

OPEN MEETING ITEM

6/16/11



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

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR



RECEIVED

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ARIZONA CORPORATION COMMISSION

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

ORIGINAL

MEMORANDUM

TO: Gary Pierce, Chairman
Bob Stump
Sandra D. Kennedy
Paul Newman
Brenda Burns

Arizona Corporation Commission
DOCKETED

JUN 2 2011

FROM: Matthew J. Neubert *MJN*
Director of Securities

DOCKETED BY *MJN*

DATE: May 31, 2011

RE: *In re Arthur Brent Payne, et al.*, Docket No. S-20772A-10-0489

CC: Ernest G. Johnson, Executive Director

Attached for your consideration is a proposed "Final Order Assessing Administrative Penalties And Consent to Same" executed by Respondents Granite Loan Fund, LLC ("GLF"), Arthur Brent Payne ("Payne") and Michael Richard Olson ("Olson") (collectively "Respondents"), and dismissing Payne and Olson's spouses and a related company called Steeple Rock Funding, LLC ("SRF") (the "Order").

The Order finds that GLF, Payne and Olson violated A.R.S. § 44-1841 by offering unregistered securities in the form of limited liability company membership interests in GLF ("Investments"). The Order further finds that Payne and Olson organized GLF to issue loans secured by first position deeds of trust on real estate purchased by borrowers with loan funds. Respondents did not sell any of the Investments, and they depublished the GLF website that discussed the Investments after their receipt of the Securities Division's December 10, 2010, Temporary Order to Cease and Desist.

The Order requires Respondents to pay a \$1,000 administrative penalty. Respondents have provided the Division with a check in the amount of \$1,000 towards satisfaction of the penalty amount. The Division recommends the Order as appropriate, in the public interest and necessary for the protection of investors.

Originator: Mike Dailey

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 COMMISSIONERS

4 GARY PIERCE, Chairman
5 BOB STUMP
6 SANDRA D. KENNEDY
7 PAUL NEWMAN
8 BRENDA BURNS

7 In the matter of) DOCKET NO. S-20772A-10-0489
8) DECISION NO. _____
9 ARTHUR BRENT PAYNE and CAROLYN)
L. PAYNE, husband and wife,) **FINAL ORDER ASSESSING**
10 MICHAEL RICHARD OLSON, and JANE) **ADMINISTRATIVE PENALTIES**
DOE OLSON, husband and wife,) **AND CONSENT TO SAME BY:**
11) **RESPONDENT GRANITE LOAN FUND, LLC**
12 STEEPLE ROCK FUNDING, L.L.C., an) **RESPONDENT ARTHUR BRENT PAYNE**
Arizona limited liability company,)
13 GRANITE LOAN FUND, L.L.C., an) **RESPONDENT MICHAEL RICHARD OLSON**
Arizona limited liability company,)
14 Respondents.) **-AND-**
15) **ORDER TO DISMISS RE:**
16) **RESPONDENT CAROLYN L. PAYNE**
17) **RESPONDENT JANE DOE OLSON**
18) **RESPONDENT STEEPLE ROCK FUNDING,**
19) **LLC**

20 Respondents GRANITE LOAN FUND, L.L.C., ARTHUR BRENT PAYNE, and
21 MICHAEL RICHARD OLSON (collectively "Respondents"), elect to permanently waive any right
22 to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801
23 *et seq.* ("Securities Act") with respect to this Final Order Assessing Administrative Penalties
24 ("Order") and Respondents' Consent To Entry Of Order. Respondents admit the jurisdiction of the
25 Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact
26 and Conclusions of Law contained in this Order; and consent to the entry of this Order by the

1 Commission. This Order is entered without trial of any issue or fact and is not intended to have any
2 collateral estoppel or res judicata effect against Respondents except for this case, and any other
3 proceeding involving the Commission.

4 **I.**

5 **FINDINGS OF FACT**

6 1. Respondent ARTHUR BRENT PAYNE ("PAYNE") is an Arizona resident and
7 offered the investments discussed below within and from Arizona on behalf of Respondent
8 GRANITE LOAN FUND, L.L.C. (d.b.a., a.k.a. "GRANITE LOAN FUND, LLC") ("GLF").

9 2. Respondent MICHAEL RICHARD OLSON ("OLSON") is an Arizona resident and
10 offered the investments discussed below within and from Arizona on behalf of GLF.

