OPEN MEETING ITEM

COMMISSIONERS
BOB STUMP – Chairman
GARY PIERCE
BRENDA BURNS
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SUSAN BITTER SMITH

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ARIZONA CORPORATION COMMISSION

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2014 NOV 24 P 3: 27

AZ CORP COMMISSION
DOCKET CONTROL

DATE: NOVEMBER 24, 2014

DOCKET NO.: S-20883A-13-0112

ORIGINAL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

JONATHON JAMES MURRY AND WENDY LYNN MURRAY
(NOTICE OF OPPORTUNITY)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

DECEMBER 3, 2014

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

DECEMBER 11, 2014 and DECEMBER 12, 2014

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED
NOV 24 2014
DOCKETED BY

JODI JERICH
EXECUTIVE DIRECTOR

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF JONATHON JAMES MURRAY AND WENDY LYNN MURRAY, husband and wife,	DOCKET NO. S-20883A-13-0112 DECISION NO. _____ **OPINION AND ORDER**

DATE OF PRE-HEARING:	July 16, 2013
DATES OF HEARING:	January 6, and 7, 2014
PLACE OF HEARING:	Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE:	Marc E. Stern
APPEARANCES:	Mr. Jonathon Murray, pro per; and Ms. Stacy Luedtke, Staff Attorney on behalf of Securities Division of the Corporation Commission.

BY THE COMMISSION:

On April 23, 2013, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Jonathon James Murray and Wendy Lynn Murray, husband and wife (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of notes and investment contracts.

Respondent, Wendy Lynn Murray, was joined in this action pursuant to A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the marital community.

The Respondents were duly served with a copy of the Notice.

On June 24, 2013, a request for hearing in this matter was filed by the Respondents.

On June 25, 2013, by Procedural Order, a pre-hearing conference was scheduled on July 16, 2013.

On July 16, 2013, at the pre-hearing conference, the Division appeared through counsel and Respondents appeared on their own behalf. Counsel for the Division requested that a hearing be scheduled for approximately one week at the beginning of January, 2014. Respondents had no objections to this request. The Division's counsel further indicated that Respondents had agreed to file their Answer to the Notice by July 31, 2013.

On July 18, 2013, by Procedural Order, a hearing was scheduled to commence on January 6, 2014.

On September 9, 2013, Respondents filed their Answer to the Notice.

On December 5, 2013, the Division filed a Motion to Allow Telephonic Testimony ("Motion"). There were no objections filed to the Motion.

On December 18, 2013, by Procedural Order, the Division was granted leave to utilize telephonic testimony in the proceeding.

On January 6, 2014, a full public hearing was commenced before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Division appeared through counsel and Respondent Jonathon Murray appeared on his own behalf. Respondent Wendy Murray did not appear. At the conclusion of the proceeding, the matter was taken under advisement pending the submission of closing briefs.

On March 14, 2014, the Division filed its closing brief. The Respondents did not file a closing brief.

* * * * * * * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. Jonathan James Murray is married and a resident of Arizona and/or Canada.

2. Respondent Murray has not been registered with the Commission as either a securities salesman or dealer.

. . .

3. Wendy Murray is the spouse of Respondent Jonathon Murray and has been joined in this action pursuant to A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the marital community.

4. According to Respondents' Answer, Respondent Jonathan Murray was acting for his own benefit and for the benefit of and/or in furtherance of his and his spouse's marital community.

5. True North, LLC, ("True North") is an Arizona limited liability company owned and controlled by Respondent John Murray.

6. Neither Respondent John Murray nor True North were registered with the Commission as either a securities salesman or dealer at all relevant times herein, nor were they registered as either an Investment Advisor ("IA") or Investment Advisor Representative ("IAR") pursuant to the Investment Management Act ("IMA"). (Ex. S-1 and Ex. S-2)

7. The Division, in support of its allegations in the Notice called 5 investor witnesses, John Michael Collins, Jason Robert Baker, Kymberly Lynn Meyer, Nischal Ram, and Robert Brian Guenther. Additionally, the Division called DuLance Morin, a special investigator with the Division, to provide further evidence in this proceeding.

8. Mr. John Collins testified that he is a resident of Canada and works as a technician and designer for a lighting control company. (Tr. 24:12-20)

9. Mr. Collins testified that he had invested with Respondent Murray and subsequently filed a complaint with the Division regarding his investment. (Tr. 24-25:23-12)

10. Mr. Collins first learned of a "Fix and Flip" investment opportunity in Arizona when he visited a website www.jowen.com which offered an opportunity to investors to invest in Arizona real estate.[1] (Tr. 26:1-12)

11. In order to find out more, Mr. Collins attended a seminar in Arizona where he met Mr. Murray, who presented the investment opportunity at a seminar on February 24, 2012 at the Country Inn and Suites in Scottsdale.

. . .

[1] Respondent John Murray admitted in his Answer that emails and seminar materials identified him as the "owner/operator of Jowen Investments and Consulting."

