

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION C

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Arizona Corporation Commission

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COMMISSIONERS

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AZ CORP COMMISSION
DOCKET CONTROL

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In the matter of:

Michael J. Blake (CRD# 2022161), a married
man,

Respondent.

DOCKET NO. S-20898A-13-0395

**NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO
CEASE AND DESIST AND ORDER OF
DENIAL**

NOTICE: RESPONDENT HAS 10 DAYS TO REQUEST A HEARING

RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondent Michael J. Blake has engaged in acts, practices, and transactions that provide grounds for denial, revocation, or suspension under 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.

II.

RESPONDENT

2. For all relevant times, Michael J. Blake ("M. Blake") has been an Arizona resident.

1 also M. Blake's investment clients. M. Blake disclosed on the outside business activity
2 questionnaire that when the LLC chose "a real estate investment, the members write a check to [the
3 LLC] and I write a check for the total amount."

4 12. M. Blake became familiar with Grace Communities, LLC, ("Grace") and the two
5 member/owners of Grace. Grace was a real estate development company with projects in Arizona
6 and Illinois.

7 13. M. Blake invested in certain Grace real estate developments through the LLC.

8 14. Beginning in 2006, M. Blake provided information about Grace real estate
9 development projects to additional friends and/or investment clients (hereafter "investors"). In
10 general, M. Blake passed along information about certain Grace real estate development projects
11 and/or provided Grace's subscription agreements or prospectuses to investors.

12 15. During the relevant time, Grace had various real estate projects in various stages of
13 development.

14 16. Certain investors were told that the Grace investments could pay out a return of 15%
15 to as high as 40% depending on the project and timeframe.

16 17. Beginning in March 2006, M. Blake began pooling the money from investors who
17 wanted to invest in certain Grace real estate developments. In general, the investors would submit
18 payment to M. Blake and/or the LLC, would specify which Grace project they would invest in, and
19 were to be paid a pro-rata share of profits or losses.

20 18. Blake or the LLC re-submitted investors' payments to Grace, or a legal entity set up
21 by Grace, and the LLC took equity positions in various Grace real estate developments. In general,
22 Grace organized a limited liability company for each real estate project and made the LLC a
23 percentage member.

24 19. Investors who provided money to M. Blake or the LLC expected to become
25 members of the LLC and would receive their pro-rata share of profits or losses, when Grace paid
26 the LLC, based on their membership interests.

1 20. Though investors provided money to M. Blake or the LLC, M. Blake did not amend
2 the LLC to reflect the additional members.

3 21. Grace also offered and sold promissory notes that paid 15% interest for certain
4 Grace real estate developments. When a promissory note was purchased by an investor, it was
5 executed between the investor and Grace.

6 22. M. Blake failed to update his annual disclosure to his employer, regarding his
7 outside business activities, to reflect that additional investment clients engaged in private securities
8 transactions in or through the LLC. Approximately twelve of M. Blake's investment clients
9 engaged in private securities transactions in or through the LLC at the time of their respective
10 investments.

11 23. By October 2007, approximately 28 investors invested \$3,200,000 in at least 3
12 different Grace real estate developments.

13 24. In 2007/2008, some of the Grace real estate developments failed to obtain financing
14 or failed to be completed and sold. Thereafter, certain Grace developments filed for bankruptcy.

15 25. As a result of the failed Grace real estate investments, certain clients of M. Blake
16 filed complaints with Financial Industry Regulatory Authority ("FINRA").

17 **M. BLAKE'S LICENSING STATUS**

18 26. On March 21, 2013, the self-regulatory authority ("SRO") FINRA initiated an action
19 in Disciplinary Proceeding No. 2010021710501 against M. Blake.

20 27. On March 28, 2013, M. Blake retired from Amertias and thereafter terminated his
21 registration as a securities salesman.

22 28. On May 15, 2013, M. Blake filed an application for registration with the Commission
23 as a securities salesman in association with MACC.

24 29. On September 9, 2013, FINRA accepted an offer of settlement with M. Blake in
25 Disciplinary Proceeding No. 2010021710501. M. Blake signed the offer of settlement.

