

OPEN MEETING ITEM

2/23/12



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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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DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
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ORIGINAL

ARIZONA CORPORATION COMMISSION CONTROL

MEMORANDUM

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

Arizona Corporation Commission

DOCKETED

FEB 13 2012

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

DOCKETED BY	<i>MJN</i>
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DATE: February 13, 2012

RE: *In re George Alexander Kardaras (CRD# 3184384), Brian Matthew Borakowski (CRD# 4093679), and Echo Canyon LLC, Docket No. S-20835A-12-0042*

CC: Ernest G. Johnson, Executive Director

Attached for your consideration is a proposed Order to Cease and Desist, Order of Revocation, Order for Restitution, Order for Administrative Penalties and Consent to Same ("Order") executed by Respondent George Alexander Kardaras ("Kardaras").

There is a second proposed consent that involves the same subject matter. It is a proposed Order to Cease and Desist, Order of Revocation, Order for Restitution, Order for Administrative Penalties and Consent to Same ("Order") executed by Brian Matthew Borakowski ("Borakowski"), Natalya Borakowski, and Echo Canyon LLC. Natalya Borakowski was joined pursuant to A.R.S. § 44-2031(C) solely for the purposes of determining the liability of the marital community.

The Orders find that Respondents Borakowski, Kardaras, and Echo Canyon LLC collectively offered and sold a note to each of 13 investors. At the time of the investments Respondents Borakowski and Kardaras were registered securities salesmen in Arizona and associated with registered dealers. The investors were clients of Borakowski's and Kardaras' dealers. Respondents Borakowski and Kardaras did not notify their dealers that they were selling notes. The notes were not recorded in the books and records of either of their dealers.

Respondents Borakowski, Kardaras, and Echo Canyon LLC violated A.R.S. § 44-1991 by representing that the investor funds would be used to buy and sell vehicles when the funds were diverted to support Respondent Kardaras' brokerage business.

The Orders require Respondents to permanently cease and desist from violating the Securities Act and to pay an administrative penalty in the amount of \$25,000. In addition, the Orders require Respondents Borakowski and Echo Canyon LLC to pay restitution in the amount of \$443,709 and requires Respondent Kardaras to pay restitution in the amount of \$362,509. The Orders also revoke the securities salesman registrations of Respondents Borakowski and Kardaras.

The Division recommends the Orders as appropriate, in the public interest and necessary for the protection of investors.

Originator: Aikaterine Vervilos

1 2. KARDARAS was registered as a securities salesman in Arizona in association with
2 J.P. Turner & Company, L.L.C. ("J.P. Turner"), from February 22, 2005, until September 28, 2011.

3 3. At the time he terminated his association with J.P. Turner, his registration as a
4 securities salesman, pursuant to Arizona Revised Statute § 44-1949, was automatically suspended.¹
5 Since his termination, KARDARAS has not associated with any dealer.

6 4. KARDARAS may be referred to as "Respondent."

7 5. In or around 2006, KARDARAS learned from his friend, Brian Matthew
8 Borakowski² ("Borakowski"), that Borakowski planned to organize a company called Echo
9 Canyon.³ KARDARAS and Borakowski have known each other since approximately 2001 when
10 they worked together at the same dealer.

11 6. Borakowski explained to KARDARAS that Borakowski was going to organize Echo
12 Canyon to purchase vehicles at Arizona vehicle auctions and then export those vehicles to Russia.
13 Borakowski's brother-in-law lived in Russia and would be the contact person to find buyers for the
14 vehicles. In order to purchase the vehicles, Borakowski needed capital from investors.

15 7. KARDARAS was interested in Echo Canyon because of the concept and it provided
16 KARDARAS an opportunity to earn money in addition to the income he received from being a
17 securities salesman.

18 8. KARDARAS' role with Echo Canyon was to find capital. Beginning in 2007
19 through approximately March 2011, KARDARAS accessed his client base from J.P. Turner and
20 solicited those clients to invest in Echo Canyon. KARDARAS offered and sold to each of seven
21
22

23 ¹ Arizona Revised Statute § 44-1949: "Each registered dealer shall promptly notify the director of the termination of
24 the employment of a registered salesman. The registration of the salesman shall automatically be suspended from the
25 time of termination of the employment until the salesman is again employed by a registered dealer and the director is
26 notified by the dealer in writing or by the CRD system, and the registered dealer is notified of approval of the
registration by the director or the CRD system or the salesman has complied with all requirements in accordance with a
temporary transfer program utilized by the CRD system and the commission."