12. Subsequently, Mr. Collins exchanged a number of emails with Mr. Murray. (Ex. S-33)

13. In one email, Respondent Murray explained that he would not do a joint venture with an individual he had not done business with before unless they entered some form of loan arrangement, although he was willing to make an exception if Mr. Collins invested at least $150,000 or more. (Ex. S-33)

14. Mr. Collins stated that he did not have a pre-existing relationship with Mr. Murray prior to meeting with him in Scottsdale. (Tr. 28-29:5-3)

15. On March 27, 2012, Mr. Collins entered into a joint venture agreement with Respondent Murray "to acquire, improve and sell residential real estate for profit" by investing $75,000 according to the terms of an addendum to the agreement, which provided that Respondent Murray as the developer, at his sole discretion, would purchase properties on behalf of the joint venture. No specific property was identified within the agreement. (Tr. 29-30) (Ex. S-33)

16. On March 28, 2012, according to the terms of a wire transfer from the Royal Bank of Canada, $75,000 was wired to Respondent Murray. (Ex. S-33)

17. According to Mr. Collins, under the terms of his agreement that he had entered into with Respondent Murray, the net profit or loss realized from the sale of the joint venture property were to be divided evenly between Respondent Murray and the investor. (Tr. 57:13-15) (Ex. S-33)

18. Pursuant to the terms of the joint venture agreement between Mr. Collins and Mr. Murray, it was represented that Mr. Murray had not been involved in any bankruptcy or insolvency proceedings at the time Mr. Collins invested with the Respondent. (Ex. S-33)

19. According to Mr. Collins, at no time did Mr. Murray ever provide him with any proof that his investment funds were used to purchase any properties.

20. Mr. Collins further testified that Mr. Murray failed to provide him with any updates according to the terms of the joint venture agreement concerning the operations of the joint venture. (Tr. 30-31:14-1)

. . .

. . .

21. Pursuant to Mr. Collins' agreement with Mr. Murray, after one year the agreement was to terminate, but at no time did Mr. Murray return the funds which Mr. Collins had invested. (Tr. 31:5-13)

22. When Respondent Murray failed to repay the investment made by Mr. Collins, Mr. Collins retained an attorney who filed a lawsuit against Respondent Murray, but Mr. Collins recovered nothing. (Tr. 37-38)

23. Mr. Collins stated that the loss of the $75,000 represented funds which he had borrowed from his bank, and that he will now have to find a way to repay the funds and this will impact himself and his family which includes two young children.[2] (Tr. 39:10-16)

24. Jason Baker, an Arizona resident, testified that he met Respondent John Murray at his gym and learned about investment opportunities in flipping properties from the Respondent. (Tr. 66)

25. According to Mr. Baker, Respondent John Murray acted as his mentor and showed Mr. Baker a spreadsheet on how he calculated the value of properties, the expenses involved in preparing them for sale and related matters. (Tr. 67:3-16)

26. Mr. Baker further testified that he was not told that the details about any particular property which his investment funds would be used to purchase or how it would be renovated. (Tr. 67:21-25)

27. Mr. Baker stated that he had no prior experience in fixing and flipping residential properties. (Tr. 68:12-14)

28. Prior to investing with Mr. Murray, Mr. Baker was not asked any questions about his net worth or his financial condition. In order to raise money to invest, Mr. Baker planned to use funds from his Canadian retirement account. (Tr. 68:15-23)

29. Respondent Murray did not have any discussions with Mr. Baker as to whether he could afford to lose his investment.

30. On April 12, 2012, Mr. Baker entered into a one year joint venture agreement with Mr. Murray and pursuant to the terms of the agreement, invested $50,000 in the venture. The agreement

[2] Mr. Murray later stated that he had only invested one-half of the $75,000 or $37,500 and that two of his associates invested the remainder of the funds.

required Respondent John Murray as the developer, to purchase a property and provide updates to Mr. Baker on the improvements, but Mr. Baker was never provided with any proof that his investment was used to purchase any properties. (Tr. 69-70) (Ex. S-65)

31. According to the terms of the joint venture agreement, Mr. Baker was to share equally in the profits and losses associated with the venture. (Tr. 71:4-6)

32. Mr. Baker testified that after one year he did not receive any investment funds back and he was not given any information whether Respondent Murray purchased a property or whether there were any profits or losses. (Tr. 71:13-19)

33. According to the terms of their joint venture agreement, Mr. Murray represented to Mr. Baker that there were no lawsuits pending which would interfere with his ability to perform his obligations under the terms of the agreement and that there were no bankruptcy or insolvency proceedings going forward against him. (Ex. S-60)

34. Mr. Baker further testified that he had been unaware of any pending bankruptcy actions or civil judgments or lawsuits pending against Mr. Murray at the time he invested. (Tr. 72:20-25)

35. Mr. Baker further testified that if he had been aware that Respondent Murray was experiencing such financial problems, he would not have invested with Mr. Murray. (Tr. 73:1-3)

