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## BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

MAY 22 2018

DOCKETED BY

WVY

In the matter of:

DOCKET NO. S-21015A-17-0200

DRHORSEPOWER, INC., a California corporation,

**PROPOSED ORDER TO CEASE AND  
DESIST, ORDER FOR ADMINISTRATIVE  
PENALTIES, AND CONSENT TO SAME  
BY: BRUCE GUERCIO**

STEVEN SCHOLL and SANDRA JONES,  
husband and wife,

BRUCE GUERCIO, a single man,

Respondents.

Decision No. 76686

Respondent Bruce Guercio ("Guercio") elects to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order to Cease and Desist, Order for Administrative Penalties, and Consent to Same ("Order"). Guercio admits the jurisdiction of the Arizona Corporation Commission ("Commission"); admits for the purposes of this proceeding the Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this Order by the Commission.

## I.

## FINDINGS OF FACT

1. Respondent Bruce Guercio ("Guercio") is a resident of Pima County, Arizona.
2. Guercio has never been registered with the Commission as a securities salesman or securities dealer.
3. From at least 2010 through 2011, Respondent DrHorsepower, Inc. ("Dr. Horsepower") engaged in a nation-wide offering of its stock.

1           4.     Dr. Horsepower held itself out to potential investors as “an intellectual property  
2 company” which would sell energy drinks, health supplements, apparel, cosmetics, auto supplies,  
3 and other merchandise bearing the brand names “Dr. Horsepower,” “La Bandita,” and “Pride.”

4           5.     Guercio became acquainted with Dr. Horsepower in 2010 after responding to an  
5 advertisement on Craigslist, and shortly thereafter Guercio agreed to offer shares of Dr. Horsepower  
6 stock to potential investors on behalf of Dr. Horsepower and Respondent Steven Scholl (“Scholl”),  
7 its president.

8           6.     During the Dr. Horsepower stock offering, Guercio offered shares of Dr. Horsepower  
9 stock to at least seven potential investors (“the Guercio Investors”) who went on to purchase at least  
10 \$59,250 of Dr. Horsepower common stock.

11          7.     At all times material to this matter, the Guercio Investors were residents of Arizona  
12 and were within Arizona at the time they were offered shares of Dr. Horsepower stock by Guercio.

13          8.     When offering Dr. Horsepower stock, Guercio provided the Guercio Investors with  
14 certain marketing materials (“Marketing Materials”) which had been given to him by Scholl.

15          9.     The Marketing Materials contained several misrepresentations. For example, the  
16 Marketing Materials:

17               a)     Represented that Harvey Hershkowitz, attorney Marcy Kaye, attorney Andrew  
18 Skale, and U.S. Navy Captain Jim “Mudcat” Grant were members of Dr. Horsepower’s board of  
19 directors;

20               b)     Represented that certain Dr. Horsepower-branded products, such as automotive  
21 care products, were available for sale by including photographs of the products which had been digitally  
22 altered to add a Dr. Horsepower logo;

23               c)     Represented that brokerage houses, law firms, and financial institutions  
24 estimated Dr. Horsepower’s value to range from \$100 million to \$1 billion and valued its stock at a  
25 minimum of \$100 per share.

26          10.     Guercio also misrepresented to certain investors that large quantities of Dr.

1 Horsepower energy drinks were already being sold in Mexico.

2 11. Following the offering, the Guercio Investors sent their investment funds to Scholl,  
3 and in return received a copy of the Common Stock and Warrant Purchase Agreement signed by  
4 Scholl, and a stock certificate representing shares in Dr. Horsepower which was signed by Scholl and  
5 Respondent Sandra Jones.

6 12. None of the Guercio Investors have received a return on their investments or a return  
7 of their investment principal.

8 **II.**

9 **CONCLUSIONS OF LAW**

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

12 14. Guercio offered or sold securities within or from Arizona, within the meaning of  
13 A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

14 15. Guercio violated A.R.S. § 44-1841 by offering or selling securities that were neither  
15 registered nor exempt from registration.

16 16. Guercio violated A.R.S. § 44-1842 by offering or selling securities while neither  
17 registered as a dealer or salesman nor exempt from registration.

18 17. In connection with the offer or sale of securities within or from Arizona, Guercio violated  
19 A.R.S. § 44-1991.

20 18. Guercio's conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-  
21 2032.

22 19. Guercio's conduct is grounds for administrative penalties under A.R.S. § 44-2036.

**III.****ORDER**

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Guercio's consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Guercio, and any of Guercio's agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED that Guercio comply with the attached Consent to Entry of Order.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondent Guercio shall pay an administrative penalty in the amount of \$5,000 as a result of the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

For purposes of this Order, a bankruptcy filing by Guercio shall be an act of default. If Guercio does not comply with this Order, any outstanding balance may be deemed in default and shall be immediately due and payable.

IT IS FURTHER ORDERED, that if Guercio fails to comply with this Order, the Commission may bring further legal proceedings against Guercio, including application to the superior court for an order of contempt.

IT IS FURTHER ORDERED, that no finding of fact or conclusion of law contained in this Order shall be deemed binding against any Respondent under this Docket Number who has not consented to the entry of this Order.

