

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

FEB 22 2012

COMMISSIONERS

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

DOCKETED BY NR

In the matter of:
OUT OF THE BLUE PROCESSORS, LLC,
an Arizona limited liability company, d/b/a
Out of the Blue Processors II, LLC,
MARK STEINER (CRD# 1834102) and
SHELLY STEINER, husband and wife,
Respondents.

DOCKET NO. S-20837A-12-0061

TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
EACH RESPONDENT HAS 20 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 Out of the Blue Processors, LLC, d/b/a Out of the Blue Processors II, LLC, and Mark Steiner are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act") and that the public welfare requires immediate action.

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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1 **II.**

2 **RESPONDENTS**

3 2. For all times relevant, Mark Steiner (“STEINER”), CRD# 1834102, has been an
4 Arizona resident.

5 3. Out of the Blue Processors, LLC is an Arizona limited liability company organized
6 on December 18, 2000.

7 4. Out of the Blue Processors, LLC also conducts business as “Out of the Blue
8 Processors II, LLC,” an unorganized business. Out of the Blue Processors, LLC, individually and
9 doing business as Out of the Blue Processors II, LLC will be referred to as “BLUE.”

10 5. STEINER is a managing member of BLUE.

11 6. STEINER has not been a registered securities salesman with the Commission since
12 April 13, 2005.

13 7. STEINER and BLUE may be referred to collectively as “Respondents.”

14 8. Shelly Steiner has been at all relevant times the spouse of Respondent STEINER, and
15 may be referred to as “Respondent Spouse.” Respondent Spouse is joined in this action under A.R.S.
16 § 44-2031(C) solely for purposes of determining the liability of the marital community.

17 9. At all relevant times, Respondent STEINER has been acting for his own benefit and
18 for the benefit or in furtherance of his and Respondent Spouse’s marital community.

19 **III.**

20 **FACTS**

21 10. In January 2012, an Arizona resident reviewed an email that discussed an
22 opportunity to earn “very handsome returns on multi-billion dollar infrastructure project funding in
23 Africa and South America” based on STEINER’s and another third party’s close relationship with
24 certain influential Chinese leaders.

1 11. The Arizona resident submitted an e-mail to the email drafter, and requested more
2 information on the investment opportunity. In response, the Arizona resident obtained the contact
3 information for STEINER and corresponded with him about investment opportunities.

4 12. On January 9, 2012, the Arizona resident received an email from STEINER that
5 stated:

6 a) “I appreciate your interest in our business relationship with China ...; and

7 b) In short, we are structured as an LLC, with investors owning their relative
8 portion of that LLC. The LLC contractually receives 10% of the gross revenues generated on all
9 business out of China, in perpetuity. Because of the magnitude of the projects, those returns are
10 expected to exceed 50% - 100% annually.”

11 13. Thereafter, the Arizona resident submitted a reply to STEINER seeking additional
12 information. An investment amount of approximately \$200,000 was discussed by the Arizona
13 resident and STEINER.

14 14. On or about January 19, 2012, the Arizona resident received an e-mail from
15 STEINER that attached a BLUE operating agreement (“Operating Agreement”) and included
16 wiring instructions for a BLUE bank account.

17 15. The Operating Agreement contained the following information:

18 a) BLUE is an Arizona limited liability company;

19 b) The Arizona resident would be a Member of BLUE and have a 33.33%
20 interest;

21 c) STEINER shall be the Manager of BLUE;

22 d) That STEINER shall have full discretion, responsibility, and authority to
23 manage BLUE’s business, including, hiring and firing employees, invest the funds available in any
24 manner he deems appropriate, execute all documents he deems appropriate to carry out the purpose
25 of BLUE, and to pay all ordinary and necessary expenses;

26

1 e) That STEINER will receive compensation out of the gross revenues of
2 BLUE;

3 f) That “no Member may have or exercise any right or power, the possession or
4 exercise of which would cause it to incur personal liability or which would cause the Company to
5 be taxed as an association...;”

6 g) That STEINER can only be removed for cause;

7 h) That except as stated in the Operating Agreement, “Members shall have no
8 voting, approval, or consent rights;” and

9 i) That based on a separate agreement, BLUE agreed to raise \$750,000 for
10 operating capital for Lunsford Consulting, LLC (“Lunsford”), in exchange for five percent (5%) of
11 Lunsford’s gross revenue, until the investment is returned, then two and one-half percent (2.5%)
12 gross revenues in perpetuity.

