS 1st DAY OF
 13 February, 2001.

14 
 15 BRIAN C. MCNEIL
 16 Executive Secretary

17 DISSENT

18 (sad)

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 24 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,
 25 voice phone number 602-542-3931, E-mail shood@cc.state.az.us

R14-4-148. Transactions Effected by Canadian Dealers and Salesmen.

A transaction effected by or through a Canadian dealer or its salesmen is added to the class of transactions exempt under A.R.S. § 44-1844, provided the transaction is conducted in accordance with the terms of this Section.

- A. The dealer must be domiciled in Canada, have no office or other physical presence in the United States, and not be an office of, branch of, or a natural person associated with a dealer domiciled in the United States.
- B. The dealer and its salesmen may only effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by:
 - 1. An individual from Canada who temporarily resides in or is temporarily present in this state and with whom the Canadian dealer had a bona fide dealer-client relationship before the individual entered the United States; or
 - 2. An individual who resides in or is temporarily present in this state whose transactions are in a Canadian self-directed tax-advantaged retirement account of which the individual is the holder or contributor.
- C. To effect transactions under this Section, a dealer shall:
 - 1. Comply with the requirements of Subsection E.
 - 2. Be registered with or a member of a Canadian SRO, stock exchange, or the Bureau des Services Financiers and maintain that registration or membership in good standing.
 - 3. Disclose to its clients in this state that the dealer and its salesmen are not subject to the full regulatory requirements of the Arizona Securities Act.
- D. An exemption under this Section shall not be available to a dealer or salesman if the dealer or salesman:

1. Has been convicted within 10 years of the date of filing of the notice under this Section of a felony or misdemeanor of which fraud is an essential element, or a felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business as a dealer or salesman.
 2. Is subject to an order, judgment, or decree of a court of competent jurisdiction, SRO, or administrative tribunal entered within 10 years preceding the filing of the notice under this Section enjoining or restraining the dealer or salesman from engaging in or continuing any conduct or practice in connection with the sale or purchase of securities or involving fraud, deceit, racketeering or consumer protection laws.
- E. Prior to a dealer or salesman effecting a transaction under this Section, a dealer shall file with the Division a notice that contains the following:
1. A copy of the last registration or renewal application filed in the jurisdiction in which the dealer has its principal office, with all amendments since that filing.
 2. A consent to service of process pursuant to A.R.S. § 44-1862.
 3. The fee required under A.R.S. § 44-1861(G).
 4. Written evidence that the dealer's membership in a Canadian SRO, stock exchange, or the Bureau des Services Financiers is in good standing.
 5. For each salesman effecting transactions in Arizona, the dealer shall file
 - a. A copy of the last registration or renewal application filed in the jurisdiction in which the salesman is registered and resident, with all amendments since that filing.
 - b. A consent to service of process.

- c. Written evidence that the salesman is registered and in good standing in the jurisdiction from which he or she is effecting a transaction into this state.
- F. A notice filed under this Section is effective on the date received by the Commission and expires on December 31.