

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCKET CONTROL

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

In the matter of:
DONALD ANTHONY TOMASIAN a/k/a
DONALD ANTHONY TOMASIAN, JR. and
KATHERINA TOMASIAN, husband and
wife,
BELLA FUNDING, L.L.C., an Arizona
limited liability company,
Respondents.

DOCKET NO. S-20566A-07-0655

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

Arizona Corporation Commission

DOCKETED

NOV 20 2007

DOCKETED BY

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 DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY TOMASIAN, JR., KATHERINA TOMASIAN and BELLA FUNDING, L.L.C are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

1 **I. JURISDICTION**

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

4 **II. RESPONDENTS**

5 2. DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY TOMASIAN,
6 JR. ("TOMASIAN") is an individual who, at all times relevant hereto, resided in Maricopa County,
7 Arizona.

8 3. KATHERINA TOMASIAN ("K. TOMASIAN") is an individual who, at all times
9 relevant hereto, resided in Maricopa County, Arizona. Upon information and belief, TOMASIAN
10 and K. TOMASIAN are husband and wife. All action taken by TOMASIAN and K. TOMASIAN
11 was taken for their own benefit, and for the benefit of and in furtherance of their marital community.

12 4. BELLA FUNDING, L.L.C. ("BELLA FUNDING") is an Arizona limited liability
13 company. BELLA FUNDING has two business locations in Scottsdale, Arizona.

14 5. TOMASIAN is listed as the statutory agent for BELLA FUNDING. TOMASIAN
15 and K. TOMASIAN are both listed as managers and members of BELLA FUNDING.

16 6. BELLA FUNDING maintains a website at www.bellafunding.com and TOMASIAN
17 maintains an e-mail address of Don@Bellafunding.com.

18 7. TOMASIAN, K. TOMASIAN and BELLA FUNDING may be referred to
19 collectively as 'RESPONDENTS.'

20 **III. FACTS**

21 8. RESPONDENTS have been and are directly offering securities in the form of
22 investment contracts since at least August 12, 2006.

23 9. RESPONDENTS are soliciting Arizona investors through newspaper
24 advertisements and a website. One such newspaper advertisement from the August 12, 2006
25 edition of the Arizona Republic stated:
26

Wanted/Money

Investors Needed to Fund
First Position Deeds of Trust.
Low LTV. High Yield Return
on Cash. Don 480-560-6768
www.bellafunding.com

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4
5 10. After visiting the website, at least one potential Arizona investor ("PAI") called
6 (480) 860-0601, a contact phone number listed on the website, and spoke with TOMASIAN who
7 identified himself as the owner of the company.

8 11. TOMASIAN proceeded to describe the opportunity to the PAI as an investment in
9 commercial and residential property with the investment secured by a position on the deed of trust.

10 12. TOMASIAN informed the PAI that most often the deeds recorded were recorded
11 with the investor's name in the first lien position and that in every instance all the money flowed
12 through a title company.

13 13. TOMASIAN informed the PAI that TOMASIAN funded anywhere from five to ten
14 million dollars a month in loans and that TOMASIAN had never had a foreclosure or an investor
15 who lost money.

16 14. TOMASIAN represented that he could invest some portion of the PAI's money to
17 earn a return of 12 or 13 percent to the PAI and that he could invest another portion of the PAI's
18 money to earn an even higher rate of return for the benefit of the PAI.

19 15. TOMASIAN e-mailed to the PAI two documents. The first was titled as an
20 "Investor Profile." The second document was titled as a "Questionnaire." TOMASIAN's e-mail
21 requested the PAI to complete the documents and return them so that, upon receipt, TOMASIAN
22 could immediately start sending real estate transactions to the PAI for consideration.

23 16. TOMASIAN did not inquire of the PAI whether or not he/she could sustain the loss
24 of the investment nor did TOMASIAN request the amount of the PAI's net worth and the "Investor
25 Profile" and "Questionnaire" did not seek this information.

26 17. TOMASIAN failed to disclose to the PAI that on August 6, 2001, he had filed for
protection under Chapter 7 of the United States Bankruptcy Code in the U.S. Bankruptcy Court,

1 District of Arizona in the matter entitled *In re Donald Anthony Tomasian, Jr.*, case no. **2:01-bk-**
2 **10219-RTB**. On November 19, 2001, TOMASIAN received a bankruptcy discharge.

3 18. TOMASIAN also failed to inform the PAI that a federal tax lien had been entered
4 against TOMASIAN in 2003 and that he had been the defendant in several civil cases that resulted
5 in judgments being entered against him.

