

ORIGINAL NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

COMMISSIONERS

2016 JUN 29 P 1:11

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

In the matter of:
Visionary Business Works, Inc., d/b/a
Fleetronix, an Arizona corporation,
Robert Brian Brauer and Melissa Brauer,
husband and wife,
Timothy John Wales and Stacey Wales,
husband and wife,
Respondents.

DOCKET NO. S-20976A-16-0210

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

Arizona Corporation Commission

DOCKETED

JUN 29 2016

DOCKETED BY [Signature]

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission
("Commission") alleges that respondents Visionary Business Works, Inc., Stacey Wales, Timothy
John Wales, and Robert Brian Brauer have engaged in, and respondent Timothy John Wales is
engaging in or is about to engage in, acts and practices that constitute violations of A.R.S. § 44-
1801, et seq., the Arizona Securities Act ("Securities Act") and that the public welfare requires
immediate action.

The Division further alleges that Stacey Wales and Timothy John Wales directly or indirectly
controlled Visionary Business Works, Inc. within the meaning of A.R.S. § 44-1999, so that they are
jointly and severally liable under A.R.S. § 44-1999 to the same extent as Visionary Business Works,
Inc. for its violations of A.R.S. § 44-1991.

I.

JURISDICTION

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

II.

RESPONDENTS

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7 2. Visionary Business Works, Inc. (“Visionary”) was a corporation that was organized
8 under the laws of Arizona from April 30, 2007, to October 7, 2015. Visionary was headquartered in
9 Chandler, Arizona and never had offices outside of Arizona. Visionary specialized in cloud-based
10 fleet management solutions and did business under the name Fleetronix. Visionary has not been
11 registered by the Commission as a securities salesman or dealer, and no Visionary securities have
12 been registered by the commission.

13 3. At all relevant times, Stacey Wales (“Stacey Wales”) was married to Timothy John
14 Wales and was a resident of Arizona. Stacey Wales was the President of Visionary. Stacey Wales has
15 not been registered by the Commission as a securities salesman or dealer.

16 4. At all relevant times, Timothy John Wales (“Tim Wales”) was married to Stacey
17 Wales and was a resident of Arizona. Tim Wales was the Vice-President of Visionary. Tim Wales has
18 not been registered by the Commission as a securities salesman or dealer.

19 5. Robert Brian Brauer (“Brauer”) is a married man who was a resident of Arizona from
20 at least December 2010 to May 2012. Brauer was the CFO of Visionary from December 2010 to May
21 2012. Brauer has not been registered by the Commission as a securities salesman or dealer.

22 6. Melissa Brauer (“Respondent Spouse”) has been at all relevant times the spouse of
23 Respondent Brauer. Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely for
24 purposes of determining the liability of the marital community.

25 7. At all relevant times, Respondents Stacey Wales, Tim Wales, and Brauer have been
26 acting for their own benefit and for the benefit or in furtherance of the respective marital communities.

1 them spreadsheets of the company's inaccurate financials on his computer. Visionary also provided
2 J.W.W. and T.W. with a summary of inaccurate company financials that Brauer prepared.

3 14. Tim Wales also spoke with J.W.W. and T.W. about investing in Visionary. Tim Wales
4 participated in a phone call with J.W.W., T.W., and Brauer. During the call, Tim Wales explained
5 financial forecasts based on Brauer's inaccurate data to J.W.W. and T.W., and he told them about the
6 status of Visionary's sales and product development.

7 15. In July 2011, J.W.W. and T.W. invested \$300,000 and received 25% of Visionary's
8 common stock. T.W. signed a subscription agreement for the stock purchase dated July 27, 2011, and
9 Stacey Wales signed the subscription agreement on behalf of Visionary. Visionary also issued a stock
10 certificate to T.W. signed by Stacey Wales and dated July 29, 2011.

11 16. The Wales also asked other family, friends, and referrals to invest in Visionary. After
12 J.C., J.D.L.C., J.W.W., and T.W. ("the Investors") invested, Tim Wales, Brauer, and the Investors
13 were still looking for more investors. Visionary did not give them any guidance or limits on how they
14 could look for investors.

15 17. Although the Wales tasked Brauer with finding investors, Visionary had no systems
16 to monitor or instruct Brauer about what he could tell potential investors because Brauer said he
17 needed the freedom to talk to people. Visionary did not require that documents be vetted before Brauer
18 could show them to potential investors. The Wales trusted Brauer to prepare accurate documents
19 because they did not know enough to be able to tell if they were inaccurate anyway. Visionary never
20 prepared any written summary of risk disclosures, and instead trusted Brauer to know what risk
21 disclosures were required. Brauer was supposed to be logging his contacts with potential investors,
22 but Brauer said he did not understand the system, and no one forced him to use it.