13 16. Lunsford is an Arizona limited liability company organized on July 30, 2010.

14 17. STEINER is a managing member of Lunsford.

15 18. The Arizona resident also received a Lunsford executive summary from STEINER,
16 which stated the following:

17 a) Lunsford has deep, strong business relationships in China. The principals
18 have significant relationships with “influential people in the private sector and the Central
19 Government who are part of the decision-making echelon of the PRC;”¹

20 b) China is seeking opportunities to expand its economy through the building
21 and funding of civil engineering projects in various countries around the world;

22 c) Lunsford’s current portfolio of projects “exceeds more than \$15B in
23 funding, with additional projects in discussion. These projects will generate tens of millions of
24 dollars in revenue to Lunsford, beginning as early as 1st quarter of 2012. Depending on the project,
25
26

¹ PRC appears to stand for the People’s Republic of China.

1 Lunsford will generate revenue from a percentage of project funding, monthly revenue from
2 ongoing sales transactions, and from potential equity positions;" and

3 d) Finally, the executive summary included a list of various infrastructure and
4 power plant developments in Africa and South America.

5 19. On February 1, 2012, the Arizona resident, who still had not yet transferred any
6 monies to BLUE, was copied on an email to STEINER that stated "[I]et's move forward with
7 [other individuals] who have expressed interest."

8 20. On February 14, 2012, the Arizona resident received a communication from
9 STEINER stating that he would like to meet to discuss "this China Investment Opportunity."

10 21. For all relevant times, Respondents were not registered as dealers or salesman with
11 the Commission.

12 22. The BLUE limited liability company interests are not registered with the
13 Commission.

14 **IV.**

15 **VIOLATION OF A.R.S. § 44-1841**

16 **(Offer and Sale of Unregistered Securities)**

17 23. From on or about January 3, 2012, Respondents have been offering or selling
18 securities in the form of investment contracts, within or from Arizona.

19 24. The securities referred to above are not registered pursuant to Articles 6 or 7 of the
20 Securities Act.

21 25. This conduct violates A.R.S. § 44-1841.

22 **V.**

23 **VIOLATION OF A.R.S. § 44-1842**

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

25 26. Respondents are offering or selling securities within or from Arizona while not
26 registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

VIII.

HEARING OPPORTUNITY

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3 Each respondent, including Respondent Spouse, may request a hearing pursuant to A.R.S.
4 § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a hearing,**
5 **the requesting respondent must also answer this Temporary Order and Notice.** A request for
6 hearing must be in writing and received by the Commission within 20 days after service of this
7 Temporary Order and Notice. The requesting respondent must deliver or mail the request for hearing
8 to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona
9 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
10 Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

11 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to
12 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or
13 ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**
14 **Order shall remain effective from the date a hearing is requested until a decision is entered.**
15 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with
16 written findings of fact and conclusions of law. A permanent Order may include ordering restitution,
17 assessing administrative penalties, or other action.

18 If a request for hearing is not timely made, the Division will request that the Commission
19 make permanent this Temporary Order, with written findings of fact and conclusions of law, which
20 may include ordering restitution, assessing administrative penalties, or other relief.

21 Persons with a disability may request a reasonable accommodation such as a sign language
22 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
23 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
24 Requests should be made as early as possible to allow time to arrange the accommodation.
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IX.

ANSWER REQUIREMENT

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

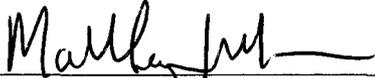
Additionally, the answering respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007, addressed to Phong (Paul) Huynh.

The Answer shall contain an admission or denial of each allegation in this Temporary Order and Notice and the original signature of the answering respondent or the 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.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 22 day of February, 2012.


Matthew J. Neubert
Director of Securities