36. According to Mr. Baker, Mr. Murray later explained to him that he had gotten in over his head and was experiencing cost overruns. Mr. Baker subsequently loaned Respondent Murray an additional $10,000, which he never recovered. (Tr. 73:7-22)

37. Mr. Baker further testified that, as a result of his losses, he instituted a lawsuit against Respondent Murray in the Maricopa County Superior Court, and although Mr. Baker prevailed in his lawsuit, he has been unable to recover his $60,000. (Tr. 75-76)

38. Kymberly Meyer, an Arizona resident, testified that she is a business owner, but that she did not have any experience in residential real estate. (Tr. 98-99:20-7)

39. Ms. Meyer stated that she met Respondent Murray because their children attended the same school and she had learned that he had moved to Arizona because he had been successful in investing in Arizona. (Tr. 99:13-21)

40. Ms. Meyer conducted research on Respondent Murray on the internet concerning real estate investments, but she began to discuss real estate with him because she was trying to help her father move to a wheelchair accessible home. (Tr. 100:7-24)

41. On August 16, 2012, Ms. Meyer made a short term (90 day) installment loan to Respondent Murray for $65,000 at 18 percent interest by means of a note. She was to receive monthly installments of $975 with the final payment including the loan principal due on November 16, 2012.[3] (Tr. 101-102:10-3) (Ex. S-10)

42. Ms. Meyer stated that in return for her loan of $65,000, Respondent Murray only paid her $500 during the contract term. Later, he paid her $30,000 in December 2012 and she subsequently received one other payment of $250. (Tr. 103:1-8)

43. Ms. Meyer further testified that she later learned through an attorney that within one hour of her lending $65,000 to Respondent Murray on August 16, 2012, he filed for bankruptcy in Arizona. (Tr. 104-105:17-1)

44. According to Ms. Meyer, she believed that the money she loaned Respondent Murray was being used for "several" properties. (Tr. 113:4-7)

45. Nischal Ram, a Canadian resident, testified that he learned of an investment opportunity with Respondent Murray after being added as a "friend" on Facebook in October, 2010. (Tr. 115-117)

46. Mr. Ram stated that he learned about Mr. Murray's "fix and flips" that he was doing in Arizona from repeated messages on Facebook. Subsequently, in May 2011, Mr. Ram came to Arizona for a foreclosure tour that was part of Mr. Murray's fix and flip business. (Tr. 117:7-17)

47. Mr. Ram testified that Respondent Murray also sent him newsletters. (Tr. 117:21-24)

48. According to Mr. Ram, the fix and flip tour was a two day event with the first day consisting of meetings with representatives from banks, insurance companies and foreclosure entities. The second day was in the form of a road trip where Mr. Murray took his attendees out to see properties that he was in the process of buying or that he was planning to buy. (Tr. 118:7-14)

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[3] Ms. Meyer used a cashier's check to make the $65,000 loan. (S-66)

49. While in Arizona on the fix and flip tour, Mr. Ram learned about investment opportunities with Respondent Murray. (Tr. 118:18-21)

50. Mr. Ram testified that in October 2011, after being repeatedly contacted by Respondent Murray, he returned to Arizona with his wife for another fix and flip tour and after they returned to Canada, they decided to invest with Mr. Murray. (Tr. 119:1-8)

51. Mr. Ram stated that he and his wife invested $65,000, even though he had not had a prior business relationship with Respondent Murray before connecting with him on Facebook. (Tr. 120:1-8)

52. According to Mr. Ram, he had no prior experience with any fix and flip properties.

53. Mr. Ram testified that it was his understanding that his $65,000 would be used to buy a residential property which would be renovated and then sold and the profits split. (Tr. 120:13-18)

54. According to Mr. Ram, he was only going to participate in one fix and flip project. (Tr. 120:19-21)

55. On October 31, 2011, Mr. Ram entered into an agreement with Respondent Murray and invested $65,000 towards the purchase of a fix and flip property which, under the terms of the agreement, Mr. Murray was to be the general partner and to perform the major duties in the renovation and sale of the property. Mr. Ram was to be a limited partner whose primary function was to fund the purchase of the property. (Ex. S-8)

56. Mr. Ram testified that Respondent Murray had designated a property at 1935 E. Aloe in Chandler as the property that was to be purchased, renovated and sold, but this was not done until April 2012, purportedly because Mr. Murray was too busy with other things. (Tr. 123:4-24)

57. Mr. Ram stated that he only received one update on the sale of the property, but he learned about it from the listing agent and not from Mr. Murray. (Tr. 124:1-10)

58. After the property was sold, Mr. Ram stated that Respondent Murray did not tell him whether there was a profit or loss on the property. (Tr. 124:14-16)

59. Mr. Ram further stated that he has not received any return on his investment with Mr. Murray. (Tr. 125:9-11)

. . .

