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

ORIGINAL



SECURITIES DIVISION
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Phoenix, AZ 85007
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ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

ARIZONA CORPORATION COMMISSION

MEMORANDUM

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

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

DATE: August 1, 2011

RE: Rodolfo Alvarez and Laura Gonzalez, husband and wife
 Docket No. S-20807A-11-0237

CC: Ernest G. Johnson, Executive Director

Arizona Corporation Commission
DOCKETED
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 DOCKETED BY *[Signature]*

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 ARIZONA CORPORATION COMMISSION
 DOCKET CONTROL

Please find attached a proposed Order to Cease and Desist, For Administrative Penalties, and For Revocation regarding Rodolfo Alvarez and Laura Gonzalez ("Order"). On June 8, 2011, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing regarding a Proposed Order to Cease and Desist, Order for Administrative Penalties, and Order of Revocation against Rodolfo Alvarez and Laura Gonzalez, husband and wife ("Notice"). On June 13, 2011, Rodolfo Alvarez ("Respondent") and Laura Gonzalez ("Respondent Spouse") were personally served with copies of the Notice. Respondent and Respondent Spouse have each failed to request an administrative hearing or file an Answer within the required time limits. Laura Gonzalez was joined, pursuant to A.R.S. §44-2031(C), solely for the purposes of determining the liability of the marital community.

From about January 20, 2005, to July 29, 2010, Respondent was registered in Arizona as a securities salesman. Based on its investigation, the Division discovered that Alvarez improperly borrowed money from brokerage clients, misrepresented to brokerage clients that he had inside information about certain stocks, and improperly diverted funds from the brokerage clients that they gave to Alvarez to purchase stocks but he never provided them proof that any such stock was actually purchased. Five brokerage clients were defrauded out of approximately \$120,000. Upon a complaint to the brokerage firm employing Alvarez, an internal investigation was initiated that resulted in the brokerage firm terminating Alvarez's employment. The brokerage firm also repaid back all five investors their \$120,000 in total losses.

The Order finds that Alvarez violated A.R.S. §§44-1991 and 44-1962 because there were untrue statements or misleading omissions of material fact. The Order requires the Respondent to cease and desist from violating the Securities Act, pay an administrative penalty in the amount of \$50,000, and revokes Alvarez's registration as a securities salesman with the Commission.

Originator: Paul Huynh

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

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

8 In the matter of:

9 RODOLFO ALVAREZ (CRD No. 4375595)
10 and LAURA GONZALEZ, husband and
11 wife,

12 Respondents.

DOCKET NO. S-20807A-11-0237

DECISION NO. _____

**ORDER TO CEASE AND DESIST, ORDER
FOR ADMINISTRATIVE PENALTIES, AND
ORDER OF REVOCATION**

**RE: RODOLFO ALVAREZ AND LAURA
GONZALEZ**

14 On June 8, 2011, the Securities Division ("Division") of the Arizona Corporation
15 Commission ("Commission") filed a Notice of Opportunity for Hearing regarding a Proposed Order
16 to Cease and Desist, Order for Administrative Penalties, and Order of Revocation against Rodolfo
17 Alvarez and Laura Gonzalez, husband and wife ("Notice").

18 On June 13, 2011, Rodolfo Alvarez ("Respondent") and Laura Gonzalez ("Respondent
19 Spouse") were personally served with copies of the Notice. Respondent and Respondent Spouse
20 have each failed to request an administrative hearing within ten days after receipt of the Notice,
21 pursuant to A.R.S. § 44-1972 and A.A.C. Rule R14-4-306. Respondent and Respondent Spouse
22 have each failed to file an Answer within 30 days of service of the Notice, pursuant to A.A.C. Rule
23 R14-4-305.

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I.

FINDINGS OF FACT

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3 1. At all times relevant, Rodolfo Alvarez (“ALVAREZ”) was an Arizona resident.

4 2. From about January 20, 2005, to July 29, 2010, ALVAREZ was registered in
5 Arizona as a securities salesman, CRD No. 4375595, in association with PFS Investments, Inc.,
6 CRD No. 10111, (“PFSI”).

7 3. At all times relevant, PFSI was a registered securities dealer, federally and with the
8 state of Arizona.

9 4. At all times relevant, ALVAREZ worked as a securities salesman from an office
10 located in Maricopa County, Arizona.

11 5. ALVAREZ may be referred to as “Respondent.”

12 6. Laura Gonzalez was at all relevant times the spouse of Respondent ALVAREZ and
13 may be referred to as “Respondent Spouse.” Respondent Spouse is joined in this action under A.R.S.
14 § 44-2031(C) solely for purposes of determining the liability of the marital community.