11 3. GLF was organized as a manager-managed Arizona limited liability company on
12 October 15, 2010, and it offered to issue the investments discussed below within or from Arizona. At
13 all times relevant, GLF has maintained its principal place of business in Arizona.

14 4. PAYNE, OLSON and GLF may be referred to as "Respondent(s)."

15 5. Respondents represented to offerees that Respondents are engaged in the business of
16 underwriting, originating and servicing short-term real estate loans ("Loan(s)"), secured by first
17 position deeds of trust, on the non-owner occupied residential properties in Arizona (the "Real
18 Estate") purchased with the Loan funds.

19 6. Respondents represented to offerees within and from Arizona that GLF was offering
20 private investments represented by limited liability company membership interests in GLF to raise
21 capital to fund the Loans (the "Investments").

22 7. The Investments were not registered by Respondents with the Commission as
23 securities to be offered within or from Arizona.

24 8. Prior to offering the Investments, Respondents sought the advice of counsel
25 regarding the preparation of the private offering materials and whether the Investments needed to
26 be registered with the Commission. Respondents believed that their Investment offering complied

1 with all applicable rules and regulations pertaining to an “exempt” offering of securities, and
2 therefore they would not need to file a notice with the Commission and the SEC pursuant to Rule
3 503 of Regulation D until fifteen days after the first sale occurred.

4 9. Respondents did not sell any of the Investments and no sales of the Investments
5 occurred.

6 10. From November 1, 2010 to December 14, 2010, Respondents posted information
7 regarding the GLF Investments on their website that Respondents intended to be a “tombstone” ad
8 regarding the GLF offering. Respondents sought the advice of counsel regarding the tombstone ad
9 on their website and believed that it complied with all applicable rules and regulations for such ads.

10 11. Respondents de-published the GLF page from the Website soon after the Securities
11 Division filed the Temporary Order To Cease And Desist And Notice Of Opportunity For Hearing
12 on December 10, 2010.

13 12. The offer of the Investments was to a limited group of individuals. Respondents
14 only contacted persons they personally knew or believed to be accredited investors, legal and
15 accounting professionals known to Respondents whose normal course of business would be
16 conducted with individuals who would be expected to meet the accredited investor requirements,
17 and registered investment advisers who operate on a fee only basis and whose clientele would
18 reasonably be expected to meet the criteria of an accredited investor. All materials regarding the
19 Investments also clearly state that the investments are only suitable for “accredited investors.”

20 13. In an isolated case, an individual unknown to Respondents contacted Respondents
21 via the GLF website and requested information regarding GLF. Respondents provided this person
22 with preliminary information regarding the Investments. Before mailing this individual the
23 complete private offering materials, Respondents asked the individual via e-mail whether he was an
24 accredited investor and he represented to Respondents that he was an accredited investor.
25 Respondents were not aware until they received the Temporary Order To Cease And Desist And
26 Notice Of Opportunity For Hearing that the potential investor was not accredited.

1 IT IS FURTHER ORDERED, that upon entry of this Order, the Temporary Order To Cease
2 And Desist filed by the Securities Division in this proceeding on December 10, 2010, shall be
3 vacated.

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

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

9
10 _____
11 CHAIRMAN COMMISSIONER

12
13 COMMISSIONER COMMISSIONER COMMISSIONER

14
15 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
16 Executive Director of the Arizona Corporation Commission,
17 have hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of
19 Phoenix, this _____ day of _____, 2011.

20 _____
21 ERNEST G. JOHNSON
22 EXECUTIVE DIRECTOR

23 _____
24 DISSENT

25 _____
26 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.

CONSENT TO ENTRY OF ORDER

1
2 1. Respondents GRANITE LOAN FUND, LLC (d.b.a., a.k.a. "GRANITE LOAN
3 FUND, L.L.C.") ("GLF"), ARTHUR BRENT PAYNE ("PAYNE"), and MICHAEL RICHARD
4 OLSON ("OLSON") ("Respondent(s)") admit the jurisdiction of the Commission over the subject
5 matter of this proceeding. Respondents acknowledge that Respondents have been fully advised of
6 their right to a hearing to present evidence and call witnesses and Respondents knowingly and
7 voluntarily waive any and all rights to a hearing before the Commission and all other rights
8 otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona
9 Administrative Code. Respondents acknowledge that this Final Order Assessing Administrative
10 Penalties ("Order") constitutes a valid final order of the Commission.

