



BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS 2011 APR -6 A 11: 12

- GARY PIERCE, Chairman
- BOB STUMP
- SANDRA D. KENNEDY
- PAUL NEWMAN
- BRENDA BURNS

In the matter of: )  
 FRED OTTO BOHN and MARSHA BOHN, )  
 husband and wife, )  
 CAPITAL OIL & GAS, LIMITED (a.k.a )  
 "CAPITAL OIL & GAS, LTD," f.k.a. )  
 "OMNI PETROLEUM LIMITED"), a )  
 dissolved United Kingdom corporation, and a )  
 British Virgin Islands company, )  
 Respondents. )

DOCKET NO. S-20796A-11-0152

NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND ORDER FOR OTHER AFFIRMATIVE ACTION

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 FRED OTTO BOHN and CAPITAL OIL & GAS, LIMITED (a.k.a "CAPITAL OIL & GAS, LTD," f.k.a. "OMNI PETROLEUM LIMITED"), 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.

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Arizona Corporation Commission

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1 **II.**

2 **RESPONDENTS**

3 2. At all times relevant, Respondent FRED OTTO BOHN ("BOHN") has been a  
4 married man and an Arizona resident. At all times relevant, BOHN offered and sold the  
5 investments discussed below within and from Arizona in his individual capacity and on behalf of  
6 Respondent CAPITAL OIL & GAS, LIMITED (a.k.a "CAPITAL OIL & GAS, LTD," f.k.a.  
7 "OMNI PETROLEUM LIMITED") ("COG") as its owner, "Chairman," sole employee, and  
8 investment salesman. BOHN has not been registered by the Commission as a securities salesman  
9 or dealer.

10 3. In or about 1994, BOHN incorporated COG with the Registrar of Companies for  
11 England and Wales as a United Kingdom company called "OMNI PETROLEUM LIMITED"  
12 ("OPL"), "Company NO. 4379417." On or about September 12, 2002, OPL's name was formally  
13 changed by BOHN to COG. From in or about 2002, to the present, COG has maintained its principal  
14 place of business and/or an office in Arizona. On or about October 12, 2009, COG was dissolved as a  
15 United Kingdom company. On or about August 24, 2006, COG was re-incorporated by BOHN with  
16 the Registrar of Corporate Affairs for the Territory of the British Virgin Islands ("BVI") as a "BVI  
17 Business Company," "BVI COMPANY NUMBER: 1047007." At all times relevant, COG issued  
18 and/or sold the investments discussed below within and from Scottsdale and/or Gilbert, Arizona.  
19 COG has not been registered by the Commission as a securities dealer.

20 4. BOHN and COG may be referred to as "Respondent(s)."

21 5. Respondent MARSHA BOHN was at all relevant times the spouse of BOHN.  
22 MARSHA BOHN will be referred to as "Respondent Spouse." Respondent Spouse is joined in this  
23 action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of BOHN and  
24 Respondent Spouse's marital community.

25 6. At all times relevant, BOHN was acting for his own benefit and for the benefit and in  
26 furtherance of BOHN and Respondent Spouse's marital community.

1 III.

2 FACTS

3 A. Respondents' Oil and Gas Business

4 7. At all times relevant, Respondents represented to investors both verbally and in  
5 writing that they were engaged in the business of participating in and/or brokering oil and gas  
6 (collectively "Oil") transactions throughout the world.

7 8. As explained on the recently revised homepage of Respondents' website at  
8 [www.capitaloilandgas.com](http://www.capitaloilandgas.com) (the "Website"):

9 Capital Oil and Gas, LLC. is a oil and gas trading company located in the USA.  
10 Originally formed in 1992 as Omni Petroleum with headquarters in the UK, the  
11 name was changed to Capital Oil and Gas in 2000. The operating headquarters  
12 were relocated to the USA in 2002.

13 Capital's primary activity is trading in crude and refined petroleum products.

14 9. Prior to March 2011, the homepage of Respondents' website stated in more detail  
15 that:

16 Capital Oil & Gas Ltd. is an international independent oil and gas company engaged  
17 in exploration, production, refining and trading[.]

18 Our core business is bridging relationships between oil producers and oil refiners  
19 using innovating acquisition strategies in connection with our processing and  
20 refining agreements with 10 refineries in 3 continents totaling over 50,000,000  
21 barrels per month.

