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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

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

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In the matter of:

MIKO D. WADY and JENNIFER L. SAVAGE (f.k.a. JENNIFER L. WADY), formerly husband and wife;

NATO ENTERPRISES, LLC, an Arizona limited liability company;

MALIKA S. SMITH and KORY C. SMITH, formerly wife and husband;

BOBBY G. GOODSON and PAMELA D. GOODSON, husband and wife;

CAA GENERAL PARTNERSHIP, an Arizona general partnership;

MARIO K. REED, a single man;

PHOENICIAN ENTERTAINMENT, L.L.C., an Arizona limited liability company;

THURSTON SMITH and SHAVONE SMITH, husband and wife;

B.Y.B. ENTERTAINMENT, L.L.C., an Arizona limited liability company;

Respondents.

DOCKET NO. S-20716A-09-0574

DECISION NO. 72038

ORDER TO CEASE AND DESIST, FOR RESTITUTION, AND FOR ADMINISTRATIVE PENALTIES AND CONSENT TO SAME BY:

THURSTON SMITH

B.Y.B. ENTERTAINMENT, L.L.C.

Respondents THURSTON SMITH ("SMITH") and B.Y.B. ENTERTAINMENT, L.L.C. ("BYB") (collectively "Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease and Desist, for Restitution, and for Administrative

1 Penalties ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission  
2 ("Commission"); admit the Findings of Fact and Conclusions of Law contained in this Order; and  
3 consent to the entry of this Order by the Commission.

4 **I.**

5 **NATURE OF THE CASE**

6 From February to August 2008, Miko D. Wady ("WADY") and NATO Enterprises, LLC  
7 ("NATO") offered and sold at least \$2,910,000 of unregistered investment contracts in connection  
8 with the production of concerts.<sup>1</sup> That amount includes \$2,760,000 sold to Deluxe Designs  
9 International, LLC ("Deluxe")<sup>2</sup>. WADY made representations that Deluxe would fund the  
10 production of each concert by paying the producer, then receive the revenue generated by the sale  
11 of tickets that would not only repay the cost of the production, but result in a profit for Deluxe.

12 WADY represented to Deluxe that he arranged the funding for the production of concerts  
13 nationwide for such artists as Keith Urban, Carrie Underwood, Radiohead, the Dave Matthews  
14 Band, the Foo Fighters, 50 Cent, and R. Kelly. WADY further represented to Deluxe that funding  
15 these concerts would be profitable and that enough money would be raised from concert ticket sales to  
16 repay Deluxe's principal investment and generate a profit of at least 25 percent.

17 WADY represented to Deluxe that NATO and Deluxe would share in the profit from the  
18 ticket sales after Deluxe's principal investment had been repaid. The profit-sharing with Deluxe is  
19 described in the Joint Venture Agreements that identify the concerts to be funded by Deluxe and  
20 that state the total amount of money required to produce each concert ("Event Cost"). The Joint  
21 Venture Agreements state that, "The cash receipts from the [concert] remaining after payment of  
22 the [Event Cost]...shall be referred to as the "Net Profits Receipts" and...shall be divided into  
23 thirds and distributed: 1/3 according to the percentage of the amount of the initial cash contributed  
24 by each Joint Venturer [one of Deluxe's investors] for the Event [concert], 1/3 to NATO  
25 Enterprises, and 1/3 to [Deluxe]."

26 <sup>1</sup>The findings of fact contained in this section of the Order were made by the Commission in Decision 71600.

<sup>2</sup> See also Decision 71303 in which the Commission found that Deluxe raised \$2,760,000 from investors.





1 that the following relief is appropriate, in the public interest, and necessary for the protection of  
2 investors:

3 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents and any of their agents,  
4 employees, successors and assigns, permanently cease and desist from violating the Securities Act.