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

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

16 4. Respondents have been represented by counsel in this matter, Respondents have
17 reviewed this Order with their attorneys, Paul J. Roshka, Jr., Esq. and Jennifer A. Baker, Esq. of the
18 law firm Roshka DeWulf & Patten, P.L.C., and understand all terms it contains. Respondents
19 acknowledge that their attorneys have apprised them of Respondents' rights regarding any conflicts
20 of interest arising from the representation of all Respondents. Respondents acknowledge that they
21 have each given their informed consent to such representation. Roshka DeWulf & Patten, P.L.C.
22 did not provide the advice referred to in Paragraphs 8 and 10 of the Findings of Fact set forth in the
23 Order.

24 5. Respondents neither admit nor deny the Findings of Fact and Conclusions of Law
25 contained in this Order. Respondents acknowledge and agree that Respondents shall not contest
26

1 the validity of the Findings of Fact and Conclusions of Law contained in this Order in any present
2 or future proceeding in which the Commission or its authorized agent is a party.

3 6. By consenting to the entry of this Order, Respondents agree not to take any action or
4 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
5 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual
6 basis. Respondents will undertake steps necessary to assure that all of Respondents' agents and
7 employees understand and comply with this agreement.

8 7. While this Order settles this administrative matter between Respondents and the
9 Commission, Respondents understand that this Order does not preclude the Commission from
10 instituting other administrative or civil proceedings based on violations that are not addressed by
11 this Order.

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

15 9. Nothing contained herein precludes Respondents from being able to raise the
16 necessary defenses to any administrative, civil or criminal action that may arise subsequent to this
17 Order. This Order is entered without trial of any issue or fact and is not intended to have any
18 collateral estoppel or res judicata effect against Respondents except for this case, and any other
19 proceeding involving the Commission.

20 10. Respondents consent to the entry of this Order and agree to be fully bound by its
21 terms and conditions.

22 11. Respondents acknowledge and understand that if Respondents fail to comply with
23 the provisions of the Order and this consent, the Commission may bring further legal proceedings
24 against Respondents, including application to the superior court for an order of contempt.

25 12. PAYNE represents that: (a) PAYNE is the president and chief executive officer of a
26 co-managing member of Steeple Rock Funding, LLC ("SRF"); (b) PAYNE is also the

1 "Responsible Individual," co-manager and co-owner of SRF; and (c) that SRF is the managing
2 member of GLF. PAYNE further represents that he has been authorized by SRF and GLF to enter
3 into this Order for and on behalf of SRF and GLF.

4
5 **GRANITE LOAN FUND, LLC**

6 *Arthur Brent Payne*

7 By Steeple Rock Funding, LLC
8 Its Its manager

9 STATE OF ARIZONA)
10 County of Maricopa) ss

11 SUBSCRIBED AND SWORN TO BEFORE me this 26 day of MAY, 2011.



12 *Becky S Koch*
13 NOTARY PUBLIC

14 My commission expires:

7/15/13

15 *Arthur Brent Payne*
16 ARTHUR BRENT PAYNE

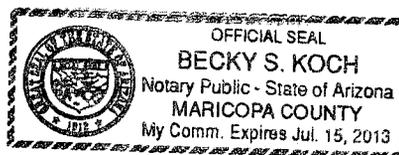
17
18 STATE OF ARIZONA)
19 County of Maricopa) ss

20
21 SUBSCRIBED AND SWORN TO BEFORE me this 26 day of MAY, 2011.

22 *Becky S Koch*
23 NOTARY PUBLIC

24 My commission expires:

25 7/15/13



Michael R. Olson
MICHAEL RICHARD OLSON

STATE OF ARIZONA)
County of Maricopa) ss

SUBSCRIBED AND SWORN TO BEFORE me this 29 day of May, 2011.

Becky Skoer
NOTARY PUBLIC

My commission expires:
7/15/13



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1 SERVICE LIST FOR: *In re Arthur Brent Payne, et al.*, S-20772A-10-0489

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3 Jennifer A. Baker, Esq.
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9 *Attorneys for all Respondents*

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