

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED
ARIZONA CORPORATION COMMISSION
DOCKET NUMBER
2012 SEP 20 PM 2:32 Arizona Corporation Commission
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COMMISSIONERS

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

SEP 20 2012

DOCKETED BY nr

In the matter of:
DONNA KAY BEERS, CRD# 1172038,
and JAMES BEERS, wife and husband,
Respondents.

DOCKET NO. S-20856A-12-0409

**NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO
CEASE AND DESIST, ORDER FOR
RESTITUTION, ORDER OF REVOCATION,
ORDER FOR ADMINISTRATIVE
PENALTIES, AND FOR OTHER
AFFIRMATIVE ACTION**

**NOTICE: EACH RESPONDENT HAS 10 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 respondent Donna Kay Beers has engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") and the Arizona Investment Management Act, A.R.S. § 44-3101 *et seq.* ("IM Act").

I.

JURISDICTION

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

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II.

RESPONDENTS

2. Donna Kay Beers (CRD# 1172038) (“Beers” or “Respondent”) is a married woman residing in Scottsdale, Arizona. At all relevant times, Beers was present in Arizona.

3. At all relevant times Beers has been the spouse of James Beers.

4. James Beers may be referred to hereafter as “Respondent Spouse.” Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) and A.R.S. § 44-3291(C) solely for purposes of determining the liability of Beers’ and James Beers’ marital community.

5. At all relevant times Beers has been acting for her own benefit, and for the benefit or in furtherance of the marital community with Respondent Spouse.

6. Since April 17, 2009, Beers has been licensed as a securities salesman in association with Titan Securities (CRD# 131392).

7. From January 21, 2009, until September 30, 2009, Beers was licensed as an investment advisor representative in association with Private Wealth Advisors, Inc. (CRD# 148144).

8. From January 17, 2001, until March 30, 2009, Beers was registered as a securities salesman associated with Private Consulting Group, Inc. (CRD# 45053).

9. From October 15, 2001, until December 31, 2008, Beers was licensed as an investment advisor representative in association with Private Consulting Group, Inc.

10. During all relevant times Beers was registered as a securities salesman and/or licensed as an investment adviser representative with the Commission.

III.

FACTS

A. CLIENTS AK & HK

11. AK & HK, married couple, are both retired and around 60 years of age. They are not sophisticated investors and prior to retaining Beers as their investment adviser¹ and securities

¹ During the course of their relationship Beers provided AK & HK with business cards identifying her as an investment

1 salesman they had managed their own investments by generally selecting well-known stocks such
2 as Wal-Mart and Costco. Once they retired they decided they needed assistance with investing
3 their retirement funds in a safe and prudent manner, believing they required the expertise and
4 sophistication of a professional.

5 12. In the summer of 2007, AK & HK interviewed financial professionals eventually
6 selecting Beers based on what Beers represented as her investment strategy. Beers stated she had an
7 investment approach that differed from the typical model. Instead of investing in stocks, Beers
8 would provide advice about, recommend and sell investments in private, safe, conservative
9 investments with no further worries of market crashes, fluctuations, or instabilities.

10 13. Upon retaining Beers as their investment adviser and securities salesman, Beers
11 instructed AK & HK to liquidate their existing investments reinvesting the proceeds plus additional
12 cash AK & HK had on hand, in five different private placements: Fountain Hills Town Square,
13 L.L.C. ("FHTS"), Atlas Resources Public #17-2007 Program ("Atlas"), DBSI Securities ("DBSI"),
14 ICON Leasing Fund Twelve, LLC ("ICON"), and Resource Real Estate Investors 6, L.P.
15 ("Resource Real Estate"). These private placements represented 69 percent of their investable
16 assets. Before Beers, AK & HK had never invested in private placements.

17 **B. FOUNTAIN HILLS TOWN SQUARE, L.L.C.**

18 14. In or around November 2008, Beers contacted AK & HK and informed them about
19 an opportunity to invest in FHTS. FHTS was a planned mixed use project, including a cinema,
20 condominiums, retail stores and dining on 12.67 acres in downtown Fountain Hills, Arizona.

21 15. FHTS, an Arizona limited liability company organized on August 23, 2007,
22 consisted of four founding members: Kasnoff Investment, L.L.C., ("KI, L.L.C.") Infinity Capital
23 and Funding, L.L.C. ("Infinity"), Caesar Investments, L.L.C. ("Caesar"), and Nielson-Fackler LLC.
24 These members purportedly made capital contributions totaling \$45,000 in exchange for a 90

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26 adviser associated with Private Consulting Group and an investment adviser representative associated with Private
Wealth Advisors, Inc.