60. Mr. Ram further testified that if he had been told by Mr. Murray that he had judgments pending against him, that he would not have invested with him. (Tr. 125-126:24-2)

61. Mr. Ram testified that he filed a claim for his $65,000 investment as a creditor of Respondent Murray in his Canadian bankruptcy. (Tr. 126:8-20)

62. Robert Guenther, a Canadian citizen, testified that he first learned about the investment opportunity with Respondent Murray when Mr. Murray contacted him by email and offered him two options to invest, one for 12 percent, purportedly on a secured property which was to be renovated and sold in 2 to 6 months and a second investment opportunity in the form of a note which was to be unsecured, but offered an 18 percent return and was to be personally guaranteed by the Respondent. (Tr. 141-142)

63. Mr. Guenther testified that on July 12, 2012, he invested $200,000 by wiring the money and signing a 12 month promissory note with a promised 20 percent annual return with Respondent Murray. (Tr. 143-144) (Ex. S-63)

64. Under the terms of their agreement, Mr. Murray agreed to pay Mr. Guenther $3,333.33 per month and provided Mr. Guenther with 12 post-dated checks for the one year term of the note. (Tr. 143-144) (Ex. S-63)

65. Mr. Guenther stated that he deposited the first post-dated check and received payment, but the next two checks bounced and he received no more payments after that. (Tr. 144-145:21-3)

66. Mr. Guenther further testified that, at the time he invested with the Respondent, Mr. Murray failed to inform him about any bankruptcy orders or civil judgments against him. Mr. Guenther would not have invested with Respondent Murray if he had been aware of his financial problems. (Tr. 147:2-11)

67. Mr. Guenther stated further that at the time he invested with Respondent Murray he was retired and as a result of his loss, he has had to return to work. (Tr. 147-148:23-1)

68. Mr. Guenther later testified that he had had a previous relationship with Respondent Murray which dated back to approximately 2009 at some sort of real estate seminar and in June 2010

when he spent a week in Las Vegas and Phoenix and paid Respondent Murray $6,000 for a mentorship program. This program involved looking at various properties and possibly investing with Mr. Murray. (Tr. 148)

69. DuLance Morin, a special investigator with the Division, testified that he had been involved during the investigation of Respondent Murray and had collected much of the documentary evidence presented in the proceeding. Neither Respondent Murray nor his business entity, True North, were registered with the Commission as either a broker or dealer nor had they registered any securities for sale. (Ex. S-1)

70. True North was registered with the Commission as a limited liability company on June 17, 2011, and its Articles of Organization showed Respondent Murray as its only member and manager. (Ex. S-2)

71. Mr. Morin testified that the Division was first informed about Mr. Murray's activities by an individual who was a resident of Canada named Sergey Reger, after he filed a complaint against the Respondent with the Division in November 2012. (Ex. S-26)

72. According to Mr. Morin, Mr. Reger, in his complaint, stated that in October 2010 he attended a seminar given by Mr. Murray in Langley, British Columbia, at which time he introduced himself as a professional real estate investor. Respondent Murray offered seminar attendees investment opportunities through a company called Jowen Investments & Consulting Ltd., which offered investment opportunities in Arizona real estate by fixing and flipping properties. (Tr. 167:9-23)

73. Mr. Morin testified that Mr. Reger described how Respondent Murray gave convincing presentations, but he failed to mention the risks involved. (Tr. 167:23-25)

74. Mr. Reger, in his complaint, described attending several seminars given by Respondent Murray between October and December 2010, and described how he was encouraged by Respondent Murray in emails to invest in the fix and flip program. (Tr. 168:1-8)

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75. Mr. Morin testified how, on or about March 16, 2011, Mr. Reger signed a partnership agreement with Mr. Murray and invested $50,000 as a limited partner. Respondent Murray was portrayed as the general partner responsible for finding a property to acquire for the fix and flip project. (Tr. 168:9-14)

76. Investigator Morin explained that, according to Mr. Reger's complaint, approximately two months later in May 2011, Respondent Murray purchased a property described as 1707 North Sunset Drive in Tempe, Arizona and started the rehab process. (Tr. 168:12-23)

77. In Mr. Reger's complaint, he described how the property he invested in was sold in October 2011 with a significantly lower profit than was projected in the agreement with Respondent Murray. Since the project did not produce the return on investment described in his agreement, Mr. Reger decided to terminate his partnership with Respondent Murray and asked for his investment to be returned to him plus his part of the profit from the sale of the property. (Tr. 170:1-12)

78. Mr. Reger related in his complaint that when he was not paid as agreed, Respondent Murray and his assistant met with him in Vancouver and promised to pay him an additional $10,000 if he would agree to participate in two more fix and flip projects. Subsequently, Mr. Reger agreed to let his funds remain invested with Respondent Murray after reviewing the new proposal, and continued his partnership with Respondent Murray. (Tr. 170:13-25)

79. After an absence of progress, Mr. Reger began to suspect that Respondent Murray was misleading him and he suspected that his funds were being used for Mr. Murray's own projects or personal needs. (Tr. 171:1-8)

