

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

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AZ CORP COMMISSION
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DEC 16 2010

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<p>In the matter of:</p> <p>MARK STEVEN MORONEY and LINDA SUE MORONEY, husband and wife,</p> <p style="text-align: center;">Respondents.</p>	<p>) DOCKET NO. S-20775A-10-0500</p> <p>)</p> <p>) NOTICE OF OPPORTUNITY FOR HEARING</p> <p>) REGARDING PROPOSED ORDER TO</p> <p>) CEASE AND DESIST, ORDER FOR</p> <p>) RESTITUTION, ORDER FOR</p> <p>) ADMINISTRATIVE PENALTIES AND</p> <p>) ORDER FOR OTHER AFFIRMATIVE</p> <p>) ACTION</p>
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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 Respondent MARK STEVEN MORONEY has 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.

II.

RESPONDENTS

2. At all times relevant, Respondent MARK STEVEN MORONEY ("MM") has been a married man and an Arizona resident. At all times relevant, MM offered and sold investments within and from Arizona in his individual capacity and on behalf of Medical Water Technologies, L.L.C. (f.k.a. "C & C Water Technology, L.L.C.") ("MWT") as its managing member and

1 investment salesman. MM has not been registered by the Commission as a securities salesman or
2 dealer.

3 3. On February 19, 2009, MM caused MWT to be organized as a manager-managed
4 Nevada limited liability company called C & C Water Technology, L.L.C. ("C&C"). On October 16,
5 2009, a Certificate of Amendment to C&C's Articles of Organization was filed with the Nevada
6 Secretary of State's Office ("Nevada SOS") that changed C & C's name to MWT. MWT was
7 administratively dissolved by the Nevada SOS's Office on August 27, 2010. At all times relevant,
8 MWT maintained its principal place of business in Maricopa, Arizona, and it issued investments
9 within or from Arizona. At all times relevant, MWT was not registered by the Commission as a
10 securities dealer.

11 4. MM may be referred to as "Respondent."

12 5. Respondent LINDA SUE MORONEY ("Respondent Spouse") was at all relevant
13 times the spouse of MM. Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely
14 for purposes of determining the liability of MM and Respondent Spouse's marital community.

15 6. At all times relevant, MM was acting for his own benefit and for the benefit or in
16 furtherance of MM and Respondent Spouse's marital community.

17 **III.**

18 **FACTS**

19 **A. The Medical and Disinfecting Water Products**

20 7. At all times relevant, MM represented to offerees and investors that he was
21 developing health-based water products and machines that he planned to sell and distribute to
22 commercial and medical industry customers (the "Business").

23 8. To raise capital to operate and promote the Business, MM offered and sold to the
24 general public manager-managed limited liability company membership interests in MWT from
25 March 2008 to February 2010 (the "Investment(s)"). The Investments were not registered by the
26 Commission as securities to be offered or sold within or from Arizona.

1 **B. General Investment Allegations**

2 12. MM managed the essential elements of the Investments including, without
3 limitation, the: (a) selection and evaluation of the Medical and Disinfecting Water machines and
4 technologies; (b) negotiation and execution of required license and/or use fees for the machines,
5 technologies and Mineral Formulation; (c) production of the Medical and Disinfecting Water
6 products; and (d) promotion, marketing, and distribution of the Medical and Disinfecting Water
7 products, machines and technologies to potential customers.

8 13. At all times relevant, MM emphasized to offerees and investors that his ability to
9 pay them their promised profits, and the investors' risk of loss of their Investments, were
10 interwoven with and dependent on MM's superior experience and/or ability to cost effectively use
11 and/or manage their Investment funds to profitably develop, market and sell the Medical and
12 Disinfecting Water products, machines and/or technologies.

13 14. MM promised offerees and investors that he would share with them the profits
14 resulting from his and/or MWT's production and sales of the Medical and Disinfecting Water
15 products, machines and/or technologies. MM promised offerees and investors that such profit
16 distributions would equal five, fifteen and/or twenty-five percent of their principal Investments per
17 year. MM represented to one investor that his production and sales of the Medical Water products
18 and machine would enable the investors to "make big money."

19 15. MM sold Investments for varying amounts ranging from \$3,000 to \$225,000. MM
20 sold approximately thirty-two of the Investments totaling \$516,672 to at least three investors who
21 reside in Arizona, Indiana and Washington respectively.

22 16. Investors have received no Investment returns from MM and/or MWT.

23 **C. MM's Use of Investment Funds**

24 17. Investors made their Investment checks or money orders payable to MM and MWT,
25 and they sent the payments to MM in Arizona.

26

1 18. MM then deposited the Investment funds in Arizona bank accounts owned and
2 controlled by MM and/or MWT (the "Arizona Bank Accounts").

