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



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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  
 Director of Securities

**DATE:** August 1, 2011

**RE:** Gary Patrick Duffy and The Investment Advisory Group  
 Docket No. S-20808A-11-0241

**CC:** Ernest G. Johnson, Executive Director

ARIZONA CORPORATION COMMISSION  
DOCKETED

AUG 1 2011

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Please find attached a proposed Order to Cease and Desist, Order for Restitution, and Order for Administrative Penalties regarding Gary Patrick Duffy and The Investment Advisory Group ("Order"). On June 14, 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 Restitution, and Order for Administrative Penalties against Gary Patrick Duffy and The Investment Advisory Group ("Notice"). On June 30, 2011, Gary Patrick Duffy and The Investment Advisory Group ("Respondents") were served with copies of the Notice. Respondents have each failed to request an administrative hearing or file an Answer within the required time limits.

Gary Patrick Duffy ("Duffy") has been registered in Arizona as a securities salesman with various firms since 1988, most recently with Syndicated Capital, Inc. ("Syndicated"). Duffy is the statutory agent and a member of The Investment Advisory Group ("IAG"). On July 18, 2008, Duffy's registration with the Financial Industry Regulatory Authority (FINRA) was suspended. On July 23, 2008, Syndicated terminated its affiliation with Duffy. Duffy has not been registered as a salesman with any other firm since being terminated by Syndicated. The Order finds that Duffy violated §§ 44-1841 and 44-1842 by offering and selling securities in the form of promissory notes that were neither registered nor exempt from registration while Duffy was neither registered as a dealer or salesman.

The Order also finds that Duffy violated A.R.S. § 44-1991 and that Duffy and IAG violated § 44-3241 by making untrue statements or misleading omissions of material facts. The Order also finds that Duffy and IAG violated A.R.S. § 44-3151 by transacting business in this state as an investment adviser or investment adviser representative while neither licensed nor exempt.

Originator: William Black

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 GARY PATRICK DUFFY (CRD ) DOCKET NO. S-20808A-11-0241  
10 #1779786), an unmarried man, )  
11 THE INVESTMENT ADVISORY GROUP, ) DECISION NO. \_\_\_\_\_  
12 L.L.C., an Arizona limited liability ) **ORDER TO CEASE AND DESIST, ORDER**  
13 company, ) **FOR RESTITUTION, AND ORDER FOR**  
14 Respondents. ) **ADMINISTRATIVE PENALTIES**  
15 ) **RE: GARY PATRICK DUFFY AND THE**  
16 ) **INVESTMENT ADVISORY GROUP, L.L.C.**

17 On June 14, 2011, the Securities Division ("Division") of the Arizona Corporation  
18 Commission ("Commission") filed a Notice of Opportunity for Hearing regarding a Proposed  
19 Order to Cease and Desist, Order for Restitution, and Order for Administrative Penalties against  
20 Gary Patrick Duffy and The Investment Advisory Group, L.L.C. ("Notice").

21 On June 30, 2011, Respondents Gary Patrick Duffy and The Investment Advisory Group,  
22 L.L.C. were personally served with copies of the Notice. Respondents Gary Patrick Duffy and The  
23 Investment Advisory Group, L.L.C. have failed to request an administrative hearing within ten days  
24 after receipt of the Notice, pursuant to A.R.S. § 44-1972 and A.A.C. Rule R14-4-306. Respondents  
25 Gary Patrick Duffy and The Investment Advisory Group, L.L.C. have each failed to file an Answer  
26 within 30 days of service of the Notice, pursuant to A.A.C. Rule R14-4-305.

**I. FINDINGS OF FACT**

1. At all times relevant, GARY PATRICK DUFFY ("DUFFY") has been an Arizona  
resident.

1           2.       DUFFY has been registered in Arizona as a securities salesman (CRD #1779786) with  
2 various firms since 1988, most recently with Syndicated Capital, Inc., (“Syndicated”) CRD #29037,  
3 beginning August 6, 2003.

4           3.       On July 18, 2008, DUFFY’s registration with the Financial Industry Regulatory  
5 Authority (FINRA) was suspended. The suspension arose from DUFFY’s failure to comply with an  
6 arbitration award<sup>1</sup> entered against him on August 11, 2006 in the amount of \$34,758.