1 percent stake in FHTS. Kasnoff and a member of Infinity were managers of FHTS.

2 16. KI, L.L.C. is an Arizona based LLC with George M. Kasnoff (“Kasnoff”) as its sole
3 member.

4 17. Infinity was a Scottsdale-based company that funds real estate ventures. FHTS and
5 Kasnoff retained Infinity to obtain financing for the FHTS project.

6 18. Caesar is an Arizona limited liability company owned and managed by Beers and
7 her husband. Caesar owned a 10 percent interest in FHTS.

8 19. FHTS sought to raise \$1 million for pre-development costs including costs
9 associated with compensating Infinity for its efforts to secure permanent financing. To fund these
10 initial costs, FHTS offered for sale membership interests for \$25,000 each.

11 BEERS’ RELATIONSHIPS WITH KASNOFF AND INFINITY

12 20. Beers and Kasnoff had known each other for a number of years. They were friends,
13 socialized together and Beers had sublet her office from Kasnoff since 2007.

14 21. In 2007 Beers loaned Kasnoff \$6,000 so that he could pay his office rent. Kasnoff
15 never repaid this loan.

16 22. In 2008 Beers also paid \$5,000 in attorney’s fees for the FHTS Private Placement
17 Memorandum (“PPM”) because, according to Beers, Kasnoff had no money.

18 23. Both Kasnoff and Beers had adjoining offices above the Waters Edge Restaurant
19 (“Restaurant”) in Fountain Hills, Arizona. Kasnoff owned a majority interest in the Restaurant and
20 Beers owned 10 percent.

21 24. The Restaurant stood to benefit from the FHTS project because it was located only a
22 few blocks from the project. This, along with Kasnoff’s interest in the Restaurant, was disclosed in
23 the PPM. However, Beers’ interest in the Restaurant was not disclosed in the PPM.

24 25. Beers also invested with Kasnoff’s KI, L.L.C. From July 2007 through April 2008,
25 Beers wrote checks totaling \$61,250 to KI, L.L.C. Beers testified that those funds were an
26 investment and that she claimed the loss of that investment on her 2009 taxes.

1 26. Infinity's website described Beers as a partner of Infinity. Beers provided,
2 reviewed, and approved her biographical information listed on the website. Beers testified that
3 Infinity agreed to compensate her if she brought business to Infinity. Thus, when Kasnoff
4 approached her about the need for financing for the FHTS project in 2007 she in turn referred
5 Kasnoff to Infinity. Infinity stood to receive \$50,000 of the proceeds from the FHTS offering.

6 27. Beers attended meetings at Infinity where FHTS's request for 100 percent financing
7 of the property purchase price was discussed. Besides Beers, Kasnoff and other Infinity principals
8 were in attendance. Infinity never secured financing for FHTS in part due to the fact that in 2008
9 the real estate project market was in rapid decline.

10 28. Beers' involvement in FHTS went beyond her relationship with Kasnoff and her
11 affiliations with Caesar and Infinity. She signed and issued checks from the FHTS bank account.

12 BEERS' FHTS SALES REPRESENTATIONS

13 29. AK & HK felt pressured by Beers to invest in FHTS on the day that they met at her
14 office in Fountain Hills. In making her sales recommendation Beers made a number of
15 representations regarding the FHTS project and the propriety of investing.

16 30. Beers advised that FHTS was a good investment and an opportunity for AK & HK
17 to recoup funds they lost in the DBSI private placement previously sold to them by Beers.

18 31. Beers led AK & HK to believe that they had to invest \$50,000 to participate in the
19 offering.

20 32. Beers told AK & HK they would not lose their money in FHTS even if FHTS could
21 not secure project financing because their money would be held in escrow until financing was
22 secured. In the unlikely event that permanent financing was not secured, Beers stated their funds
23 would be returned to them.

24 33. After listening to Beers' sales pitch, HK indicated a lack of interest in the
25 investment. It was then that Beers brought in Kasnoff from his office which adjoined Beers' office,
26 to continue the project presentation. At the conclusion of the presentation, Beers told AK & HK

1 they needed to make a quick decision because she was scheduled to meet with another client after
2 their meeting and that client would buy all the remaining interests in the offering. It was at this
3 time that AK & HK wrote a check for \$50,000 to invest in FHTS. Eventually all of AK's & HK's
4 investment in FHTS was lost.