22 We are expanding our role in Canada, Africa, the Middle East and Asia in the areas  
23 of exploration, drilling, production and refining via alliances and relationships with  
24 partners in the local areas.

25 10. At all times relevant, BOHN has been responsible for maintaining and/or publishing  
26 the information contained on Respondents' Website. At all times relevant, Respondents' Website  
27 further identified Respondents' Arizona business address and telephone and fax numbers.

28 11. Prior to March 2011, the Website included the following pages: (a) the "Trading"  
29 page stating that COG "trades crude and refined petroleum products in every oil producing and  
30 consuming countries of the world," including companies located in China, Libya, Russia, the U.S.,

1 Venezuela and Yeman; (b) the “Drilling & Exploration” page stating that COG, “has undertaken a  
2 strategy to explore and produce oil and gas in Alberta Canada by forming an industry-first alliance  
3 in Northwestern Alberta, Canada”; (c) the “Refining” page stating that COG “maintains third party  
4 capacity processing agreements with a number of refineries in Europe, Southwest and Southeast  
5 Asia and the Pacific Rim...We use these relationships to acquire crude oil and, after processing,  
6 market the refined products to various customers throughout the world”; (d) the “Shipping” page  
7 stating that COG “charters all types of oil tankers for every worldwide shipping market  
8 for...[COG’s] account and for the account of first class third parties”; and (e) the “World Wide  
9 Network” page stating that “[i]n addition to our Scottsdale, Arizona USA presence, [Respondents’]  
10 representative offices are maintained in...” cities such as Hong Kong, New York, Geneva, Dublin,  
11 and Seoul. These Oil activities and/or services are collectively referred to hereafter as  
12 Respondents’ “Business.”

13 **B. Investment Summary**

14 12. From at least July 2005 to July 2010, Respondents issued, offered and sold  
15 investments to the general public to raise capital to fund and/or operate their Oil Business (the  
16 “Investment(s)”).

17 13. The Investments have not been registered with the Commission as securities to be  
18 offered or sold within or from Arizona.

19 14. At all times relevant, Respondents represented to investors that Respondents would  
20 use Investment funds to fund and operate Respondents’ Business and to, without limitation,  
21 purchase and/or procure Oil transaction “performance bonds” and/or “performance guarantees” (the  
22 “Performance Bond(s)”) relating to Oil trading, buying, selling, refining, and/or shipping  
23 transactions and/or contracts negotiated and/or brokered by Respondents.

24 15. Generally, a Performance Bond is a surety bond issued by a bank or insurance  
25 company in favor of one party to a contract as a guarantee against the failure by the other party to  
26 satisfactorily perform and/or complete the contract as specified. In the event of contractual non-

1 performance, the beneficiary of the Performance Bond is generally entitled to the payment  
2 specified in the Performance Bond.

3 16. Applied here, Respondents represented to investors that Respondents would  
4 purchase Performance Bonds with Investment funds to, without limitation: (a) guarantee the  
5 fulfillment of the Oil transactions negotiated and/or brokered by Respondents on behalf of  
6 Investment investors; and/or (b) to ensure the shipment of Oil to and/or from, for instance, Nigeria.

7 17. Respondents' Investments ranged in price from approximately \$35,000 to \$200,000  
8 each. The Investments were documented by, without limitation: (a) Investment investor checks  
9 and/or wire transfers of principal Investment funds into Respondents' bank accounts; (b) emails  
10 and/or correspondence exchanged between BOHN and investors; (c) unsecured promissory notes  
11 made and executed by BOHN in his individual capacity, and on behalf of COG as its "Chairman  
12 and CEO" (the "Note(s)"); and (d) paperwork and/or contracts relating to the purported underlying  
13 Oil deals promoted by Respondents with investors' Investment funds.

14 18. The Notes were prepared by BOHN, and stated that BOHN was individually and  
15 "unconditionally" guaranteeing the investors' Investments.

16 19. The terms of the Investments varied. All Investments, however, included promises  
17 of extraordinary returns on the principal Investment amounts in short periods of time.