3 19. The Arizona Bank Accounts include, without limitation: (a) a MWT business
4 "checking" account with the last four digits of "6339" on which both MM and Respondent Spouse
5 were authorized signers; (b) a MWT business "savings" account with the last four digits of "9829"
6 on which MM and Respondent Spouse were authorized signers; (c) a MWT business account with
7 the last four digits of "0368" on which MM was an authorized signer; and (d) a checking account in
8 the name of Respondent Spouse with the last four digits "6301" on which Respondent Spouse was
9 the authorized signer (the "Arizona Bank Accounts").

10 20. MM commingled and pooled Investment funds, in part, by transferring such funds to
11 and from the various Arizona Bank Accounts.

12 21. Unbeknownst to Investment offerees and investors, MM and Respondent Spouse
13 used Investment funds, in part, to pay for personal expenses unrelated to the Medical and
14 Disinfecting Water products and Business. These personal expenditures included, without
15 limitation, the payment of thousands of dollars for: (a) horse feed, vitamins and tack to support
16 MM and Respondent Spouse's separate competitive horse roping and/or rodeo endeavors; (b)
17 groceries; and/or (c) various other personal expenditures such as cable television.

18 **D. MM's Previous Securities Fraud**

19 22. At all times relevant, MM represented to offerees and investors that he would
20 manage the day to day operations of the Medical and Disinfecting Water Business, including the
21 management and control of their Investment funds, as discussed above.

22 23. The Securities Division of the State of Washington's Department of Financial
23 Institutions ("Washington SD") filed a "Statement of Charges and Notice of Intent to Enter an
24 Order to Cease and Desist, Charge Costs and Impose Fines" against MM on April 23, 2008, for his
25 alleged violations of the registration and anti-fraud provisions of the Securities Act of Washington
26 (See, Washington Securities Division Order No. S-07-453-08-SC01) (the "Statement of Charges").

1 24. Despite the fact that Investment investors began giving their Investment funds to
2 MM in March 2008, and continued to do so until February 2010, MM failed to disclose to them the
3 existence of the Statement of Charges filed by the Washington SD on April 23, 2008.

4 25. The Statement of Charges, along with a related “Notice of Opportunity to Defend
5 and Opportunity for Hearing” and an “Application for Adjudicative Hearing” were served on MM
6 on July 29, 2008.

7 26. The Washington SD alleged in the Statement of Charges that MM illegally offered
8 and sold \$90,000 worth of unregistered securities to two Washington residents, including a
9 promissory note made by MM and convertible to a one percent ownership interest in a limited
10 liability company called Gitan, L.L.C. (“Gitan”) co-owned and controlled by MM. The Statement
11 of Charges alleges that MM represented to offerees and investors that Gitan and MM developed
12 and marketed mold resistant masonry paints and coatings (the “Coating Products”). The
13 Washington SD further alleged in the Statement of Charges that MM and/or his authorized agent
14 represented to offerees and investors that, without limitation, MM: (a) was Gitan’s member, “chief
15 technical officer” and “chemist;” (b) personally owned, invented and/or had developed the
16 technology used to manufacture the Coating Products, and that the Coating Products were
17 compliant with U.S. Environmental Protection Agency (“EPA”) regulations; and (c) MM was
18 already selling the Coating Products across the country, and had commitments from federal and
19 state agencies to purchase at least \$4,200,000 worth of the Coating Products.

20 27. Also unbeknownst to investors, the Washington SD filed a final “Entry of Findings
21 of Fact and Conclusions of Law and Final Order to Cease and Desist, Charge Costs and Impose
22 Fines as to Mark Moroney” on October 9, 2008 (*See*, Washington Securities Division Order No. S-
23 07-453-08-FO01) (the “Final MM Securities Fraud Order”).

24 28. The Final MM Securities Fraud Order entered against MM finds that he violated the
25 registration provisions of the Securities Act of Washington for selling unregistered securities while
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1 not registered as a broker-dealer or securities salesperson, to wit Wash. Rev. Code §§
2 21.20.005(10)&(12), 21.20.140 and 21.20.040.

3 29. The Final MM Securities Fraud Order also finds that MM committed securities
4 fraud in violation of Wash. Rev. Code § 21.20.010 because, without limitation: (a) MM “was not a
5 chemist and did not invent” the Coating Products; (b) the Coating Products that MM showed his
6 investors were merely “samples” that he had obtained from another company that actually
7 developed and sold the Coating Products; (c) neither MM nor Gitan had any formal distributorship
8 rights to sell the Coating Products; (d) the Coating Products were not being sold across the country,
9 and MM and Gitan did not have “imminent orders” to purchase the Coating Products totaling
10 \$4,200,000 from federal or state agencies as represented to investors; (e) MM failed to disclose any
11 risks associated with the investments; (f) MM failed to disclose to his investors that their money
12 would be deposited into the personal bank account of Respondent Spouse, rather than Gitan’s
13 corporate bank account, and that such funds were not used to promote and sell the Coating Products
14 as represented by MM; (g) the Coating Products were not compliant with EPA regulations as
15 represented to investors; and (h) MM misrepresented the supposed superior financial health of
16 Gitan to his investors to induce their investment purchases. The Final MM Securities Fraud Order
17 also finds that MM’s investors received no returns on their investments.