5 34. After they gave Beers their \$50,000, Beers provided AH & HK with a FHTS PPM
6 dated September 2008. Beers had previously reviewed the PPM before it was finalized for
7 publication. No changes were made resulting from Beers' pre-publication review of the PPM
8 relating to disclosing Beers' involvement in and potential conflicts with FHTS.

9 BEERS' FAILURES TO DISCLOSE HER RELATIONSHIPS AND MISREPRESENTATIONS

10 35. Beers never disclosed to AK & HK that Kasnoff was having financial difficulties.
11 She never told them about monies she had loaned to Kasnoff for his rent and payments for legal
12 services incurred by FHTS.²

13 36. Beers never disclosed to AK & HK before they invested her relationship with
14 Kasnoff and her ownership interests in FHTS through Caesar and that she stood to benefit from the
15 FHTS project through her ownership interest in the Restaurant.

16 37. Beers never disclosed to AK & HK her relationship with Infinity and that she would
17 be personally compensated for the referral of FHTS to Infinity if Infinity was successful in
18 obtaining financing.

19 38. Beers never disclosed that FHTS was beset by financing issues to AK & HK before
20 they invested. Despite her first-hand knowledge of the difficulty in acquiring financing, Beers
21 solicited AK & HK to invest in FHTS without revealing the potential risks related to FHTS's
22 financing difficulties. In fact, Beers portrayed FHTS as a viable project.

23 39. Beers mislead AK & HK when she led them to believe a \$50,000 investment was
24 required, contrary to the fact that the offering consisted of \$25,000 membership interests.

25 40. Beers mislead AK & HK by telling them their investment funds would be placed in

26 ² Kasnoff had been sued twice in early 2008 in connection with several other projects resulting
approximately \$3.6 million in judgments against Kasnoff. Kasnoff filed bankruptcy in April 2009.

1 escrow and returned if FHTS did not secure financing. The FHTS offering proceeds were not
2 placed in an escrow account nor were AK's & HK's investment funds returned when FHTS failed
3 to secure permanent financing for the project. AK's & HK's investment funds were deposited to a
4 FHTS checking account. FHTS then used half of their funds to purchase a cashier's check that was
5 deposited with the title company; the other half was deposited with the title company to fund an
6 extension payment to the sellers of the property to keep the deal alive.

7 41. Beers testified that she was never compensated for bringing investors to FHTS.
8 When asked to explain a check from Kasnoff in the amount of \$15,000 made payable to Private
9 Wealth Advisors³ and deposited into a banking account in the name of Private Wealth Advisors
10 where Beers was the sole signatory on the account and that had "RIA fees" written in the
11 memorandum line, Beers explained she was helping the Kasnoffs avoid Internal Revenue Service
12 problems. Beers testified she paid FHTS bills with the funds, but later said she declared the
13 \$15,000 as income on her taxes.

14 **C. THE OTHER PRIVATE PLACEMENTS: ATLAS, DBSI, ICON AND RESOURCE REAL ESTATE**

15 **BEERS' FAILURE TO ADEQUATELY ASSESS SUITABILITY FOR AK & HK**

16 42. Along with FHTS, Beers invested AK's & HK's retirement funds in four other
17 private placements as previously identified in paragraph 13 above. These investments were not, as
18 represented by Beers, safe, conservative investments with no further worries of market crashes,
19 fluctuations, or instabilities.

20 **Atlas Resources Public #17-2007 Program**

21 43. Beers advised AK & HK to invest in Atlas Resources Public #17-2007 Program
22 ("Atlas"), a security characterized as general partnership units subject to conversion to limited
23 partnership units. Atlas intended to use the offering proceeds to drill primarily natural gas
24 development wells.

25 ³ Beers testified that Private Wealth Advisors was her firm. She filed an application with the Arizona
26 Secretary of State to register the name "Private Wealth Advisors." Beers registered the name on January 29, 2010,
but listed the date of January 30, 2009, as the date she began to use the name. In addition, she listed "investment
advisory" as her business type.

1 44. The managing general partner, who had limited experience in the area Atlas planned
2 to drill, had complete control over this investment. The investment was “speculative”, “illiquid”,
3 and were for those who could “afford a complete loss of [their] investment.” Investors who chose
4 the general partnership track would receive tax benefits in exchange for unlimited liability for all of
5 Atlas partnership’s obligations. AK & HK became general partners under Beers’ guidance not
6 understanding their personal liability exposure. AK & HK invested \$50,000 in Atlas.

