

NEW APPLICATION



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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

COMMISSIONERS

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

2010 NOV 15 P 2:44

AZ CORP COMMISSION
DOCKET CONTROL

In the matter of: ) DOCKET NO. S-20768A-10-0463
)
JOSEPH MACK and Helen Marie Mack, ) NOTICE OF OPPORTUNITY FOR HEARING
husband and wife, dba Secure Retirement ) REGARDING PROPOSED ORDER TO
Solutions, ) CEASE AND DESIST, ORDER FOR
) RESTITUTION, ORDER FOR
MACK FINANCIAL GROUP, LLC, an ) ADMINISTRATIVE PENALTIES, ORDER OF
Arizona limited liability company, and ) REVOCATION AND DENIAL AND ORDER
) FOR OTHER AFFIRMATIVE ACTION
DARIN WHITTINGTON, CRD #2569037, )
and Gina Whittington, husband and wife, )
)
Respondents. )

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 JOSEPH MACK, MACK FINANCIAL GROUP, LLC, and DARIN
WHITTINGTON 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").

I.
JURISDICTION

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

Arizona Corporation Commission
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**II.**

**RESPONDENTS**

2. JOSEPH MACK (“MACK”) is a resident of Phoenix, Arizona. During all relevant times, MACK was a member of MACK FINANCIAL GROUP, LLC and did business as Secure Retirement Solutions.

3. MACK FINANCIAL GROUP, LLC (“MACK FINANCIAL”) is an Arizona limited liability company organized on December 16, 2005. MACK FINANCIAL is a member-managed limited liability company whose members include MACK and Helen Marie Mack.

4. DARIN WHITTINGTON (“WHITTINGTON”) CRD #2569037, is a resident of Phoenix, Arizona. From May 3, 2004 through June 12, 2008, WHITTINGTON was a securities salesman with Jefferson Pilot Securities Corporation. From January 2, 2009 through January 1, 2010, WHITTINGTON was a securities salesman with Sammons Securities Company, LLC. As of March 2010, WHITTINGTON has a pending securities salesman application with the Commission.

5. MACK, MACK FINANCIAL, and WHITTINGTON may collectively be known as “Respondents.”

6. Helen Marie Mack (“H. Mack”) was at all relevant times the spouse of Respondent MACK and Gina Whittington (“G. Whittington”) was at all relevant times the spouse of Respondent WHITTINGTON. H. Mack and G. Whittington 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.

7. At all times relevant, Respondents MACK and WHITTINGTON were acting for their own benefit and for the benefit or in furtherance of Respondents and Respondent Spouses’ marital communities.

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1 currency. The second account was a short position equal to the first account held at a Sharia<sup>1</sup>-  
2 compliant bank. The purpose of the second account is to hedge or offset the currency fluctuation  
3 risk. The investors make money through the difference between the two accounts (the “spread”).

4 14. If their clients were interested in the Forex Investments, Respondents directed the  
5 investors to wire their funds directly to Oxford in order to participate in the Forex Investment.

6 15. Respondents told investors that the Forex Investments would pay a return of  
7 between 10% and 12.675%. Further, Respondents told investors the minimum investment was  
8 \$50,000 for 48 months.

9 16. Respondents represented to offerees and investors that the Forex Investments were  
10 secure. In some instances, the Respondents stated the Forex Investments were guaranteed. MACK  
11 disclosed to some investors that he and his family had made a substantial investment into the Forex  
12 Investment.

13 17. Respondents introduced the Forex Investments to offerees and informed them that in  
14 order to receive additional information on the investments, offerees needed to contact Oxford  
15 directly. However, many investors stated they only spoke with MACK or WHITTINGTON  
16 regarding the Forex Investments. A number of investors spoke with representatives from Oxford  
17 only after they were informed, in July 2009, that there were problems with the investments.