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

17 8. ALVAREZ, as a registered securities salesman with PFSI, received commission
18 payments for annuities, mutual funds, or stock transactions purchased for Clients A, B, C, D, and E,
19 listed below.

20 9. On or about April 1, 2010, Primerica, Inc., stock symbol PRI, conducted an initial
21 public offering. PFSI is an affiliate of Primerica, Inc. As a general policy, PFSI representatives are
22 not authorized to solicit for sale PRI stock.

23 **Client A**

24 10. Prior to September 10, 2008, ALVAREZ met an Arizona resident (“Client A”) at
25 Client A’s residence to review Client A’s financial condition and situation. ALVAREZ discussed
26

1 investment products, such as annuities and mutual funds, which were available for purchase
2 through PFSI to help Client A achieve his financial goals.

3 11. On or about September 10, 2008, Client A funded a PFSI brokerage account to
4 conduct investments and securities transactions.

5 12. ALVAREZ communicated with Client A in Spanish whenever they interacted.

6 13. In or around January 2009, ALVAREZ requested a personal loan for \$3,000 from
7 Client A.

8 14. Client A agreed to provide the \$3,000 personal loan to ALVAREZ and wrote a
9 personal check to ALVAREZ in the amount of \$3,000 from Client A's checking account.

10 15. ALVAREZ deposited the \$3,000 into his personal checking account and used the
11 funds toward the purchase of a vehicle.

12 16. Client A is not a related family member of ALVAREZ.

13 17. PFSI did not provide written approval or authorization to ALVAREZ for the \$3,000
14 loan obtained from Client A.

15 18. ALVAREZ repaid Client A the \$3,000 through a series of payments, with a final
16 payment in June 2010.

17 19. In or around March 2010, Client A discussed with ALVAREZ the market
18 fluctuations in his account and Client A determined that he wanted to reallocate his funds to
19 achieve a more conservative portfolio.

20 20. ALVAREZ stated that a new account would be needed for a more conservative
21 portfolio because certain investments or security products were not available for purchase in Client
22 A's existing PFSI account.

23 21. On March 26, 2010, based on the advice provided by ALVAREZ, Client A
24 redeemed approximately \$45,000 worth of Legg Mason WA Managed Municipals A, symbol
25 SHMMX, held in his PFSI account. Client A then transferred the \$45,000 to a personal bank
26 account of Client A.

1 22. ALVAREZ directed Client A to submit the \$45,000 to ALVAREZ so that the funds
2 could be invested into a more conservative portfolio.

3 23. On or about April 5, 2010, Client A wrote two personal checks totaling \$45,000,
4 payable to ALVAREZ.

5 24. PFSI has no record of an additional or new account opened in the name of Client A.

6 25. On or about April 1, 2010, ALVAREZ purchased 900 shares of PRI stock in
7 ALVAREZ's personal brokerage account.

8 26. On or about April 6, 2010, ALVAREZ made a deposit of \$20,000 into his personal
9 checking account.

10 27. On or about April 9, 2010, ALVAREZ made a deposit of \$14,000 into his personal
11 checking account.

12 28. On or about April 9, 2010, ALVAREZ submitted a check to the brokerage firm at
13 which his personal brokerage account was held, in the amount of \$13,500, to pay for the 900 shares
14 of PRI stock purchased.

15 29. Client A is not a listed account holder or beneficiary on ALVAREZ's personal
16 brokerage account.

17 30. Based on contact initiated by Client A, PFSI initiated an investigation regarding the
18 \$45,000 transaction involving ALVAREZ.

19 31. During the PFSI investigation, ALVAREZ admitted that he used some of Client A's
20 \$45,000 for personal expenses, such as child support and past due rent.

21 32. At the conclusion of its investigation, PFSI reversed Client A's March 26, 2010,
22 redemption of SHMMX shares and restored the same number of shares that Client A had liquidated
23 to obtain \$45,000.

24 33. ALVAREZ made a payment of \$6,000 to PFSI and executed a contract assigning his
25 interest in all PRI stock held in his personal brokerage account to PFSI to help offset PFSI's cost
26 incurred as a result of their redemption of the SHMMX shares to Client A.

1 34. On July 20, 2010, PFSI terminated ALVAREZ's employment and affiliation.

2 35. On or about July 21, 2010, PFSI sent letters to all of ALVAREZ's customers
3 notifying them that ALVAREZ was no longer associated with PFSI. The letter also provided the
4 name and contact information of a new PFSI representative.

5 36. In response to PFSI's letter, multiple individuals contacted PFSI or a PFSI
6 representative to report transactions conducted with ALVAREZ.

7 **Client B**

8 37. On or about October 23, 2007, ALVAREZ assisted an Arizona resident in opening a
9 brokerage account with PFSI, or one of its affiliates. The PFSI brokerage account also contained
10 check writing authority for the Arizona resident and his spouse (collectively "Client B").
11 ALVAREZ is listed as the registered representative on the account application – client profile form.