7 45. When AK & HK recently inquired of Atlas of the status of their investment, they
8 were advised by Atlas that their principal was gone, but they could continue to receive distributions
9 as long as the wells continued to produce. Atlas’ last distribution to AK & HK was \$51.19 in July
10 2012. As of August 2012, Atlas informed AK & HK that the distributions were likely going to
11 change to quarterly instead of monthly.

12 DBSI Securities

13 46. Beers advised AK & HK to invest in a note issued by DBSI Securities (“DBSI”).
14 This was a private placement of corporate notes that featured “a 9.5 percent yield, a 7-year term, a
15 corporate guarantee, and limited annual liquidity.” The offering proceeds would be used to loan
16 money to affiliates. However, the PPM explained that to the extent permitted by senior lien
17 holders, the DBSI note could be secured by a lien on the borrower’s assets. “Limited annual
18 liquidity” meant DBSI would, beginning in 2010, allow redemptions on a first-come, first-served
19 basis for a sum certain. Otherwise, the PPM said this investment was “highly speculative,”
20 “illiquid,” and only meant for people who could “withstand the total loss of their investment.”

21 47. AK & HK invested \$50,000 in DBSI. Five months after they invested they lost their
22 entire investment when DBSI filed for bankruptcy.

23 ICON Leasing Fund Twelve, LLC

24 48. Beers advised AK & HK to invest in a limited liability company interest in ICON
25 Leasing Fund Twelve, LLC (“ICON”). The ICON PPM stated this investment was a “speculative”
26 private placement, featured “a high degree of risk,” was “illiquid,” and was for those who “[could]

1 afford a complete loss of [their] investment.” The ICON PPM cautioned the investor to be
2 prepared to hold the interests in ICON for 10 years because there would be no market for the shares
3 and that ICON would take steps to ensure that no public trading market developed. If an investor
4 wanted ICON to repurchase the investment, ICON would repurchase the investor’s interest at a
5 discount. The ICON PPM also stated distributions might be a return of capital and not a return on
6 capital.

7 49. AK & HK invested \$200,000, half of which was placed in individual retirement
8 accounts.

9 50. Thereafter, AK & HK noticed paperwork indicating their distributions were, in part,
10 a return of their capital (principal). When questioned, Beers dismissed it as an accounting quirk
11 rather than a steady return of their principal. Each distribution may in fact reduce their outstanding
12 principal such that AK’s & HK’s entire principal may have been returned to them by the end of the
13 term. Beers’ statement, which misled AK & HK, demonstrates that even though she was a licensed
14 financial professional she did not have the requisite understanding of this investment and how it
15 operated. AK & HK continue to receive distributions on this investment.

16 Resource Real Estate Investors 6, L.P.

17 51. Beers advised AK & HK to invest in a limited partnership interest in Resource Real
18 Estate Investors 6, L.P. (“Resource Real Estate”). Resource Real Estate intended to acquire
19 multifamily residential properties and real estate debt instruments in multiple states. The PPM said
20 the investment is a “speculative” private placement that featured “a high degree of risk,”
21 “illiquid[ity]”, and was for those who could afford “a complete loss of [their] investment.” There
22 would be no public market and no market would develop.

23 52. AK & HK invested \$50,000 in Resource Real Estate. AK & HK have been
24 receiving steady distributions; however, about 18 months ago Resource Real Estate informed AK &
25 HK that the percentage return dropped from five percent to three percent.

26 53. Taken together and representing 69% of their investment assets, these private

1 placements were not suitable for AK & HK and were not compatible with their goal of holding safe
2 investments. Two of the five investments, FHTS and DBSI, were total losses shortly after AK &
3 HK invested. ICON makes distributions, but a portion of the distributions represent a return of
4 capital rather than true income. When questioned by AK & HK, Beers dismissed it as an
5 accounting quirk rather than a steady diminishment of their principal. Even though AK & HK
6 provided Beers with a financial document that listed their assets and their financial holdings, Beers
7 knew that she was subjecting a majority of the AK's & HK's investable assets to much greater risk
8 than they desired, which has, as of this date, caused AK & HK to have incurred losses of at least
9 \$272,923.