26 30. The offer of settlement contained the following relevant information:

- 1 a) M. Blake neither admitted nor denied the allegations;
- 2 b) M. Blake engaged in the following acts, or failed to act as follows:
- 3 (i) M. Blake, acting outside the course and scope of his employment with his
- 4 employing member firms, participated in private securities transactions
- 5 [commonly referred to as "Selling Away"] involving the investment of more
- 6 than \$3.2 million by approximately twenty-eight investors in three
- 7 investment contracts, without providing prior written notice to his firms,
- 8 thereby violating NASD Conduct Rules 3040 and 2110;
- 9 (ii) On numerous forms, M. Blake mislead his employing member firms
- 10 regarding his involvement in the foregoing private securities transactions and
- 11 his participation in the outside business activity through which the
- 12 transactions were effected, in violation of NASD Conduct Rule 2110 and
- 13 FINRA Rule 2010;
- 14 (iii) M. Blake failed to disclose a separate, related outside business activity to his
- 15 employing member firm, in violation of NASD Conduct Rules 3030 and
- 16 2110 and FINRA Rule 2010; and
- 17 c) That the private securities transactions involved M. Blake offering and
- 18 selling membership interest in an LLC that he had organized, that the funds he raised from
- 19 securities clients, himself, and other individuals were pooled by him and used to invest in real
- 20 estate developments, that the investors never signed the LLC membership agreement, and that the
- 21 LLC Operating Agreement was never amended to reflect the addition of the new investor members;
- 22 and

23 31. M. Blake further consented to the following sanctions and fines:

- 24 a) A one-year (1) suspension in all capacities from associating with a FINRA
- 25 member firm;
- 26 b) A \$10,000 fine; and

1 c) That the sanctions shall be effective on the date set by FINRA staff.

2 32. FINRA staff specified M. Blake's timeframe of suspension was effective October 7,
3 2013, to October 6, 2014, wherein he may not be associated with any FINRA member in any
4 capacity, including clerical or ministerial functions.

5 33. On October 2, 2013, M. Blake filed an application with the Commission for licensure
6 as an Investment Advisor Representative in association with MAFM.

7 **IV.**

8 **REMEDIES PURSUANT TO A.R.S. § 44-1962**

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

11 34. Respondent's conduct is grounds to revoke Respondent's registration as a securities
12 salesman with the Commission pursuant to A.R.S. § 44-1962. Specifically, Respondent is subject to
13 an order of an SRO (FINRA) suspending or revoking his membership or registration for at least six
14 months, within the meaning of A.R.S. § 44-1962(A)(8).

15 35. Respondent's conduct is grounds to deny Respondent's May 15, 2013, registration
16 application as a securities salesman with the Commission pursuant to A.R.S. § 44-1962. Specifically,
17 Respondent is subject to an order of an SRO (FINRA) suspending or revoking his membership or
18 registration for at least six months, within the meaning of A.R.S. § 44-1962(A)(8).

19 **V.**

20 **REMEDIES PURSUANT TO A.R.S. § 44-3201**

21 **(Denial, Revocation, or Suspension of Investment Adviser or Investment Adviser Representative**
22 **License; Restitution, Penalties, or other Affirmative Action)**

23 36. Respondent's conduct is grounds to deny Respondent's October 2, 2013, license
24 application as an investment adviser representative with the Commission pursuant to A.R.S. § 44-
25 3201. Specifically, denial of Respondent's license application would be in the public interest, and
26

1 Respondent is subject to an order of an SRO (FINRA) suspending or revoking his membership or
2 registration for at least six months, within the meaning of A.R.S. § 44-3201(A)(10).

3 **VI.**

4 **REQUESTED RELIEF**

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

- 6 1. Order the revocation of Respondent's registration as a securities salesman pursuant to
7 A.R.S. § 44-1962;
- 8 2. Order the denial of Respondent's May 15, 2013, registration application as a securities
9 salesman pursuant to A.R.S. § 44-1962;
- 10 3. Order the denial of Respondent's October 2, 2013, license application as an investment
11 adviser representative pursuant to A.R.S. § 44-3201;
- 12 4. Order any other relief that the Commission deems appropriate.

13 **VIII.**

14 **HEARING OPPORTUNITY**

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

22 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin
23 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the
24 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission
25 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of
26 Opportunity for Hearing.

1 Persons with a disability may request a reasonable accommodation such as a sign language
2 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
3 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
4 Requests should be made as early as possible to allow time to arrange the accommodation.
5 Additional information about the administrative action procedure may be found at
6 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

7 **XIV.**

8 **ANSWER REQUIREMENT**

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

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

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

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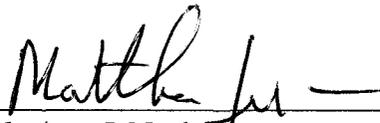
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When the answering respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder. Respondent waives any affirmative 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.

Dated this 19 day of November, 2013.



Matthew J. Neuber
Director of Securities