5 IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry  
6 of Order.

7 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondents, jointly and  
8 severally, shall pay restitution to the Commission in the principal amount of \$74,000. Until such  
9 time as this restitution obligation (\$74,000) is paid in full, Respondents shall be entitled to an offset  
10 of 3% of any monies paid by WADY or any other respondent under Decision No. 71600.<sup>3</sup>  
11 Payment of this restitution obligation is due in full on the date of this Order. Payment shall be  
12 made to the "State of Arizona" to be placed in an interest-bearing account controlled by the  
13 Commission. Any principal amount outstanding shall accrue interest at the rate of 10 percent per  
14 annum from the date of purchase until paid in full. Interest in the amount of \$20,524.93 has  
15 accrued from the date of purchase to November 4, 2010.

16 The Commission shall disburse the funds on a pro-rata basis to investors shown on the  
17 records of the Commission. Any restitution funds that the Commission cannot disburse because an  
18 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an  
19 investor because the investor is deceased and the Commission cannot reasonably identify and  
20 locate the deceased investor's spouse or natural children surviving at the time of the distribution,  
21 shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the  
22 Commission. Any funds that the Commission determines it is unable to or cannot feasibly disburse  
23 shall be transferred to the general fund of the state of Arizona.

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26 <sup>3</sup> In Decision 71600, Wady, his former spouse Jennifer Savage and NATO were ordered to jointly and severally pay  
restitution in the principal amount of \$2,910,000 plus interest, which amount includes the \$2,760,000 raised from  
Deluxe. The \$74,000 principal restitution ordered in this decision is 3% of the total amount of money (\$2,896,236)  
received from Deluxe by BYB, CAA General Partnership, and Phoenician Entertainment, L.L.C.

1           IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondents shall, jointly  
2 and severally, pay an administrative penalty in the amount of \$10,000. Payment of this penalty  
3 obligation is due in full on the date of this Order. Payment shall be made to the "State of Arizona."  
4 Any amount outstanding shall accrue interest as allowed by law.

5           IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be  
6 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments  
7 shall be applied to the penalty obligation.

8           For purposes of this Order, a bankruptcy filing by any of the Respondents shall be an act of  
9 default. If any Respondent does not comply with this Order, any outstanding balance may be  
10 deemed in default and shall be immediately due and payable.

11           IT IS FURTHER ORDERED that, if any Respondent fails to comply with this order, the  
12 Commission may bring further legal proceedings against that Respondent, including application to  
13 the superior court for an order of contempt.

14           IT IS FURTHER ORDERED that no finding of fact or conclusion of law contained in this  
15 Order shall be deemed binding against any Respondent under this Docket Number who has not  
16 consented to the entry of this Order.

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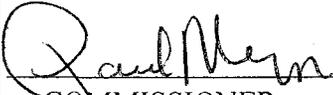
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IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
Executive Director of the Arizona Corporation Commission,  
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 10<sup>th</sup> day of December, 2010.

  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA  
Coordinator, voice phone number 602-542-3931, e-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov).

(ASL)

**CONSENT TO ENTRY OF ORDER**

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2           1.       Respondents admit the jurisdiction of the Commission over the subject matter of this  
3 proceeding. Respondents acknowledge that they have been fully advised of their right to a hearing  
4 to present evidence and call witnesses and they knowingly and voluntarily waive any and all rights  
5 to a hearing before the Commission and all other rights otherwise available under Article 11 of the  
6 Securities Act and Title 14 of the Arizona Administrative Code. Respondents acknowledge that  
7 this Order To Cease And Desist, for Restitution, and for Administrative Penalties (“Order”)  
8 constitutes a valid final order of the Commission.

9           2.       Respondents knowingly and voluntarily waive any right under Article 12 of the  
10 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief  
11 resulting from the entry of this Order.

12           3.       Respondents acknowledge and agree that this Order is entered into freely and  
13 voluntarily and that no promise was made or coercion used to induce such entry.

14           4.       Respondents understand and acknowledge that they have a right to seek counsel  
15 regarding this Order and that they have had the opportunity to seek counsel prior to signing this  
16 Order. Respondents acknowledge and agree that, despite the foregoing, they freely and voluntarily  
17 waive any and all right to consult or obtain counsel prior to signing this Order.