12 38. Client B purchased Western Asset Money Market Fund A, symbol SBCXX, in the
13 PFSI brokerage account.

14 39. ALVAREZ is not a signatory and is not authorized to write checks from Client B's
15 PFSI brokerage account.

16 40. Checks written from this PFSI brokerage account would be debited from the
17 redemption of SBCXX shares.

18 41. Prior to February 22, 2010, ALVAREZ changed Client B's PFSI brokerage account
19 address of record to a residence located on Behrend Drive in Phoenix, Arizona.

20 42. Client B has never lived at the residence located on Behrend Drive in Phoenix,
21 Arizona.

22 43. Upon information and belief, the residence located on Behrend Drive in Phoenix,
23 Arizona is owned, leased, and/or controlled by ALVAREZ.

24 44. For the period of February 22, 2010, through August 25, 2010, Client B alleged that
25 ALVAREZ fraudulently obtained eight checks from the PFSI brokerage account and executed them
26 with forged signatures in a total amount of \$24,600. Seven of the checks are written to ALVAREZ.

1 45. As a result of the address change, Client B did not receive statements or transaction
2 confirmations for the eight fraudulently obtained checks written by ALVAREZ.

3 46. Client B did not sign any of the checks in question, did not authorize ALVAREZ to
4 write such checks, and did not authorize ALVAREZ to change the address of record.

5 47. In October 2010, Client B contacted PFSI and filed a complaint.

6 48. PFSI conducted an internal investigation and on or about December 29, 2010, PFSI
7 paid Client B \$24,600.

8 **Client C**

9 49. On or about May 16, 2008, an Arizona resident (“Client C”) executed a PFSI
10 brokerage account application to transfer an employer sponsored 401K plan to PFSI. Client C
11 purchased certain mutual funds or annuities of MetLife.

12 50. ALVAREZ is listed as the registered representative on Client C’s variable annuity
13 application.

14 51. After the purchase of the MetLife products, Client C expressed concerns to
15 ALVAREZ about the value of his MetLife investments.

16 52. ALVAREZ discussed with Client C the PRI Stock as an alternative investment.

17 53. Between January 4, 2009, and September 14, 2009, with the help of ALVAREZ,
18 Client C requested distributions or liquidations of the mutual funds or annuities held with MetLife.
19 The MetLife distributions were subsequently placed into Client C’s personal bank account.

20 54. From September 25, 2009, through January 10, 2010, Client C wrote personal
21 checks totaling \$25,000 to ALVAREZ for the purchase of PRI Stock. Client C expected to receive
22 a brokerage account statement and/or online access for the PRI stock purchases.

23 55. To date, Client C has not received any information from ALVAREZ that establishes
24 Client C’s ownership of PRI stock in the principal amount of \$25,000.

25 56. PFSI has no record of an additional or new account opened in the name of Client C
26 that evidences that PRI stock was purchased for Client C.

1 57. In or around March 2009, Client C asked ALVAREZ for assistance with his
2 residential mortgage. Client C was current in his mortgage payments, but was seeking to obtain a
3 loan modification to reduce his monthly mortgage obligation.

4 58. ALVAREZ advised Client C to stop paying his monthly mortgage obligation in
5 preparation for a loan modification negotiation. Client C stopped paying his monthly mortgage
6 obligations as instructed.

7 59. In or around May 2011, Client C wrote ALVAREZ a check in the amount of \$675 to
8 get the paperwork started on Client C's loan modification. Client C believed that a loan
9 modification for a lower monthly payment was negotiated by ALVAREZ and accepted by the
10 mortgagee.

11 60. Beginning June 2009, Client C wrote monthly checks payable to ALVAREZ and
12 thought that each payment was being forwarded to the mortgagee of Client C's residence.

13 61. From May 11, 2009, through November 2009, Client C wrote checks in a total
14 amount of \$9,587 from his personal bank account to ALVAREZ.

15 62. In late 2009, Client C received foreclosure and/or notice of sale letters from the
16 mortgagee.

17 63. Client C contacted ALVAREZ and ALVAREZ assured him that he would take care
18 of the matter.

19 64. On or about January 5, 2010, Client C's residential property was sold to a third party
20 pursuant to a trustee sale.

21 65. None of Client C's payments to ALVAREZ were forwarded to the mortgagee.

22 66. In November 2010, Client C contacted PFSI and filed a complaint.

23 67. On or about December 16, 2010, PFSI paid Client C \$30,000.

1 **Client D**

2 68. On or about August 3, 2005, an Arizona resident completed a variable annuity
3 application to purchase a variable annuity product. ALVAREZ was the listed registered
4 representative for this transaction.