² Brian Matthew Borakowski, CRD# 4093679, ("Borakowski") is registered as a securities salesman in Arizona.
Currently, Borakowski's registration is in suspension, pursuant to Arizona Revised Statute § 44-1949, because he is not
associated with a dealer.

³ Borakowski organized Echo Canyon on October 12, 2006, as an Arizona limited liability company.

1 investors a promissory note ("Note(s)) issued by Echo Canyon. KARDARAS raised \$665,900.
2 The total principal amount owed to these investors is \$362,509.

3 9. Each Note was titled, "PROMISSORY NOTE IN CONSIDERATION OF
4 INVESTMENT." Depending on the Note, the promised interest rate varied from 10 percent to 20
5 percent, the due dates varied from four months to one year from the date of purchase, and the dates
6 interest was due varied from quarterly, semiannually, or on the Note due date. Each Note
7 contained a signature block for Borakowski to sign on behalf of Echo Canyon.

8 10. The Notes are not secured. The investors own no interest in the vehicles purchased
9 and no other provision exists in the Notes to secure repayment of the Notes.

10 11. KARDARAS verbally represented to the investors that all of their funds invested
11 with Echo Canyon would be used to purchase the vehicles for export to Russia.

12 12. KARDARAS verbally represented to one investor that Borakowski's father was a
13 KARDARAS client, that Borakowski's father invested with ECHO CANYON, and that
14 Borakowski's father would ensure that the investor would be paid in the event something happened
15 to the investment. In fact, Borkowski's father was not a KARDARAS client, was not an investor
16 with ECHO CANYON, and did not represent that he would ensure the investor was repaid.

17 13. KARDARAS directed the seven investors to deposit their funds into the Echo
18 Canyon bank account.

19 14. Borakowski and Echo Canyon used some of the investor funds to purchase vehicles.

20 15. Borakowski also diverted investor funds to invest in KARDARAS' brokerage
21 business as an investment by paying KARDARAS' business expenses, including but not limited to,
22 costs for marketing, operations, and employees, and used some of the funds to pay some of the
23 investors' principal and interest due on the Notes. None of the investors were told their funds
24 would be used in this manner.

25 16. KARDARAS never notified J.P. Turner that he sold the Notes to J.P. Turner's
26 clients. Furthermore, these sales of Notes were not recorded on J.P. Turner's books and records.

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II.

CONCLUSIONS OF LAW

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

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

3. KARDARAS violated A.R.S. § 44-1991, specifically,

a) Misrepresenting that the funds from the Notes would only be used to purchase vehicles when in fact those investor funds were used to pay other investors and to invest in KARDARAS' brokerage business; and

b) Misrepresenting to one investor that Borakowski's father would repay his investment in Echo Canyon.

4. KARDARAS is subject to an order of revocation of his securities salesman registration, pursuant to A.R.S. § 44-1962, specifically,

a) Pursuant to A.R.S. § 44-1962(A)(2), by violating A.R.S. § 44-1991; and

b) Pursuant to A.R.S. § 44-1962(A)(10), engaging in dishonest and unethical conduct within the meaning of R14-4-130(17), by effecting securities transactions that were not recorded on the records of the dealer with whom he was registered at the time of the transactions.

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

6. KARDARAS' conduct is grounds for an order of restitution pursuant to A.R.S. §§ 44-1962 and 44-2032.

7. KARDARAS' conduct is grounds for administrative penalties pursuant to A.R.S. §§ 44-1962 and 44-2036.

III.

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ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondent's consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

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

IT IS FURTHER ORDERED that KARDARAS comply with the attached Consent to Entry of Order.

IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-1962 and 44-2032, that KARDARAS, individually, shall jointly and severally with any respondent against whom an order is entered under Docket No. S-20835A-12-0042 pay restitution in the principal amount of \$362,509. Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission. Any amount outstanding shall accrue interest from the date judgment is entered at the rate of five percent per annum.