23 18. Visionary raised a total of \$526,500 from the sale of its corporate stock to the
24 Investors.

1 19. The Wales were not aware of Brauer's inaccurate accounting data while he worked at
2 Visionary, but they failed to properly investigate several red flags that would have revealed the
3 problem.

4 20. The Wales also failed to take precautions that might have alerted them to the problem
5 sooner.

6 21. Visionary never had any systems in place to double-check Brauer's work. Visionary
7 had financial policies and procedures that had worked for years, but the Wales let Brauer dismantle
8 them. Bauer switched Visionary's accounting software from Microsoft Accounting to Quickbooks
9 and pushed everyone else out of all aspects of the accounting. The Wales had many controls over
10 accounting with the earlier software, but by allowing Brauer to change the accounting software, the
11 Wales lost control and visibility of the accounting. Brauer was the only person who opened and
12 reviewed Visionary's bank statements.

13 22. Because of a lack of funds, Visionary eventually defaulted on a secured commercial
14 loan, and all of Visionary's assets were seized. The Investors have not received any of their investment
15 funds back.

16 23. Tim Wales now plans to make a new securities offering with a new company.

17 24. Tim Wales is a technology entrepreneur, and with a business partner he started Kadima
18 Ventures, Inc. ("Kadima"). Kadima is a corporation that was organized under the laws of Wyoming
19 on March 2, 2016. Kadima is a technology company that helps startup companies. Tim Wales is the
20 CEO of Kadima. Although Kadima is a Wyoming corporation, Tim Wales works for it from his
21 Arizona home. Tim Wales is not employed except in his business ventures, including Kadima.

22 25. Kadima plans to have investors in the "near term future." Kadima plans to use an
23 investment instrument called a Security for Advanced Future Equity, also known as a Simple
24 Agreement for Future Equity, which is a security in the form of rights to purchase company equity
25 securities. Tim Wales believes this instrument "doesn't fall into the standard securities rules and
26 regulations." Kadima has identified some specific prospective investors, including Arizona investors.

1 In March 2016, Tim Wales believed Kadima's offering would be ready in a few weeks. Kadima has
2 not been registered by the Commission as a securities salesman or dealer, and no Kadima securities
3 have been registered by the Commission.

4 **IV.**

5 **VIOLATION OF A.R.S. § 44-1841**

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

7 26. From on or about July 1, 2011, Respondents offered or sold securities in the form of
8 corporate stock, within or from Arizona.

9 27. The securities referred to above are not registered pursuant to Articles 6 or 7 of the
10 Securities Act.

11 28. This conduct violates A.R.S. § 44-1841.

12 **V.**

13 **VIOLATION OF A.R.S. § 44-1842**

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

15 29. Respondents offered or sold securities within or from Arizona while not registered as
16 dealers or salesmen pursuant to Article 9 of the Securities Act.

17 30. This conduct violates A.R.S. § 44-1842.

18 **VI.**

19 **VIOLATION OF A.R.S. § 44-1991**

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

21 1. In connection with the offer or sale of securities within or from Arizona, Respondents
22 Brauer and Visionary directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii)
23 made untrue statements of material fact or omitted to state material facts that were necessary in order to
24 make the statements made not misleading in light of the circumstances under which they were made; or
25 (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud
26

1 or deceit upon offerees and investors. Respondents Brauer and Visionary's conduct includes, but is not
2 limited to, the following:

- 3 a) Misstating Visionary's financials and financial forecasts to the Investors.
4 2. This conduct violates A.R.S. § 44-1991.
5 3. The Wales directly or indirectly controlled Visionary within the meaning of A.R.S. §
6 44-1999. Therefore, the Wales are jointly and severally liable under A.R.S. § 44-1999 to the same
7 extent as Visionary for its violations of A.R.S. § 44-1991.

8 **VII.**

9 **TEMPORARY ORDER**

10 **Cease and Desist from Violating the Securities Act**

11 THEREFORE, based on the above allegations, and because the Commission has determined
12 that the public welfare requires immediate action,

13 IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondent
14 Tim Wales, his agents, servants, employees, successors, assigns, and those persons in active concert
15 or participation with Respondent Tim Wales CEASE AND DESIST from any violations of the
16 Securities Act.

17 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
18 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

19 IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order shall
20 remain effective from the date a hearing is requested until a decision is entered unless otherwise
21 ordered by the Commission.

22 IT IS FURTHER ORDERED that this Order shall be effective immediately.

23 **VIII.**

24 **REQUESTED RELIEF**

25 The Division requests that the Commission grant the following relief:
26

1 written findings of fact and conclusions of law. A permanent Order may include ordering restitution,
2 assessing administrative penalties, or other action.

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

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

10 **X.**

11 **ANSWER REQUIREMENT**

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

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

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