80. Subsequently, Respondent Murray purchased a property at 8607 North 53rd Avenue in Glendale, but it was purchased in the name of True North and not in Respondent Murray's name as stated in their agreement. However, delays ensued in the rehabilitation of the property and Respondent Murray started to avoid communicating with Mr. Reger. (Tr. 171-172)

81. According to the Division's investigator, Mr. Reger only received $2000 from Respondent Murray. (Tr. 182:1-3)

82. Mr. Morin also stated that Mr. Reger advised him that he had not been told about any civil judgments against Mr. Murray at the time he made his investment. (Tr. 182:9-12)

83. Mr. Morin testified that the Division found evidence of a Canadian civil judgment against Respondent Murray dated June 14, 2010, in the amount of $66,969.71. This judgment was recognized in the Superior Court of Maricopa County on January 11, 2012, with additional collection costs added for a total of $69,760.61. (Ex. S-82)

84. According to Mr. Morin, the Plaintiff in the proceeding in Canada described in Exhibit S-82 informed a Division investigator that he too had been an investor with Mr. Murray. (Tr. 186:1-5)

85. Mr. Morin further testified that during the course of the Division's investigation, it obtained copies of documents filed on January 4, 2012, in the Supreme Court of British Columbia involving a Petition for Application for Bankruptcy Order concerning Respondent Murray in the form of an affidavit by a Canadian resident, Robert Hasell, a creditor, which stated that as of July 13, 2011, Respondent Murray owed him $115,322.78 plus interest as the result of a Default Order in the Canadian court. (Tr. 187-188) (Ex. S-75)

86. Mr. Morin further testified that the Division also secured a copy of a bankruptcy petition filed by Respondent Murray with the United States Bankruptcy Court for the District of Arizona on August 16, 2012.[4] (Tr. 191-192) (Ex. S-19)

87. In Respondent Murray's petition in the United States proceeding it was disclosed that he was the sole owner of True North and he used it to buy and sell houses. (Ex. S-20)

88. According to Respondent Murray's petition in Arizona, there were only two creditors that held secured claims, a Doris Eichstadt with respect to two mortgages on what appeared to be Respondent Murray's personal residence, and Southwest Title Loans for a car loan. There were no other individual creditors listed. (Ex. S-20)

89. On October 17, 2012, during Mr. Murray's oral examination pursuant to his bankruptcy petition, he testified that True North owned three properties at the time of his examination. They were single family residential properties and were located on Barcelona, Aloe and 53rd Drive and all were encumbered. (Ex. S-21)

[4] This document was obtained from the court's website.

90. Investigator Morin related that during Mr. Murray's examination, he testified that the source of the funds for the True North 53rd Drive property in Glendale was a partner, Sergey Reger, but he further testified that Mr. Reger was not provided with a security interest in the property. (Tr. 212-213:10-8) (Ex. S-21)

91. Mr. Morin explained that Respondent Murray further testified that the Aloe property was located in Chandler and that he had a partner with a first name of Nischal, but he could not remember his last name. (Tr. 213-214:18-60) (Ex. S-21)

92. According to Mr. Morin, Respondent Murray further testified in the examination that his Barcelona property was located in Gilbert and that he had partnered on this project with a woman named Soda Cajee. (Tr. 214-215:14-6)

93. Mr. Murray stated that he is a legal resident of Arizona and holds dual citizenship as a United States citizen and as a Canadian citizen. (Tr. 215-216:16-2)

94. According to Mr. Morin, the Division's investigation verified that a number of investors provided funds to Respondent Murray for the purpose of investing in his fix and flip investment program.

95. Mr. Morin stated that although a profit and loss sheet for Respondent Murray indicated net income of $18,345.41 for a property in Scottsdale located at 8710 E. Amelia, the two investors in that property were not paid anything and they did not receive an accounting with respect to any profits or losses. (Tr. 228:4-21)

96. Based on Mr. Morin's testimony, neither of the investors who invested in the Amelia property were aware of any judgments against Respondent Murray at the time they invested. (Tr. 229)

97. Investigator Morin described the circumstances surrounding a number of investments made by various investors with Respondent Murray either by means of what was termed the partnership agreement or by means of a promissory note.

98. Mr. Morin described investor Soda Cajee, who invested with Respondent Murray in a partnership agreement on June 21, 2011, for a term of one year. She invested $50,000 USD as the limited partner and Respondent Murray was the general partner who was to do all of the things

necessary to fix and flip a property. Ms. Cajee was to share in the profits or losses on a 50/50 basis. (Ex. S-41)

99. Mr. Morin testified that Ms. Cajee was not repaid anything on her investment. (Tr. 231:17-20)

100. Mr. Morin stated that, according to the terms of the agreement between Ms. Cajee and Respondent Murray, during the one year term of the agreement, it was projected that 3 to 4 fix and flip properties would be completed and the profits shared equally. (Tr. 232:7-16) (Ex. S-41)