7           4.       On July 23, 2008, Syndicated terminated its affiliation with DUFFY. DUFFY has not  
8 been registered as a salesman with any other firm since being terminated by Syndicated.

9           5.       THE INVESTMENT ADVISORY GROUP, L.L.C. (“IAG”) was formed in Arizona  
10 on July 21, 1999. At all times relevant, IAG maintained a place of business in Phoenix, Arizona.  
11 DUFFY is identified as statutory agent and member of IAG.

12           6.       DUFFY and IAG may be referred to collectively as “Respondents.”

13           7.       In the late 1980s, DUFFY met an Arizona resident (“Client A”) and her husband and  
14 became their investment adviser.

15           8.       DUFFY’s investment advice to Client A continued after the death of Client A’s  
16 husband in 2004. Client A is 89 years old.

17           9.       Over the course of approximately 20 years from the late 1980s to 2008, DUFFY  
18 sold to Client A investment products such as annuities, mutual funds, life insurance and stock that  
19 were offered through various entities with whom DUFFY was associated.

20           10.      As a registered securities salesman at the time sales of the various investment  
21 products were made to Client A, DUFFY received commission payments.

22           11.      In May 2008, DUFFY met with Client A at her Phoenix residence. During the  
23 meeting, DUFFY advised Client A that he was moving away from a commission-based  
24 compensation structure to a fee-based structure for the rendering of investment advisory services.

25

26 <sup>1</sup> In the Matter of the Arbitration between: AIG Financial Advisors, Inc., Claimant v. Gary P. Duffy, Respondent, Case  
Number: 05-06144.

1           12.     According to DUFFY, the formula used to calculate the fee for his investment  
2 advisory services would be the same formula used by one of his previous firms and would equal a  
3 percentage of the assets held by Client A, including the securities held in Client A's portfolio.

4           13.     DUFFY represented to Client A that the fee he was requesting was payment for  
5 "financial advice" to be provided by DUFFY to Client A with regard to the assets held in her  
6 portfolio that included various securities.

7           14.     On May 20, 2008, Client A signed a check payable to IAG in the amount of \$8,200.  
8 Other than Client A's signature, DUFFY completed all portions of the check. DUFFY wrote in the  
9 memo portion of the check the words "Financial Planning."

10          15.     On May 21, 2008, DUFFY endorsed the back of Client A's check and deposited it  
11 into a checking account in the name of IAG.

12          16.     From May 21, 2008 to April 8, 2010, IAG, through DUFFY, did provide investment  
13 advice to Client A related to the securities held in her portfolio and advised her with regard to the  
14 appropriateness of various investment opportunities involving securities.

15          17.     From May 21, 2008 to April 8, 2010, DUFFY was responsible for managing the  
16 investment portfolio of Client A and making recommendations to her as to the advisability of  
17 various investment opportunities involving securities.

18          18.     DUFFY's management of Client A's investment portfolio included, in part, a  
19 recommendation to purchase two investment contracts involving the renovation and resale of two  
20 residential properties.

21          19.     With regard to the residential properties, DUFFY advised Client A as to the specific  
22 properties to be purchased and formulated a plan to renovate the properties for resale. According to  
23 DUFFY's plan, Client A would supply the funds to be used to purchase and renovate the real estate  
24 while DUFFY would coordinate all other services including the purchases, sales listings and  
25 closings on the properties. With regard to the renovation work to be performed on the properties,  
26 DUFFY was responsible for hiring contractors to complete any work he did not complete himself.

1           20.     Despite being provided with the funds by Client A necessary to complete the  
2 renovations on the two properties purchased, DUFFY failed to fully complete the renovations.

3           21.     The investment advice provided by DUFFY to Client A was delivered via phone  
4 calls, and meetings held between Client A and DUFFY at Client A's residence.

5           22.     At all times relevant, IAG was not licensed as an investment adviser.

6           23.     Neither DUFFY nor IAG, through DUFFY, informed Client A that IAG was not a  
7 licensed investment adviser authorized to accept a fee for providing investment advisory services.

8           24.     Neither DUFFY nor IAG, through DUFFY, informed Client A that on July 18, 2008,  
9 DUFFY's registration with the Financial Industry Regulatory Authority (FINRA) had been suspended.