The Commission shall disburse the funds on a pro-rata basis to investors shown on the records of the Commission. Any restitution funds that the Commission cannot disburse because an investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor because the investor is deceased and the Commission cannot reasonably identify and locate the deceased investor's spouse or natural children surviving at the time of the distribution, shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the Commission. Any funds that the Commission determines it is unable to or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

1 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-1962 and 44-2036, that
2 Respondent, individually, pay an administrative penalty in the amount of \$25,000. Payment is due
3 in full on the date of this Order. Payment shall be made to the "State of Arizona." Any amount
4 outstanding shall accrue interest from the date judgment is entered at the rate of five percent per
5 annum.

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

9 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1962, that KARDARAS' securities
10 salesman registration is revoked.

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

14 IT IS FURTHER ORDERED that no finding of fact or conclusion of law contained in this
15 Order shall be deemed binding against any Respondent under this Docket Number who has not
16 consented to the entry of this Order.

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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 _____, 2012.

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.

(av)

CONSENT TO ENTRY OF ORDER

1
2 1. GEORGE ALEXANDER KARDARAS (“KARDARAS”) admits the jurisdiction of
3 the Commission over the subject matter of this proceeding. KARDARAS acknowledges that he
4 has been fully advised of his right to a hearing to present evidence and call witnesses and that he
5 knowingly and voluntarily waives any and all rights to a hearing before the Commission and all
6 other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona
7 Administrative Code. KARDARAS acknowledges that this Order to Cease and Desist, Order of
8 Revocation, Order for Restitution, Order for Administrative Penalties, and Consent to Same by:
9 Respondent GEORGE ALEXANDER KARDARAS (“Order”) constitutes a valid final order of the
10 Commission.

11 2. KARDARAS knowingly and voluntarily waives 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. KARDARAS acknowledges and agrees 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. KARDARAS understands and acknowledges that he has a right to seek counsel
17 regarding this Order, and that he had the opportunity to seek counsel prior to signing this Order.
18 KARDARAS acknowledges and agrees that, despite the foregoing, he freely and voluntarily waives
19 any and all right to consult or obtain counsel prior to signing this Order.

20 5. KARDARAS admits only for purposes of this proceeding and any other proceeding
21 in which the Commission is a party the Findings of Fact and Conclusions of Law contained in this
22 Order. KARDARAS agrees that he shall not contest the validity of the Findings of Fact and
23 Conclusions of Law contained in this Order in any present or future proceeding in which the
24 Commission is a party.

25 6. By consenting to the entry of this Order, KARDARAS agrees not to take any action
26 or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding

1 of Fact or Conclusion of Law in this Order or creating the impression that this Order is without
2 factual basis. KARDARAS will undertake steps necessary to assure that all of his agents and
3 employees understand and comply with this agreement.

4 7. While this Order settles this administrative matter between KARDARAS and the
5 Commission, he understands that this Order does not preclude the Commission from instituting
6 other administrative or civil proceedings based on violations that are not addressed by this Order.

7 8. KARDARAS understands that this Order does not preclude the Commission from
8 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
9 that may be related to the matters addressed by this Order.

10 9. KARDARAS understands that this Order does not preclude any other agency or
11 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
12 proceedings that may be related to matters addressed by this Order.

13 10. KARDARAS agrees that he will not apply to the state of Arizona for registration as
14 a securities dealer or salesman or for licensure as an investment adviser or investment adviser
15 representative until such time as all restitution and penalties under this Order are paid in full.

16 11. KARDARAS agrees that he will not exercise any control over any entity that offers
17 or sells securities or provides investment advisory services within or from Arizona until such time
18 as all restitution and penalties under this Order are paid in full.

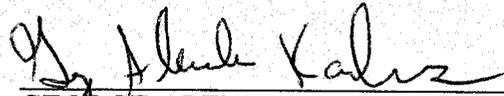
19 12. KARDARAS consents to the entry of this Order and agrees to be fully bound by its
20 terms and conditions.