101. Ms. Cajee provided a copy of an email in which she questioned Respondent Murray about what would happen in the event of a bankruptcy and how her money would be protected. Respondent Murray had responded that "In bankruptcy trust funds are not affected. Your funds are being invested in a specific property in trust." (Ex. S-43)

102. According to Mr. Morin, Ms. Cajee provided a copy of an email with Respondent Murray in which a property was designated as her investment with an address of 1007 W. Barcelona in Gilbert. (Tr. 235:6-20) (Ex. S-44)

103. Investigator Morin testified that the Division obtained documents relevant to the fix and flip property located at 1007 W. Barcelona in Gilbert which reflected Respondent Murray's ownership interest which as evidenced by a certified copy of a Special Warranty Deed that was dated October 31, 2011, and showed that Respondent Murray was the purchaser of the property. (Ex. S-49)

104. The Division's evidence also included a certified copy of a Warranty Deed for the 1007 W. Barcelona Drive property in Gilbert that showed Respondent Murray as the seller of the property and was dated August 1, 2013. (Ex. S-49)

105. According to the terms of a certified copy of a Homestead Affidavit for the West Barcelona Drive property in Gilbert introduced into evidence, it was executed by Respondent Murray and recorded on August 1, 2013, and stated that Respondent Murray and/or other parties had resided at the dwelling on that property since November 2012. (Ex. S-47)

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106. Mr. Morin testified that Ms. Cajee did not know that Respondent Murray had utilized the 1007 W. Barcelona Drive property in Gilbert as his personal residence since November 2012 and she was never provided with an accounting regarding any profits or losses on the Barcelona property after the property was sold in August 2013. (Tr. 237-238:22-24)

107. Mr. Morin further stated that in discussions with Ms. Cajee, she was not aware of any civil judgments against Mr. Murray at the time invested with him in 2011. (Tr. 239:1-3)

108. According to Mr. Morin, the Division's investigation confirmed that Respondent Murray had utilized the Barcelona Drive property in Gilbert as a personal residence. (Tr. 240:7-15)

109. During Respondent Murray's Examination Under Oath ("EUO"), Respondent Murray admitted that he was married and that his spouse's name was Wendy Murray. (Ex. S-3)

110. During Mr. Murray's EUO, he stated that promissory notes held by different investors were not assigned to a particular property. (Ex. S-3)

111. While testifying in his EUO, Respondent Murray testified about a number of investment documents involving various investors. (Ex. S-3)

112. Respondent Murray stated that a number of investors travelled to Arizona from Canada before they invested. (Ex. S-3)

113. Respondent Murray acknowledged during his EUO that he had been sued by an investor, Jason Baker, and that he had entered into an investment agreement for $50,000 and a promissory note for $10,000 which had involved True North. (Ex. S-3)

114. According to Investigator Morin, Respondent Murray, during the EUO, admitted that Mr. Baker's funds were not used to purchase any property and he had not been paid back. (Tr. 253) (Ex. S-3)

115. Respondent Murray, during his EUO, acknowledged that a judgment had been taken against him for approximately $67,000 in the Supreme Court of British Columbia. (Ex. S-3) (Ex. S-14)

116. While testifying during his EUO, Respondent Murray acknowledged that another investor, Robert Hasell, had obtained a judgment against him in British Columbia for over $100,000 as the result of a promissory note which he had defaulted on. (Ex. S-3)

117. After Mr. Hasell obtained his judgment, he petitioned the Supreme Court of British Columbia for a Bankruptcy Order against Respondent Murray, the result of which was that Respondent Murray was adjudicated bankrupt on May 9, 2012. (Ex. S-3)

118. Mr. Murray stated during his EUO that although he had agreed to keep investors updated about their particular properties under the terms of the joint venture agreements, he could not state which property was assigned to a particular investor and he did not know how he could keep them updated. (Ex. S-3)

119. Mr. Morin testified that he prepared a summary of the investors in Mr. Murray's projects and this document contained the amount of each investor's investment whether by partnership agreement or promissory note. Mr. Morin's summary contained the amounts invested and any amounts repaid based on interviews with the investors or as he determined from their documents provided to the Division. (Tr. 259-260) (Ex. S-79)

120. Investigator Morin's investment summary also contained information regarding the method in which each investor was solicited whether via friendship, emails, newsletters, or seminars. (Ex. S-79)

121. Investigator Morin further testified that a Canadian investor, Jeff Coleman, told him that Respondent Murray had not paid him back. (Tr. 280:15-17)

122. Based on the Division's investigation, there is evidence that Respondent Murray provided evidence to more than one investor that they were the owners of the same property. In a number of instances, it was represented to these investors that they were a partner with Respondent Murray in the 53rd Drive property in Glendale, Arizona. (Ex. S-79)

123. Mr. Morin further testified that based on the Division's investigation, four investors were designated the 53rd Drive property in Glendale as their investment property by Mr. Murray. (Tr. 288:18-22)