18           5.       Respondents admit the Findings of Fact and Conclusions of Law contained in this  
19 Order. Respondents agree that they shall not contest the validity of the Findings of Fact and  
20 Conclusions of Law contained in this Order in any present or future proceeding in which the  
21 Commission or any other state agency is a party concerning the denial or issuance of any license or  
22 registration required by the state to engage in the practice of any business or profession.

23           6.       By consenting to the entry of this Order, Respondents agree not to take any action or  
24 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of  
25 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual  
26

1 basis. Respondents will undertake steps necessary to assure that all of their agents and employees  
2 understand and comply with this agreement.

3 7. While this Order settles this administrative matter between Respondents and the  
4 Commission, Respondents understand that this Order does not preclude the Commission from  
5 instituting other administrative or civil proceedings based on violations that are not addressed by  
6 this Order.

7 8. Respondents understand that this Order does not preclude the Commission from  
8 referring this matter to any governmental agency for administrative, civil, or criminal proceedings  
9 that may be related to the matters addressed by this Order.

10 9. Respondents understand that this Order does not preclude any other agency or  
11 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal  
12 proceedings that may be related to matters addressed by this Order.

13 10. Respondents agree that they will not apply to the state of Arizona for registration as  
14 securities dealers or salesmen or for licensure as investment advisers or investment adviser  
15 representatives at any time in the future.

16 11. Respondents agree that they will not exercise any control over any entity that offers  
17 or sells securities or provides investment advisory services within or from Arizona at any time in  
18 the future.

19 12. Respondents agree that they will continue to cooperate with the Securities Division  
20 by, including but not limited to, providing complete and accurate testimony at any hearing in this  
21 matter and cooperating with the state of Arizona in any related investigation or any other matters  
22 arising from the activities described in this Order.

23 13. Respondents consent to the entry of this Order and agree to be fully bound by its  
24 terms and conditions.

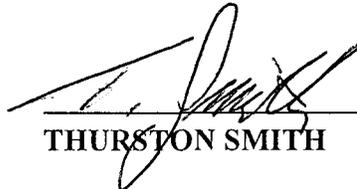
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1 14. Respondents acknowledge and understand that, if they fail to comply with the  
2 provisions of the order and this consent, the Commission may bring further legal proceedings  
3 against them, including application to the superior court for an order of contempt.

4 15. Respondents understand that default shall render them liable to the Commission for  
5 its costs of collection and interest at the maximum legal rate.

6 16. Respondents agree and understand that, if they fail to make any payment as required  
7 in the Order, any outstanding balance shall be in default and shall be immediately due and payable  
8 without notice or demand. Respondents agree and understand that acceptance of any partial or late  
9 payment by the Commission is not a waiver of default by the Commission.

10 17. SMITH represents that he is the member and manager of BYB and that he has been  
11 authorized by BYB to enter into this Order for and on behalf of it.

12  
13   
14 THURSTON SMITH

15 STATE OF ARIZONA )  
16 ) ss  
17 County of Maricopa )

18 SUBSCRIBED AND SWORN TO BEFORE me this 22 day of October, 2010.

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21 NOTARY PUBLIC

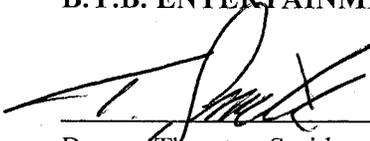
22 My commission expires:

23 10-06-2011



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**B.Y.B. ENTERTAINMENT, L.L.C.**

  
\_\_\_\_\_  
By: Thurston Smith  
Its: Managing Member

STATE OF ARIZONA        )  
  ) ss  
County of Maricopa        )

SUBSCRIBED AND SWORN TO BEFORE me this 22 day of October, 2010.

  
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NOTARY PUBLIC

My commission expires:

10-06-2011



1 SERVICE LIST FOR: In the Matter of Miko D. Wady, et al.

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Thurston Smith and  
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Bobby G. Goodson and  
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Mario K. Reed and  
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