21 13. KARDARAS acknowledges and understands that if he fails to comply with the
22 provisions of the order and this consent, the Commission may bring further legal proceedings
23 against him, including application to the superior court for an order of contempt.

24 14. KARDARAS understands that default shall render him liable to the Commission for
25 its costs of collection and interest at the maximum legal rate.

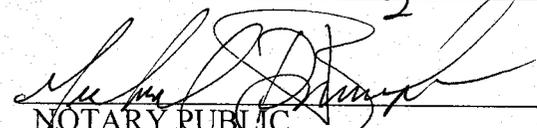
26 ...

1 15. KARDARAS agrees and understands that if he fails to make any payment as
2 required in the Order, any outstanding balance shall be in default and shall be immediately due and
3 payable without notice or demand. KARDARAS agrees and understands that acceptance of any
4 partial or late payment by the Commission is not a waiver of default by the Commission.

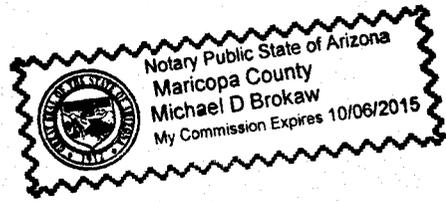
5 
6 _____
GEORGE ALEXANDER KARDARAS

7 STATE OF ARIZONA)
8) ss
9 County of)

10 SUBSCRIBED AND SWORN TO BEFORE me this 13 day of February, 2012.

11 
12 _____
NOTARY PUBLIC

13 My commission expires:
14 _____



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SERVICE LIST FOR: Kardaras et al.

Brian Matthew Borakowski
10034 East Evans Drive
Scottsdale, AZ 85260

Natalya Borakowski
10034 East Evans Drive
Scottsdale, AZ 85260

ECHO CANYON LLC
936 N. 87th Place
Scottsdale, AZ 85257

George Alexander Kardaras
7500 East Deer Valley Road, #193
Scottsdale, AZ 85255

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

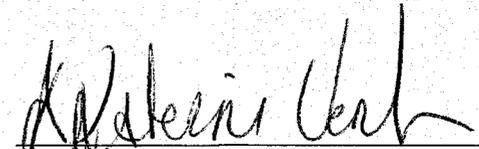
8 In the matter of)
9 GEORGE ALEXANDER KARDARAS,)
10 CRD# 3184384, a married man,)
11 BRIAN MATTHEW BORAKOWSKI,)
12 CRD# 4093679, and NATALYA)
13 BORAKOWSKI, husband and wife,)
14 and)
15 ECHO CANYON LLC, an Arizona limited)
16 liability company,)
17 Respondents.)

DOCKET NO. S-20835A-12-0042

NOTICE OF FILING OF PROPOSED OPEN MEETING AGENDA ITEM

15 Pursuant to A.A.C. R14-4-303, you are hereby notified that the attached Order to Cease
16 And Desist, Order of Revocation, Order for Restitution, Order for Administrative Penalties, and
17 Consent to Same by George Alexander Kardaras was filed with the Arizona Corporation
18 Commission's Docket Control.

19 Dated: 2/13/12

20 By: 
21 Aikaterine Vervilos, Registration &
22 Compliance Enforcement Counsel

23 I hereby certify that I have this day served the foregoing document on all parties of record
24 in this proceeding by mailing a copy thereof, properly addressed with first class postage prepaid to:

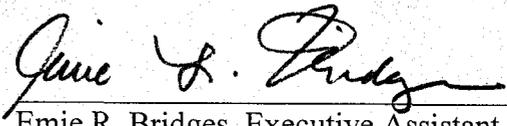
25 Brian Matthew Borakowski
26 10034 East Evans Drive
Scottsdale, AZ 85260

1 Natalya Borakowski
2 10034 East Evans Drive
3 Scottsdale, AZ 85260

4 ECHO CANYON LLC
5 936 N. 87th Place
6 Scottsdale, AZ 85257

7 George Alexander Kardaras
8 7500 East Deer Valley Road, #193
9 Scottsdale, AZ 85255

10 Dated: 2/13/12

11 By: 
12 Emie R. Bridges, Executive Assistant