18 30. The Final MM Securities Fraud Order orders MM to cease and desist violating the
19 Securities Act of Washington, and to pay the Washington SD: (a) \$15,000 in fines; and (b) \$500 in
20 costs.

21 IV.

22 VIOLATION OF A.R.S. § 44-1841

23 (Offer or Sale of Unregistered Securities)

24 31. From March 2008 to February 2010, MM offered or sold securities in the form of
25 investment contracts, within or from Arizona.

26

1 32. The securities referred to above were not registered pursuant to Articles 6 or 7 of the
2 Securities Act.

3 33. This conduct violates A.R.S. § 44-1841.

4 V.

5 **VIOLATION OF A.R.S. § 44-1842**

6 **(Transactions by Unregistered Dealers or Salesmen)**

7 34. MM offered or sold securities within or from Arizona while not registered as dealers or
8 salesmen pursuant to Article 9 of the Securities Act.

9 35. This conduct violates A.R.S. § 44-1842.

10 VI.

11 **VIOLATION OF A.R.S. § 44-1991**

12 **(Fraud in Connection with the Offer or Sale of Securities)**

13 36. In connection with the offer or sale of securities within or from Arizona, MM directly
14 or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of
15 material fact or omitted to state material facts that were necessary in order to make the statements
16 made not misleading in light of the circumstances under which they were made; or (iii) engaged in
17 transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon
18 offerees and investors. MM's conduct includes, but is not limited to, the following:

- 19 A. Representing to offerees and investors that MM would use their Investment funds to
20 develop, distribute and/or sell the Medical and Disinfecting Water products, machines
21 and/or technologies, while further failing to disclose to them that MM and Respondent
22 Spouse would instead use their Investment funds, in part, to pay for their personal
23 expenses unrelated to their Business including, without limitation: (a) horse feed,
24 vitamins and tack to support MM and Respondent Spouses' separate competitive
25 horse roping and/or rodeo endeavors; (b) groceries; and (c) various other personal
26 expenditures such as cable television;

1 B. Representing to offerees and investors that that MM would share with them the
2 profits resulting from his and/or MWT's production and sales of the Medical and
3 Disinfecting Water products, machines and/or technologies, while further failing to
4 disclose to them that he had previously formed and/or controlled a similar limited
5 liability company to develop and sell products for the benefit of his previous
6 investors, and that he defrauded them as set forth in the Final MM Securities Fraud
7 Order discussed above, in part, by misappropriating their investment funds; and

8 C. Representing to offerees and investors that MM would use his superior knowledge
9 and expertise to manage their Investment funds to develop, produce, sell and
10 distribute the Medical and Disinfecting Water products, machines and technologies
11 as set forth in paragraph 13 above, while further failing to disclose to them that: (1)
12 the Washington SD had recently filed an enforcement action against MM for
13 fraudulently selling \$90,000 worth of unregistered securities/investments based on a
14 myriad of false and misleading statements that he owned and had access to the
15 special, proprietary Coating Products; (2) in October 2008, the Washington SD
16 issued the Final MM Securities Fraud Order that finds that MM sold unregistered
17 securities/investments while not registered as a securities broker-dealer or securities
18 salesperson, and that he committed at least eight separate acts of fraud in violation of
19 the Securities Act of Washington as set forth above at paragraph 29; and (3) that, as
20 a result, MM was ordered by the Washington SD to cease and desist from further
21 violations of the Securities Act of Washington, and to pay \$15,000 in fines and \$500
22 in costs

23 37. This conduct violates A.R.S. § 44-1991.

24 **VII.**

25 **REQUESTED RELIEF**

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

1 Persons with a disability may request a reasonable accommodation such as a sign language
2 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
3 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
4 Requests should be made as early as possible to allow time to arrange the accommodation.

5 IX.

6 ANSWER REQUIREMENT

7 Pursuant to A.A.C. R14-4-305, if MM or Respondent Spouse requests a hearing, the
8 requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to
9 Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007,
10 within 30 calendar days after the date of service of this Notice. Filing instructions may be obtained
11 from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
12 <http://www.azcc.gov/divisions/hearings/docket.asp>.

13 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
14 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
15 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
16 addressed to Mike Dailey.

17 The Answer shall contain an admission or denial of each allegation in this Notice and the
18 original signature of the answering respondent or respondent's attorney. A statement of a lack of
19 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
20 denied shall be considered admitted.

21 When the answering respondent intends in good faith to deny only a part or a qualification
22 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
23 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.


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1 The officer presiding over the hearing may grant relief from the requirement to file an
2 Answer for good cause shown.

3 Dated this 16 day of December, 2010.



Matthew J. Neubert
Director of Securities

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