18 20. For instance, BOHN promised:

19 a. a \$50,000 Investment investor that Respondents would pay the investor returns of  
20 \$250,000 per month, or a total of \$3,000,000 during the one-year term of the  
21 Investment;

22 b. a \$100,000 Investment investor that Respondents would pay the investor a total  
23 return of \$268,000 within ten days of the principal Investment purchase;

24 c. another \$100,000 Investment investor that Respondents would repay the investor's  
25 principal investment amount plus an additional \$25,000 within one month, and  
26

1 additional payments of \$750,000 per month, or a total of \$9,000,000 during the one-  
2 year term of the Investment; and

- 3 d. a \$35,000 Investment investor that Respondents would repay the investor a profit of  
4 \$500,000 per month for a year, for a total return of \$6,000,000 (the "Extraordinary  
5 Profit(s)").

6 21. In another case, BOHN promised a \$200,000 Investment investor: (a) the return of  
7 his principal Investment in a short period of time; and (b) an Extraordinary Profit of \$.50 per barrel  
8 of Oil, on a deal allegedly involving 2,000,000 barrels of Oil, or a total of \$1,000,000.

9 22. Respondents issued and sold at least ten Investments totaling \$715,000 to eight  
10 widely disbursed, unrelated investors residing in six states including: (a) Florida; (b) Maryland; (c)  
11 Missouri; (d) New York; (e) Pennsylvania; and (f) Texas.

12 23. To date, investors have not received the return of their principal Investments or any  
13 Extraordinary Profits.

14 24. When investors asked BOHN why the investors had not and/or were not receiving  
15 their promised Investment returns within the specified time periods, BOHN informed the investors  
16 that, for instance: (a) there were problems or delays in arranging a vessel for the shipment of Oil,  
17 and that Respondents were attempting to make other Oil shipping arrangements; and (b) although  
18 the Oil "deals" promoted with the investors' funds had fallen through, Respondents were  
19 purportedly working on new deals that would provide investors with even "greater returns."  
20 Eventually, BOHN ceased communicating with Investment investors.

21 **C. General Investment Allegations**

22 25. At all times relevant, Respondents represented to investors that Respondents would  
23 manage the essential elements of Respondents' Oil Business including, without limitation, the: (a)  
24 negotiation and execution of Oil trading, drilling and exploration, refining, shipping and/or other  
25 Business related contracts; (b) performance of the contractual obligations including, for instance,  
26

1 the procurement or charter of shipping vessels to transport Oil; and (c) the negotiation and/or  
2 purchase of Performance Bonds relating to the Business contracts.

3 26. At all times relevant, Respondents represented to investors both verbally and in  
4 writing that Respondents' ability to repay investors their principal Investments and/or promised  
5 profits was interwoven with and primarily dependent on Respondents' superior Business expertise  
6 and experience and ability to successfully engage in and/or broker the Oil deals discussed above.

7 **D. Respondents' Use of Investment Funds**

8 27. Investors made their Investment checks and/or wire transfers payable to COG, and  
9 they sent the payments to Respondents in Arizona. BOHN caused the Investment funds to be  
10 deposited into Arizona and Wisconsin bank accounts owned and controlled by COG and/or BOHN  
11 (the "Bank Accounts"). The Bank Accounts included, for example, an Arizona COG business  
12 checking account on which BOHN was the sole authorized signer.

13 28. BOHN commingled, pooled and/or combined Investment funds together, in part, by  
14 transferring such funds to and from the various Bank Accounts.

15 29. Unbeknownst to investors, BOHN used the Investment funds deposited into the  
16 Bank Accounts, in part, to pay for personal expenses unrelated to Respondents' Oil Business.  
17 These personal expenditures totaled tens of thousands of dollars and included, without limitation:  
18 (a) thousands of dollars towards the purchase and/or maintenance of BOHN's Gilbert, Arizona  
19 residence titled as the sole and separate property of Respondent Spouse; (b) over \$100,000 in  
20 payments to BOHN's relatives, despite the fact that said relatives provided no Oil and/or Business  
21 services to Respondents; and (c) other personal expenses, including car payments.

22 **E. Additional Misrepresentations and Omissions of Material Fact**

23 30. Unbeknownst to Respondents' investors, Respondents did not purchase any  
24 Performance Bonds with investor funds.

25 31. Respondents' investors purchased their Investments primarily based on BOHN's  
26 representations that Respondents were able and experienced Oil Business operators and/or brokers

1 who had successfully brokered or directly participated in the purchase and sale of billions of dollars  
2 of Oil and gas products, and the shipping of millions of barrels of Oil.