18 18. Each investor signed a “Management Agreement” with Oxford Global Advisors,  
19 LLC. Each investor also signed a “Customer Trading Agreement Foreign Exchange and Bullion”  
20 (“Customer Trading Agreement”) purportedly with Crown Forex. Pursuant to the Customer  
21 Trading Agreement, Crown Forex is to purchase and sell foreign currency for each investor’s  
22 account.

23 19. MACK maintained a database of the individuals that he and WHITTINGTON  
24 referred to Oxford.

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<sup>1</sup> The body of Islamic religious law that believes making money from money is usury and therefore not permitted.

1           20.     Respondents were paid compensation based upon a percentage of what the investor  
2 invested in the Forex Investment. Oxford wired Respondents' compensation to MACK  
3 FINANCIAL's checking account. MACK FINANCIAL would then make payment to  
4 WHITTINGTON. In late 2008, WHITTINGTON began to receive payments directly from Oxford  
5 and/or Crown Forex.

6           21.     Initially, Respondents received three percent of the funds invested by those investors  
7 Respondents referred to the Forex Investment. At some point, the amount changed and  
8 Respondents then received approximately two percent of the amount invested by those investors  
9 Respondents referred to the Forex Investment.

10          22.     From April 2008 to July 2009, Respondents raised over \$9 million from 70 investors  
11 for the Forex Investment. Approximately 34 investors were jointly held clients of Respondents.

12          23.     In addition to receiving a sales commission based upon the percentage of the amount  
13 invested, Respondents, at times, charged an investor an "entry fee" that varied depending upon the  
14 amount invested. The entry fee ranged from one tenth of a percent to two percent of the amount  
15 invested. Respondents made the determination whether to charge an entry fee and decided upon the  
16 amount to be charged. The entry fee, when charged, was paid to Oxford and Respondents.

17          24.     At all relevant times, MACK and MACK FINANCIAL were not registered  
18 securities dealers or salesmen.

19          25.     From June 13, 2008 through January 1, 2009, WHITTINGTON was not registered  
20 as a securities dealer or salesman.

21          26.     WHITTINGTON was a registered securities salesman with Jefferson Pilot Securities  
22 Corporation from May 3, 2004 to June 12, 2008. WHITTINGTON then became a registered  
23 securities salesman with Sammons Securities Company, LLC beginning January 2, 2009 to January  
24 1, 2010. On March 12, 2010, WHITTINGTON, through Center Street Securities, Inc., submitted a  
25 securities salesman application to the Division, which is currently pending.

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1 **VI.**

2 **REMEDIES PURSUANT TO A.R.S. § 44-1962**

3 34. Pursuant to A.R.S. § 44-1962(A)(2) and (10), WHITTINGTON's conduct is grounds  
4 to revoke his registration as a securities salesman and deny his March 12, 2010 securities salesman  
5 application filed with the Commission. Specifically, WHITTINGTON:

6 a) in violation of A.R.S. §§ 44-1841 and 44-1842 of the Securities Act, within the  
7 meaning of A.R.S. 44-1962(A)(2), by offering and selling unregistered securities within or from the  
8 state of Arizona.

9 b) engaged in dishonest or unethical practices within the meaning of A.R.S. §44-  
10 1962(A)(10), as defined by A.A.C. R14-4-130(A)(17), by effecting securities transactions that were  
11 not recorded on the records of the dealer with whom he was registered at the time of the transactions.

12 35. WHITTINGTON's conduct is grounds to assess restitution, penalties, and/or take  
13 appropriate affirmative action pursuant to A.R.S. § 44-1962. Specifically, WHITTINGTON has  
14 engaged in dishonest and unethical practices within the meaning of A.R.S. § 44-1962(A)(10) by  
15 effecting securities transactions that were not recorded on the records of the dealers with whom he  
16 was registered at the time of the transactions.

17 **VII.**

18 **REQUESTED RELIEF**

19 The Division requests that the Commission grant the following relief:

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

22 2. Order WHITTINGTON to permanently cease and desist from violating the Securities  
23 Act, pursuant to A.R.S. § 44-1962;

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





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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 15 day of November, 2010.



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Matthew J. Neubert  
Director of Securities