6 19. On the advertised website, www.bellafunding.com, investors are offered "Trust
7 Deed Investments" with representations of "9-13%" yields, moderate risk and no expense.

8 20. The advertised website also states:

9 **Bella Funding is a fully integrated Real Estate investment**
10 **and mortgage lending company. In addition to offering a**
11 **full array of mortgage products, our primary focus is to**
12 **provide financing for collateral-based situations that require**
13 **immediate funding.**

14 **Start earning 12% fixed annual yields by investing the**
15 **following in Real Estate secured loans:**

- 16 **Cash**
- 17 **Savings**
- 18 **CD's**
- 19 **Stocks**
- 20 **Bonds**
- 21 **IRA**
- 22 **Other Investment Accounts**

23 **Bella Funding manages the entire transaction from loan**
24 **submission through to a successful funding.**

25 **At the same time every month after a loan has been funded**
26 **Bella Funding's servicing department will bill the borrower**
and collect payments for the interest earned throughout the
month, depositing the funds that are received into the
account of the investor. The Bella Funding servicing agent
will also maintain impounded taxes, insurance and home
owner's association dues through our servicing department,
ensuring continuous hazard insurance coverage and ensure
timely payments.

1 21. The advertised website also provides a “. . . list of closed loans facilitated by Bella
2 Funding.” The ROR (rate of return) listed for the closed loans are either 14% or 18%. The LTV
3 (loan-to-value ratio) listed for the closed loans range from 47% to 75%.

4 22. The above information is offered on the advertised website without requiring a
5 username or password.

6 23. RESPONDENTS are not licensed in the State of Arizona as mortgage bankers,
7 mortgage brokers or consumer lenders.

8 **IV. VIOLATION OF A.R.S. § 44-1841**
9 **(Offer and Sale of Unregistered Securities)**

10 24. From on or about August 12, 2006, RESPONDENTS offered or sold securities in the
11 form of investment contracts, within or from Arizona.

12 25. The securities referred to above were not registered pursuant to Articles 6 or 7 of the
13 Securities Act.

14 26. This conduct violates A.R.S. § 44-1841.

15 **V. VIOLATION OF A.R.S. § 44-1842**
16 **(Transactions by Unregistered Dealers or Salesmen)**

17 27. RESPONDENTS are offering or selling securities within or from Arizona while not
18 registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

19 28. This conduct violates A.R.S. § 44-1842.

20 **VI. VIOLATION OF A.R.S. § 44-1991**
21 **(Fraud in Connection with the Offer or Sale of Securities)**

22 29. In connection with the offer or sale of securities within or from Arizona,
23 RESPONDENTS are, directly or indirectly: (i) employing a device, scheme, or artifice to defraud;
24 (ii) making untrue statements of material fact or omitting to state material facts that are necessary in
25 order to make the statements made not misleading in light of the circumstances under which they are
26 made; or (iii) engaging in transactions, practices, or courses of business that operate or would
operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is
not limited to, the following:

1 a) Failing to provide prospective investors with any salient financial and/or
2 other background information about the companies and/or individuals offering the investment
3 opportunities being promoted; and

4 b) Failing to fully disclose to prospective investors the risks associated with the
5 investment opportunities being promoted.

6 30. This conduct violates A.R.S. § 44-1991.

7 **VII. TEMPORARY ORDER**
8 **Cease and Desist from Violating the Securities Act**

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

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

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

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

18 **VIII. REQUESTED RELIEF**

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

20 1. Order RESPONDENTS to permanently cease and desist from violating the
21 Securities Act, pursuant to A.R.S. § 44-2032;

22 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting
23 from RESPONDENTS' acts, practices, or transactions, including a requirement to make restitution
24 pursuant to A.R.S. § 44-2032;

25 3. Order RESPONDENTS to pay the State of Arizona administrative penalties of up to
26 five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

1 ADA Coordinator, voice phone number 602/542-3931, e-mail lhogan@azcc.gov. Requests should
2 be made as early as possible to allow time to arrange the accommodation.

3 **X. ANSWER REQUIREMENT**

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

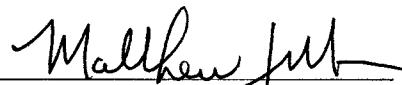
10 Additionally, the answering respondent must serve the Answer upon the Division.
11 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
12 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix,
13 Arizona, 85007, addressed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

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

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

21 The officer presiding over the hearing may grant relief from the requirement to file an
22 Answer for good cause shown.

23 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 20 day of
24 November, 2007.

25 

26 Matthew J. Neubert
Director of Securities