124. Mr. Morin stated further that of the four investors who were told they were partners with him in the 53rd Drive property in Glendale, only two of these investors knew that their investment monies were being pooled. (Tr. 289:2-7)

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125. Based on the Division's investigation, only one of 15 investors, Ms. Meyer, received a substantial portion of their investment back, and she received slightly less than 50 percent.[5] (Ex. S-79)

126. The Division also presented evidence of another Canadian investor, Erik Popma, who initially loaned Respondent Murray $50,000 on February 28, 2012. This loan was to be repaid at 18 percent interest or $59,000 in one year, but he subsequently renewed the note with Respondent Murray for another year with no repayment required until the later due date. (Tr. 295-296) (Ex. S-61)

127. Mr. Morin further testified that the Canadian investor, Mr. Popma, was not made aware of any civil judgments or bankruptcy proceedings at the time of his initial loan. (Tr. 296:18-22)

128. Investigator Morin described one situation during which another Canadian investor, Ms. Rebecca Warburton, initially paid $5,000 to Respondent Murray to participate in an apprentice program in January 2011, but these funds were later rolled into a partnership contract with Respondent Murray for a total of $25,000 to participate in a fix and flip investment. (Tr. 303-304:5-1) (Ex. S-51)

129. Mr. Morin testified further that Ms. Warburton was one of the investors who did not receive any repayment. (Tr. 306:17-20)

130. According to Mr. Morin, Mr. Murray represented to a Canadian investor, Mr. Guenther, that one property had resulted in profits for an investor, Carmen Sinclair, but according to the Division's investigator, Ms. Sinclair told him that she had not received any repayment. As a result, Ms. Sinclair filed a lawsuit against Mr. Murray in Canada.[6] (Tr. 315-317) (Ex. S-67) (Ex. S-68)

131. Mr. Morin stated that an email on February 15, 2011, from Ms. Sinclair to Mr. Murray referred to an East Palo Verde property in Gilbert and she questioned when she would be paid her projected return of $15,000 based on her $50,000 investment. Mr. Murray had referenced the 206 East Palo Verde address in Gilbert when he had also been in contact with Robert Guenther, telling

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[5] After investing $65,000, Ms. Meyer received only $30,750 back from Respondent Murray.
[6] Ms. Sinclair was not a part of the Division's case in this proceeding.

him that there was a profit on the same property. (Tr. 315-316)

132. Mr. Morin further testified that during the investigation, Respondent Murray provided a number of profit and loss statements to the Division and that Respondent Murray misrepresented the purported profits on properties to investors which did not match up with the numbers on the statements provided by the Respondent. (Tr. 320-321:21-1)

133. Although there were investors in Canada that Respondent Murray dealt with, unless the offers or sales occurred within or from Arizona, the Division's summary exhibit of investors between January and August 2012 did not reflect those investors or their investments. (Ex. S-79)

134. According to Mr. Morin, every investor that was contacted by the Division indicated that they would not have invested with Respondent Murray if they had known about his prior financial problems such as bankruptcy proceedings or civil judgments. (Tr. 335:1-15)

135. Some investors in Mr. Murray's fix and flip projects invested after his Canadian bankruptcy proceeding and they were not informed about it. All of the investments pre-dated his bankruptcy filing in Arizona. (Ex. S-79)

136. Although Respondent Murray appeared at the hearing, he did not testify under oath or present any evidence, he commented during the hearing that his primary reason for filing for bankruptcy protection in the United States was because he was attempting to prevent a foreclosure on his primary residence in Arizona. (Tr. 337)

137. Based on the evidence, the weight of the record clearly establishes a multiplicity of violations of the Act by Respondent Murray as described herein. Further, there is ample evidence that Respondent Murray committed fraud upon the individuals who invested in his fix and flip projects who were not informed of his financial problems in Canada prior to the investments in the projects in Arizona. Accordingly, Respondent Jonathan Murray should be ordered to cease and desist and Respondents should make restitution of the amount established by the Division's evidence and also pay an administrative penalty. Because there was no evidence presented to the contrary, the marital community should also be held liable for these violations.

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CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this matter pursuant to Article XV of the Arizona Constitution and A.R.S. § 44-1801, et seq.

2. The investment offerings as described herein and sold by Respondent Jonathan Murray constitute securities within the meaning of A.R.S. § 44-1801.

3. Respondent Jonathan Murray acted as a dealer and/or a salesman within the meaning of A.R.S. § 44-1801(9) and (22).

4. The actions and conduct of Respondent Jonathan Murray constitute the offer and sale of securities within the meaning of A.R.S. § 44-1801(21).

5. The securities were neither registered or exempt from registration in violation of A.R.S. § 44-1841.

6. Respondent Jonathan Murray offered and sold unregistered securities within or from Arizona in violation of A.R.S. § 44-1841.

7. Respondent Jonathan Murray offered and sold securities within or from Arizona without being registered as a dealer and/or salesman in violation of A.R.S. § 44-1842.