5 69. On or about March 25, 2010, and March 27, 2010, Client D wrote personal checks
6 in the amounts of \$2,000 and \$3,000 payable to ALVAREZ.

7 70. ALVAREZ stated that the \$5,000 would be used to purchase PRI stock.

8 71. To date, Client D has not received any information from ALVAREZ that establishes
9 Client D's ownership of PRI stock in the principal amount of \$5,000.

10 72. PFSI has no record of an additional or new account opened in the name of Client D
11 that evidences that PRI stock was purchased for Client D.

12 73. In general, PFSI representatives are not authorized to offer for sale PRI stock.

13 74. In November 2010, Client D contacted PFSI and filed a complaint.

14 75. On or about December 29, 2010, PFSI paid Client D \$5,000.

15 **Client E**

16 76. On or about April 19, 2006, an Arizona resident ("Client E") completed a variable
17 annuity application to purchase a variable annuity product. ALVAREZ was the listed registered
18 representative for this transaction.

19 77. ALVAREZ told Client E that he had inside information about a drug store stock and
20 recommended that Client E purchase shares of the drug store stock.

21 78. On or about April 6, 2010, Client E wrote a personal check in the amount of \$15,000
22 payable to ALVAREZ for the purchase of the drug store stock.

23 79. To date, Client E has not received any information from ALVAREZ that establishes
24 Client E's ownership of a drug store stock in the principal amount of \$15,000.

25 80. PFSI has no record of an additional or new account opened in the name of Client E
26 that evidences that a drug store stock was purchased for Client E.

1 81. In February 2011, Client E contacted PFSI and filed a complaint.

2 82. On or about March 2, 2011, PFSI paid Client E \$15,000.

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4 **II.**

5 **CONCLUSIONS OF LAW**

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

8 2. Respondent offered or sold securities within or from Arizona, within the meaning of
9 A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

10 3. Respondent violated A.R.S. § 44-1991 by (a) employing a device, scheme, or
11 artifice to defraud, (b) making untrue statements or misleading omissions of material facts, or (c)
12 engaging in transactions, practices, or courses of business that operate or would operate as a fraud
13 or deceit.

14 4. Respondent's conduct subjects Respondent to an order of revocation pursuant to
15 A.R.S. §§ 44-1962(A)(2) and 44-1962(A)(10).

16 5. Respondent's conduct is grounds for a cease and desist order pursuant to A.R.S.
17 §§ 44-2032 and 44-1962.

18 6. Respondent's conduct is grounds for an administrative penalties under A.R.S. §§ 44-
19 2036 and 44-1962.

20 7. Respondent acted for the benefit of his marital community and, pursuant to A.R.S.
21 §§ 25-214 and 25-215, this Order of administrative penalties is a debt of the community.

22 **III.**

23 **ORDER**

24 THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, attached and
25 incorporated by reference, the Commission finds that the following relief is appropriate, in the
26 public interest, and necessary for the protection of investors:

1 IT IS ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-1962, that Respondent, and any of
2 Respondent's agents, employees, successors and assigns, permanently cease and desist from
3 violating the Securities Act.

4 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036 and A.R.S. § 44-1962, that
5 Respondent ALVAREZ, individually, and the marital community of Respondent ALVAREZ and
6 Respondent Spouse, jointly and severally shall pay an administrative penalty in the amount of
7 \$50,000. Payment shall be made to the "State of Arizona." Payment is due in full on the date of
8 this Order. Any amount outstanding shall accrue interest as allowed by law from the date judgment
9 is entered at the rate of the lesser of 10 percent or one percent plus the prime rate published by the
10 board of governors of the federal reserve system in statistical release H.15.

11 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1962, that Respondent ALVAREZ's
12 securities salesman registration (CRD No. 4375595) is revoked.

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

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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5 CHAIRMAN

COMMISSIONER

6
7 COMMISSIONER

COMMISSIONER

COMMISSIONER

8
9 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
10 Executive Director of the Arizona Corporation Commission,
11 have hereunto set my hand and caused the official seal of the
12 Commission to be affixed at the Capitol, in the City of
13 Phoenix, this _____ day of _____, 2011.

14
15 _____
16 ERNEST G. JOHNSON
17 EXECUTIVE DIRECTOR

18
19 _____
20 DISSENT

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22 _____
23 DISSENT

24 This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
25 Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

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SERVICE LIST FOR:

ORDER TO CEASE AND DESIST, ORDER FOR
ADMINISTRATIVE PENALTIES, AND ORDER OF
REVOCATION
RE: RODOLFO ALVAREZ AND LAURA GONZALEZ

Rodolfo Alvarez
2209 W Behrend Drive
Phoenix, AZ 85027

Laura Gonzalez
2209 W Behrend Drive
Phoenix, AZ 85027