3 32. Unbeknownst to Respondents' investors, however, Respondents have not  
4 successfully engaged in and/or concluded a brokered Oil deal or Business transaction since at least  
5 2003. Also unbeknownst to investors, Respondents' primary source of revenue from  
6 approximately 2003 to the present has been investor funds.

7 33. BOHN represented to one Investment investor that Respondents owned Oil  
8 refineries located in the U.S. and United Kingdom and a large ship that Respondents used to  
9 transport Oil to and from said refineries. BOHN further represented to this investor that  
10 Respondents would use the investor's \$50,000 in Investment funds to operate the ship.  
11 Unbeknownst to this investor, however: (a) Respondents have never owned Oil refineries in the  
12 U.S. or United Kingdom, or any Oil shipping vessels; and (b) as a result, Respondents did not use  
13 this investor's Investment funds to operate any Oil shipping vessel.

14 34. BOHN represented to Investment investors that if the underlying Oil deals funded  
15 with investors' Investment funds were not successful, Respondents would immediately refund to  
16 said investors their principal Investment funds. However, as noted in part above, Respondents have  
17 not successfully concluded any Oil or Business deals since at least 2003, and Respondents have  
18 failed to refund all of the principal Investment funds discussed above as promised.

19 35. BOHN represented to Investment investors both verbally and in writing that he was  
20 personally and "unconditionally" guaranteeing their Investments. However, BOHN further failed  
21 to disclose to these investors that: (a) BOHN's assets were and/or could be insufficient to honor  
22 said guarantees; and (b) as a result, investors could possibly not receive their Extraordinary Profits,  
23 and/or lose all or a vast portion of their principal Investment funds.

24 36. Respondents issued and sold a \$35,000 Investment to a Pennsylvania investor: (a)  
25 after Respondents' had received actual knowledge of the commencement of the Division's  
26



1 investigation of Respondents' alleged violations of the Securities Act (the "Investigation"); and (b)  
2 without disclosing the existence of the Investigation to the Pennsylvania investor.

3 37. BOHN further showed the Pennsylvania investor a copy of a Performance Bond  
4 purportedly issued by a large London insurance company as proof that Respondents had used the  
5 investor's Investment funds to promote an Oil deal. Unbeknownst to the Pennsylvania investor,  
6 however, the London insurance company had not issued a Performance Bond relating to any Oil  
7 deal engaged in or brokered by Respondents, and/or Respondents had "forged" the form of, and/or  
8 signature on the Performance Bond.

9 38. Respondents represented to all Investment investors that Respondents would pay  
10 them Extraordinary Profits, despite the fact that Respondents had no reasonable basis for making  
11 such promises, in part, based on the foregoing.

12 **IV.**

13 **VIOLATION OF A.R.S. § 44-1841**

14 **(Offer or Sale of Unregistered Securities)**

15 39. From on or about July 2005 to July 2010, Respondents offered or sold securities in the  
16 form of investment contracts and notes, within or from Arizona.

17 40. The securities referred to above were not registered pursuant to Articles 6 or 7 of the  
18 Securities Act.

19 41. This conduct violates A.R.S. § 44-1841.

20 **V.**

21 **VIOLATION OF A.R.S. § 44-1842**

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

23 42. Respondents offered or sold securities within or from Arizona while not registered as  
24 dealers or salesmen pursuant to Article 9 of the Securities Act.

25 43. This conduct violates A.R.S. § 44-1842.

26

## VI.

## VIOLATION OF A.R.S. § 44-1991

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

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

- a. Misrepresenting to Investment investors that Respondents would use their Investment funds to operate Respondents' Oil Business, despite the fact that BOHN used Investment funds, in part, to pay for tens of thousands of dollars in personal expenses unrelated to Respondents' Oil Business;
- b. Misrepresenting to Investment investors that Respondents would purchase Oil Performance Bonds with the Investment funds, despite the fact that Respondents did not purchase any Performance Bonds with the Investment funds;
- c. Representing to Investment investors that Respondents were able and experienced Oil Business operators and/or brokers who had successfully brokered or directly participated in the purchase and sale of billions of dollars of Oil and gas products and the shipping of millions of barrels of Oil, while further failing to disclose to them that: (1) Respondents have not successfully engaged in and/or concluded a brokered Oil Business deal or transaction since at least 2003; and/or, (2) that Respondents' primary source of revenue from approximately 2003 to the present has been investor funds;
- d. Misrepresenting to one Investment investor that Respondents owned Oil refineries located in the U.S. and United Kingdom and a large ship that Respondents used to