8. Respondent Jonathan Murray committed fraud in the offer and sale of unregistered securities, engaging in transactions, practices or a course of business which involved untrue statements and omissions of material facts in violation of A.R.S. § 44-1991.

9. Respondent Jonathan Murray has violated the Act and should cease and desist pursuant to A.R.S. 44-2032 and from any future violations of A.R.S. §§ 44-1841, 44-1842, 44-1991 and all other provisions of the Act.

10. The actions and conduct of Respondent Jonathan Murray constitute multiple violations of the Act and are grounds for an order of restitution pursuant to A.R.S. § 44-2032 and administrative penalties pursuant to A.R.S. § 44-2036.

11. The marital community of Respondents Jonathan Murray and Wendy Murray should be included in any order of restitution and administrative penalties ordered herein pursuant to A.R.S. § 44-2031.

ORDER

IT IS THEREFORE ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2032, Respondent Jonathan Murray shall cease and desist from his actions described hereinabove in violation of A.R.S. §§ 44-1841, 44-1842, and 44-1991.

IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2036, Jonathan Murray and Wendy Murray shall pay jointly and severally as and for administrative penalties for the violation of A.R.S. § 44-1841 the sum of $10,000; for the violation of A.R.S. § 44-1842 the sum of $10,000; and for the violation of A.R.S. § 44-1991 the sum of $15,000. The payment obligation for these administrative penalties shall be subordinate to any restitution and shall become immediately due and payable only after restitution payments have been paid in full or upon Respondents' default with Respondents' restitution obligations.

IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2036, that Respondents Jonathan Murray and Wendy Murray jointly and severally shall pay the administrative penalties ordered herein above in the amount of $35,000, payable by either cashier's check or money order payable to the "State of Arizona" and presented to the Arizona Corporation Commission for deposit in the general fund for the State of Arizona.

IT IS FURTHER ORDERED that if Respondents Jonathan Murray and Wendy Murray fail to pay the administrative penalties hereinabove, any outstanding balance plus interest at the rate of the lesser of 10 percent per annum or the rate per annum that is equal to one percent plus the prime rate as published by the Board of Governors of the Federal Reserve System of Statistical Release H.15 or any publication that may supersede on the date that the judgment is entered may be deemed in default and shall be immediately due and payable without further notice.

IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2032, Respondents Jonathan Murray and Wendy Murray shall jointly and severally make restitution in the amount of $772,500 pursuant to A.A.C. R14-4-308 subject to any legal-setoffs by the Respondents and confirmed by the Director of Securities with said restitution to be made within

60 days of the effective date of this Decision.[7]

IT IS FURTHER ORDERED that the restitution ordered hereinabove shall bear interest at the rate of the lesser of 10 percent per annum or at a rate per annum that is equal to one percent plus the prime rate as published by the Board of Governors of the Federal Reserve System of Statistical Release H.15 or any publication that may supersede on the date that the judgment is entered.

IT IS FURTHER ORDERED that all restitution payments as ordered hereinabove shall be deposited into an interest-bearing account(s), if appropriate until distributions are made.

IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2031(C) the marital community of Respondents Jonathan Murray and Wendy Murray shall be jointly and severally liable to the extent allowable pursuant to A.R.S. § 25-215 for restitution in the amount of $772,500 and administrative penalties in the amount of $35,000.

IT IS FURTHER ORDERED that default shall render Respondents Jonathan Murray and Wendy Murray liable to the Commission for its costs of collection and interest at the rate of the lesser of 10 percent per annum or at a rate per annum that is equal to one percent plus the prime rate as published by the Board of Governors of the Federal Reserve System of Statistical Release H.15 or any publication that may supersede on the date that the judgment is entered.

IT IS FURTHER ORDERED that the Commission shall disburse the funds on a pro-rata basis to the 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 an investor is deceased and the Commission cannot reasonably identify and locate the deceased investor's spouse or natural children surviving at the time of 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 that it is unable to or cannot feasibly disburse shall be transferred to the general fund of the State of Arizona.

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[7] Although the record established that the investors in Mr. Murray's projects invested $772,500 according to Ex. S-79, there was evidence that some repayments totalling approximately $35,000 were repaid to certain investors and should be allocated as such.

IT IS FURTHER ORDERED that if Respondents Jonathan Murray and Wendy Murray fail to comply with this Order, the Commission may bring further legal proceedings against Respondent(s) including application to the Superior Court for an order of contempt.

IT IS FURTHER ORDERED that pursuant to A.R.S. § 44-1974, upon application, the Commission may grant rehearing of this Order. The application must be received by the Commission at is offices within twenty (20) calendar days after entry of this Order, and, unless otherwise ordered, filing an application for rehearing does not stay this Order. If the Commission does not grant rehearing within twenty (20) calendar days of the filing of the application, the application is considered to be denied. No additional notices will be given of such denial.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, 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 _____ 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
MS:tv

SERVICE LIST FOR: JONATHAN JAMES MURRAY AND WENDY LYNN MURRAY

DOCKET NO.: S-20883A-13-0112

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