

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE - Chairman
BOB BURNS
ANDY TOBIN
BOYD DUNN
JUSTIN OLSON

Arizona Corporation Commission

DOCKETED

DEC 29 2017

DOCKETED BY

In the matter of:

Pacific Capital Enterprises LLC, a Delaware
limited liability company,

Superior Diamond Management LLC, a
Delaware limited liability company,

Michael Barry Eckerman, and Tonya
Eckerman, husband and wife,

Venessa R. Sandoval, and John Doe Sandoval,
husband and wife,

Respondents.

DOCKET NO. S-21035A-17-0391

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

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL
2017 DEC 29 A 11:14

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 Pacific Capital Enterprises LLC, Superior Diamond Management LLC, Michael Barry Eckerman, and Venessa R. Sandoval 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.

The Division also alleges that Superior Diamond Management LLC and Michael Barry Eckerman are persons controlling Pacific Capital Enterprises LLC within the meaning of A.R.S. § 44-1999(B), so that they are jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as Pacific Capital Enterprises LLC for its violations of the antifraud provisions of the Securities Act.

I.

JURISDICTION

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

II.

RESPONDENTS

2. Pacific Capital Enterprises LLC, Superior Diamond Management LLC, Michael Barry Eckerman, and Venessa R. Sandoval may be referred to collectively as "Respondents."

3. Pacific Capital Enterprises LLC ("Pacific") is a limited liability company organized under the laws of the state of Delaware in March 2015. Superior Diamond Management LLC has been the manager of Pacific since at least March 30, 2017.

4. Superior Diamond Management LLC ("Diamond") is a limited liability company organized under the laws of the state of Delaware in March 2017. Michael Barry Eckerman has been the manager of Diamond since at least March 30, 2017.

5. Michael Barry Eckerman ("Eckerman") has been a married man and a resident of the state of Arizona since at least January 2017.

6. Venessa R. Sandoval ("Sandoval") has been a married woman and a resident of the state of Arizona since at least March 30, 2017.

7. Since at least March 30, 2017, Tonya Eckerman has been the spouse of Respondent Eckerman, and John Doe Sandoval has been the spouse of Venessa Sandoval (Tonya Eckerman and John Doe Sandoval may be referred to collectively as "Respondent Spouses"). Respondent Spouses are joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital communities. The true name of John Doe Sandoval is presently unknown to the Division, and the Division will seek permission to amend this Temporary Order to Cease and Desist and Notice of Opportunity for Hearing to allege his true name when his true name is determined.

1 15. Pacific's Investors receive a private placement memorandum ("PPM") describing
2 Pacific's business and management, but not all Investors receive the PPM before investing.

3 *Omitting Securities Temporary Order*

4 16. Pacific's PPM refers to the filing of the Division's December 12, 2016, Temporary
5 Order to Cease and Desist and Notice of Opportunity for Hearing ("Temporary Order") regarding
6 respondents including Eckerman and Premier Asset Management Group LLC ("PAMG"), a
7 company affiliated with Pacific.

8 17. Pacific and Sandoval each omitted to at least one investor who did not receive the
9 PPM before investing that Eckerman and PAMG were subject to the Division's Temporary Order,
10 which alleged that Eckerman and PAMG had violated anti-fraud and registration provisions of the
11 Arizona Securities Act.

12 *Misrepresenting Property Ownership*

13 18. Pacific, Eckerman, and Sandoval each misrepresented to at least two Investors that
14 Pacific owned residential real estate.

15 19. Actually, Pacific had never owned any residential real estate through at least
16 December 6, 2017.

17 *Omitting Overpayment to Affiliate*

18 20. Pacific notes in the "Risk Factors" section of its PPM that transactions with Pacific's
19 affiliates will not be arms-length transactions and will involve conflicts of interest. Eckerman
20 controls affiliates of Pacific including PAMG and Forty Sixth Place LLC ("Forty Sixth Place").

21 21. Pacific's PPM also states to Investors that Pacific plans to "purchase Residences
22 owned by its Affiliate, [PAMG]," and states that it intends to pay 95% of the property value, as
23 estimated by a broker's price opinion. This statement implied that PAMG would give Pacific a 5%
24 discount in real estate transactions between them.

VII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
4. Order that the marital communities of Respondent Eckerman, Respondent Sandoval, and Respondent Spouses are subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
5. Order any other relief that the Commission deems appropriate.

VIII.

HEARING OPPORTUNITY

Each respondent including Respondent Spouses may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a hearing, the requesting respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,

1 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**
2 **Order shall remain effective from the date a hearing is requested until a decision is entered.**

3 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with
4 written findings of fact and conclusions of law. A permanent Order may include ordering restitution,
5 assessing administrative penalties, or other action.

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

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

13 IX.

14 ANSWER REQUIREMENT

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

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

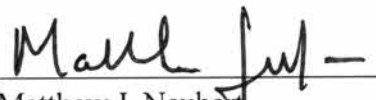
25 The Answer shall contain an admission or denial of each allegation in this Temporary Order
26 and Notice and the original signature of the answering respondent or the respondent's attorney. A

1 statement of a lack of sufficient knowledge or information shall be considered a denial of an
2 allegation. An allegation not denied shall be considered admitted.

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

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 29th day of
9 December, 2017.

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11 Matthew J. Neuben
12 Director of Securities
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