1 transport Oil to and from said refineries, and that Respondents would use the  
2 investor's Investment funds to operate the refineries and/or ship, despite the fact  
3 that: (1) Respondents have never owned Oil refineries in the U.S. or United  
4 Kingdom, or any Oil shipping vessels; and (2) as a result, Respondents did not use  
5 this investor's Investment funds to operate any Oil refineries and/or shipping vessels  
6 as promised;

7 e. Misrepresenting to Investment investors that if the underlying Oil deals funded with  
8 investors' Investment funds were not successful, Respondents would immediately  
9 refund to said investors their principal Investment funds, despite the fact that, as  
10 noted above, Respondents have not successfully concluded any Oil or Business  
11 deals since at least 2003, and Respondents have failed to refund to investors their  
12 principal Investment;

13 f. Representing to Investment investors both verbally and in writing that BOHN was  
14 personally and "unconditionally" guaranteeing their Investments, while further  
15 failing to disclose to investors that: (a) BOHN's assets were and/or could be  
16 insufficient to honor said guarantees; and (b) as a result, the investors could possibly  
17 not receive their Extraordinary Profits, and/or lose all or a vast portion of their  
18 principal Investment funds;

19 g. Representing to one Investment investor that she could earn Extraordinary Profits by  
20 purchasing her Investment, while further failing to disclose to the investor that  
21 Respondents were being investigated by the Division for Respondents' alleged  
22 violations of the Securities Act; and

23 h. Misrepresenting to an investor that a copy of a Performance Bond allegedly issued  
24 by a large London insurance company related to an Oil deal involving Respondents  
25 using the investor's funds, despite the fact that the London insurance company had  
26 not issued the Performance Bond relating to any Oil deal promoted by Respondents,

1 and/or the fact that Respondents had forged the form of, and/or signature on the  
2 Performance Bond.

3 45. This conduct violates A.R.S. § 44-1991.

4 **VII.**

5 **REQUESTED RELIEF**

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

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

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

12 3. Order Respondents to pay the state of Arizona administrative penalties of up to five  
13 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

14 4. Order that the marital community of BOHN and Respondent Spouse be subject to any  
15 order of restitution, rescission, administrative penalties, or other appropriate affirmative action  
16 pursuant to A.R.S. § 25-215; and,

17 5. Order any other relief that the Commission deems appropriate.

18 **VIII.**

19 **HEARING OPPORTUNITY**

20 Each Respondent including Respondent Spouse may request a hearing pursuant to A.R.S.  
21 § 44-1972 and A.A.C. R14-4-306. **If a Respondent or Respondent Spouse requests a hearing, the**  
22 **requesting respondent must also answer this Notice.** A request for hearing must be in writing and  
23 received by the Commission within 10 business days after service of this Notice of Opportunity for  
24 Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona  
25 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be  
26

1 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at  
2 <http://www.azcc.gov/divisions/hearings/docket.asp>.

3 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin  
4 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the  
5 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission  
6 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of  
7 Opportunity for Hearing.

8 Persons with a disability may request a reasonable accommodation such as a sign language  
9 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.  
10 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov).  
11 Requests should be made as early as possible to allow time to arrange the accommodation.  
12 Additional information about the administrative action procedure may be found at  
13 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

## 14 IX.

### 15 ANSWER REQUIREMENT

16 Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing,  
17 the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing  
18 to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona  
19 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be  
20 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site  
21 at <http://www.azcc.gov/divisions/hearings/docket.asp>.

22 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant  
23 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a  
24 copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, Arizona, 85007,  
25 addressed to Mike Dailey.

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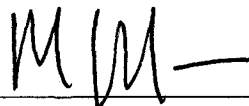
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The Answer shall contain an admission or denial of each allegation in this Notice and the original signature of the answering respondent or respondent's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial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

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

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

Dated this 6<sup>th</sup> day of April, 2011.

  
\_\_\_\_\_  
Matthew J. Neubert  
Director of Securities