10 **D. BEERS' FAILURE TO DISCLOSE JUDGMENT LIENS AND A JUDGMENT**

11 54. On September 11, 2007, the Internal Revenue Service ("IRS") filed a federal tax lien
12 against Beers in the amount of \$54,342.28. The IRS filed a second federal tax lien against Beers in
13 November 2012 in the amount of \$105,102.96. The first but not the second lien has been released.

14 55. On December 24, 2009, Meridian Bank N.A. sued Beers and others associated with
15 the Waters Edge restaurant to collect an outstanding \$50,000 line of credit. A judgment was
16 entered against Beers on May 20, 2011, in the amount of \$65,049 including fees and costs. This
17 judgment has not been satisfied.

18 56. Beers has never amended her Form U4 to disclose these events notwithstanding
19 being reminded of her disclosure obligations⁴ twice by the Division.

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24 ⁴ In order for a salesman to retain registration under A.R.S. § 44-1948 (A) (1) the salesman is required to file a
25 "supplemental statement showing changes in the facts set forth in the original application for registration as supplemented or
26 amended as such changes occur or within ninety days after the change." Under FINRA Rules 1122 and 2010 a member is
required to amend their Form U-4 filing within thirty days of an event giving rise to such requirement. In her EUO
Beers admitted that she did not tell her current employer of at least the judgment against her.

IV.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

57. In connection with the offer or sale of securities within or from Arizona, Beers directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Beers' conduct includes, but is not limited to, the following:

- a. Beers told AK & HK they would not lose their investment in FHTS even if FHTS could not secure project financing because their money would be held in escrow until financing was secured or returned to them in the unlikely event that financing was not secured. Instead, AK's & HK's investment funds were placed in the FHTS checking account and used despite FHTS never securing financing.
- b. Beers failed to disclose material facts relating to the FHTS project, her involvement in FHTS and her relationships with other entities involved with FHTS as follows:
 - (i) Beers was aware that the FHTS project was having trouble acquiring financing. Beers attended meetings at Infinity and knew that funding was unavailable for the project yet none of this information was disclosed to AK & HK.
 - (ii) Beers knew of Kasnoff's financial difficulties yet never disclosed this information to AK & HK.

58. This conduct violates A.R.S. § 44-1991.

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V.

REMEDIES PURSUANT TO A.R.S. § 44-1962

(Denial, Revocation, or Suspension of Registration of Salesman; Restitution, Penalties, or other Affirmative Action)

59. Beers' conduct is grounds to revoke or suspend Beers' registration as a securities salesman with the Commission pursuant to A.R.S. § 44-1962(A). Specifically, Beers:

- a. engaged in conduct prohibited by A.R.S. § 44-1962(A)(2) by engaging in fraud within the meaning and in violation of § A.R.S. 44-1991;
- b. engaged in conduct prohibited by A.R.S. § 44-1962(A)(3) by failing to amend her Form U-4 to disclose multiple liens and a civil judgment as required by A.R.S. § 44-1948 (A) (1); and
- c. engaged in dishonest or unethical conduct within the meaning of A.R.S. § 44-1962(A)(10) as defined by A.A.C. R14-4-130(A)(4) by recommending to AK & HK the purchase, sale or exchange of securities without reasonable grounds to believe that the recommendations were suitable for AK & HK.

60. Beers' conduct is grounds to assess restitution, penalties, and/or take appropriate affirmative action pursuant to A.R.S. § 44-1962(B). Specifically, Beers engaged in dishonest and unethical conduct within the meaning of § 44-1962(A)(10) as defined by A.A.C. R14-4-130(A)(4) and (20) as more particularly set forth above.

VI.

VIOLATION OF A.R.S. § 44-3241

(Fraud in the Provision of Investment Advisory Services)

61. Beers engaged in a transaction or transactions within or from Arizona involving the provision of investment advisory services in which she directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the

1 circumstances under which they were made; (iii) misrepresented professional qualifications with the
2 intent that the client rely on the misrepresentation; or (iv) engaged in transactions, practices, or courses
3 of business that operated or would operate as a fraud or deceit. Beers' conduct includes, but is not
4 limited to, the following:

- 5 a. Beers engaged in fraudulent practices under A.A.C. R14-6-207(A)(1) in
6 violation of A.R.S. § 44-3241(A)(4) by offering and selling to AK & HK
7 interests in private placements that were illiquid risky securities designed for
8 investors who could withstand the total loss of their investment despite Beers
9 telling AK & HK that she would invest their funds in safe and conservative
10 investments;
- 11 b. Beers told AK & HK they would not lose their investment in FHTS even if
12 FHTS could not secure project financing because their money would be held
13 in escrow until financing was secured or returned to them in the unlikely
14 event that financing was not secured. Instead, AK's & HK's investment
15 funds were placed in the FHTS checking account and used despite FHTS.
16 never securing financing.
- 17 c. Beers described FHTS as a good investment and viable project but she failed to
18 disclose material facts relating to the FHTS project, her involvement in FHTS
19 and her relationships with other entities involved with FHTS as follows:
- 20 (i) Beers failed to disclose that through Caesar she was a founding member
21 and 10 percent owner of FHTS.
- 22 (ii) Beers failed to disclose that she had an ownership interest in the
23 Water's Edge Restaurant which would directly benefit from the FHTS
24 project.
- 25 (iii) Beers was aware that the FHTS project was having trouble acquiring
26 financing. Beers attended meetings at Infinity and knew that funding

1 was unavailable for the project yet none of this information was
2 disclosed to AK & HK.

3 (iv) Beers did not disclose that she had a financial interest in Infinity
4 securing FHTS as an Infinity client because Beers stood to gain a
5 commission as the Infinity partner who brought in clients.

6 (v) Beers knew of Kasnoff's financial difficulties yet never disclosed this
7 information to AK & HK.

8 d. When viewed in its totality, Beers' conduct of omitting material facts as to her
9 involvement in FHTS, her self-dealing, and her advice and sale of illiquid,
10 risky, and undiversified investments for AK & HK, constitutes transactions,
11 practices or a course of business that operated as a fraud or deceit on AK &
12 HK.

13 62. This conduct violates A.R.S. § 44-3241.

14 **VI.**

15 **REQUESTED RELIEF**

16 The Division requests that the Commission grant the following relief:

17 63. Order Beers to permanently cease and desist from violating the Securities Act and
18 IM Act, pursuant to A.R.S. §§ 44-1962, 44-2032, and 44-3292;

19 64. Order Beers to take affirmative action to correct the conditions resulting from
20 Respondent's acts, practices, or transactions, including a requirement to make restitution pursuant
21 to A.R.S. §§ 44-1962, 44-2032, and 44-3292;

22 65. Order Beers to pay the state of Arizona administrative penalties of up to five
23 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

24 66. Order Beers to pay the state of Arizona administrative penalties of up to one
25 thousand dollars (\$1,000) for each violation of the IM Act, pursuant to A.R.S. § 44-3296;

26 67. Order Beers to pay the state of Arizona administrative penalties, pursuant to A.R.S.

1 § 44-1962;

2 68. Order the revocation or suspension of Beers' registration as a securities salesman
3 pursuant to A.R.S. § 44-1962;

4 69. Order that the marital community of Beers and Respondent Spouse is subject to any
5 order of restitution, rescission, administrative penalties, or other appropriate affirmative action
6 pursuant to A.R.S. § 25-215; and

7 70. Order any other relief that the Commission deems appropriate.

8 **VII.**

9 **HEARING OPPORTUNITY**

10 Each respondent including respondent spouse may request a hearing pursuant to A.R.S. §§
11 44-1972 and 44-3212, and A.A.C. R14-4-306. If a Respondent requests a hearing, the requesting
12 respondent must also answer this Notice. A request for hearing must be in writing and received by
13 the Commission within 10 business days after service of this Notice of Opportunity for Hearing.
14 The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation
15 Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained
16 from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
17 <http://www.azcc.gov/divisions/hearings/docket.asp>.

18 If a request for a hearing is timely made, the Commission shall schedule the hearing to
19 begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by
20 the parties, or ordered by the Commission. If a request for a hearing is not timely made the
21 Commission may, without a hearing, enter an order granting the relief requested by the Division in
22 this Notice of Opportunity for Hearing.

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

1 Additional information about the administrative action procedure may be found at
2 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>.

3 **VIII.**

4 **ANSWER REQUIREMENT**

5 Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing,
6 the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing
7 to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona
8 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be
9 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site
10 at <http://www.azcc.gov/divisions/hearings/docket.asp>.

11 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
12 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
13 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
14 addressed to Aikaterine Vervilos.

15 The Answer shall contain an admission or denial of each allegation in this Notice and the
16 original signature of the answering respondent or respondent's attorney. A statement of a lack of
17 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
18 denied shall be considered admitted.

19 When the answering respondent intends in good faith to deny only a part or a qualification
20 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
21 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

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