10          25.     Neither DUFFY nor IAG, through DUFFY, disclosed to Client A DUFFY'S failure  
11 to comply with the arbitration award entered against him on August 11, 2006.

12          26.     Neither DUFFY nor IAG, through DUFFY, informed Client A that IAG was an  
13 entity owned and controlled by DUFFY.

14     **Client B**

15          27.     In the late 1980s and around the same time that DUFFY met Client A, DUFFY met  
16 another Arizona resident ("Client B") and became her investment adviser. Client B is 79 years old.

17          28.     Over the course of approximately 20 years from the late 1980s to at least 2008,  
18 DUFFY sold to Client B investment products such as annuities, mutual funds, stocks and life  
19 insurance that were offered through various entities by whom DUFFY was employed.

20          29.     In or around March 2010, DUFFY approached Client B and requested that she make  
21 a personal loan to DUFFY.

22          30.     Beginning in April 2010 and continuing through June 2010, Client B made three  
23 separate loans to DUFFY totaling \$15,000. Each of the three checks written by Client B were  
24 payable to DUFFY, who deposited each of the checks into his personal checking account.

25          31.     The three loans made to DUFFY by Client B were documented with separate  
26 promissory notes signed by DUFFY.





1 IT IS ORDERED, pursuant to A.R.S. § 44-2032 and A.R.S. § 44-3292, that DUFFY and  
2 IAG, and any of their agents, employees, successors and assigns, permanently cease and desist  
3 from violating the Securities Act and the Investment Management Act.

4 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that DUFFY pay restitution to  
5 the Commission in the principal amount of \$15,000.

6 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3292, that DUFFY and IAG, jointly  
7 and severally, pay restitution to the Commission in the principal amount of \$8,200. With regard to  
8 DUFFY, this amount shall be in addition to the amount (\$15,000) ordered pursuant to A.R.S. § 44-  
9 2032.

10 Payment for restitution is due in full on the date of this Order. Payment shall be made to the  
11 "State of Arizona" to be placed in an interest-bearing account controlled by the Commission. Any  
12 principal amount outstanding shall accrue pre-judgment interest as allowed by law from the date of  
13 purchase to the date judgment is entered at the rate of the lesser of ten percent per annum or at a  
14 rate per annum that is equal to one percent plus the prime rate as published by the board of  
15 governors of the federal reserve system in statistical release H.15. Any principal amount  
16 outstanding shall accrue post-judgment interest as allowed by law from the date judgment is  
17 entered at the rate of the lesser of ten percent per annum or at a rate per annum that is equal to one  
18 percent plus the prime rate as published by the board of governors of the federal reserve system in  
19 statistical release H.15.

20 The Commission shall disburse the funds on a pro-rata basis to investors shown on the  
21 records of the Commission. Any restitution funds that the Commission cannot disburse because an  
22 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an  
23 investor because the investor is deceased and the Commission cannot reasonably identify and  
24 locate the deceased investor's spouse or natural children surviving at the time of the distribution,  
25 shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the  
26

1 Commission. Any funds that the Commission determines it is unable to or cannot feasibly disburse  
2 shall be transferred to the general fund of the state of Arizona.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036 and § 44-3296, that DUFFY  
4 pay an administrative penalty in the amount of \$15,000. Payment is due in full on the date of this  
5 Order. Payment shall be made to the "State of Arizona." Any amount outstanding shall accrue  
6 interest as allowed by law from the date judgment is entered at the rate of the lesser of ten percent  
7 per annum or at a rate per annum that is equal to one percent plus the prime rate as published by the  
8 board of governors of the federal reserve system in statistical release H.15.

9 IT IS FURTHER ORDERED, pursuant to § 44-3296, that IAG pay an administrative  
10 penalty in the amount of \$5,000. Payment is due in full on the date of this Order. Payment shall be  
11 made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law  
12 from the date judgment is entered at the rate of the lesser of ten percent per annum or at a rate per  
13 annum that is equal to one percent plus the prime rate as published by the board of governors of the  
14 federal reserve system in statistical release H.15.

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

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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 \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
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).

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SERVICE LIST FOR: GARY PATRICK DUFFY AND THE INVESTMENT ADVISORY GROUP, L.L.C.

Gary Patrick Duffy  
10618 E. Betony Dr.  
Scottsdale, Arizona 85255

The Investment Advisory Group, L.L.C.  
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