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1 IT IS FURTHER ORDERED that this Order shall become effective immediately.

2  
3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

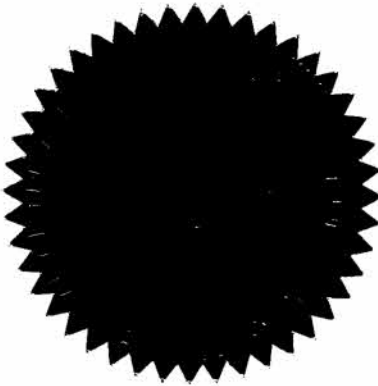
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5   
6 CHAIRMAN FORESE

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8 COMMISSIONER DUNN


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11 COMMISSIONER TOBIN

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13 COMMISSIONER OLSON

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15 COMMISSIONER BURNS



IN WITNESS WHEREOF, I, TED VOGT, 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 22<sup>nd</sup> day  
of MAY, 2018.

  
TED VOGT  
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Kacie Cannon, ADA Coordinator,  
voice phone number (602) 542-3931, e-mail [kcannon@azcc.gov](mailto:kcannon@azcc.gov).

(CN)

**CONSENT TO ENTRY OF ORDER**

1  
2           1.       Respondent Bruce Guercio ("Guercio") admits the jurisdiction of the Commission  
3 over the subject matter of this proceeding. Guercio acknowledges that he has been fully advised of  
4 his right to a hearing to present evidence and call witnesses and Guercio knowingly and voluntarily  
5 waives any and all rights to a hearing before the Commission and all other rights otherwise available  
6 under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. Guercio  
7 acknowledges that this Order to Cease and Desist, Order for Administrative Penalties, and Consent  
8 to Same ("Order") constitutes a valid final order of the Commission.

9           2.       Guercio knowingly and voluntarily waives any right under Article 12 of the Securities  
10 Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting from the  
11 entry of this Order.

12           3.       Guercio acknowledges and agrees that this Order is entered into freely and voluntarily  
13 and that no promise was made or coercion used to induce such entry.

14           4.       Guercio understands and acknowledges that he has a right to seek counsel regarding  
15 this Order, and that he has had the opportunity to seek counsel prior to signing this Order. Guercio  
16 acknowledges and agrees that, despite the foregoing, he freely and voluntarily waives any and all  
17 right to consult or obtain counsel prior to signing this Order.

18           5.       Guercio further agrees that he shall not deny or contest the Findings of Fact and  
19 Conclusions of Law contained in this Order in any present or future: (a) bankruptcy proceeding, or  
20 (b) non-criminal proceeding in which the Commission is a party (collectively, "Proceeding(s)").  
21 Guercio further agrees that in any such Proceedings, the Findings of Fact and Conclusions of Law  
22 contained in this Order may be taken as true and correct and that this Order shall collaterally estop  
23 them from re-litigating with the Commission or any other state agency, in any forum, the accuracy  
24 of the Findings of Fact and Conclusions of Law contained in this Order. Guercio agrees that, in the  
25 event Guercio pursues bankruptcy protection in the future, for purposes of such bankruptcy  
26 proceeding, pursuant to 11 U.S.C. § 523(a)(19), the following circumstances exist:

1           A.     The obligations incurred as a result of this Order are a result of the conduct  
2 set forth in the Findings of Fact and Conclusions of Law in the Order and are for the violation of  
3 Arizona state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i);

4           B.     This Order constitutes a judgment, order, consent order, or decree entered in  
5 a state proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement entered into by  
6 Guercio pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court order for damages, fine, penalty,  
7 citation, restitution payment, disgorgement payment, attorney fee, cost or other payment owed by  
8 Guercio pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

9           6.     By consenting to the entry of this Order, Guercio agrees not to take any action or to  
10 make, or permit to be made, any public statement denying, directly or indirectly, any Finding of Fact  
11 or Conclusion of Law in this Order or creating the impression that this Order is without factual basis.

12           7.     While this Order settles this administrative matter between Guercio and the  
13 Commission, Guercio understands that this Order does not preclude the Commission from instituting  
14 other administrative or civil proceedings based on violations that are not addressed by this Order.

15           8.     Guercio understands that this Order does not preclude the Commission from referring  
16 this matter to any governmental agency for administrative, civil, or criminal proceedings that may be  
17 related to the matters addressed by this Order.

18           9.     Guercio understands that this Order does not preclude any other agency or officer of  
19 the state of Arizona or its subdivisions from instituting administrative, civil, or criminal proceedings  
20 that may be related to matters addressed by this Order.

21           10.    Guercio agrees that he will not apply to the state of Arizona for registration as a  
22 securities dealer or salesman or for licensure as an investment adviser or investment adviser  
23 representative until such time as all penalties under this Order are paid in full.

24           11.    Guercio agrees that he will not exercise any control over any entity that offers or sells  
25 securities or provides investment advisory services within or from Arizona until such time as all  
26 penalties under this Order are paid in full.



12. Guercio agrees that he will continue to cooperate with the Securities Division including, but not limited to, providing complete and accurate testimony at any hearing in this or any other matter and cooperating with the state of Arizona in any other investigation.

13. Guercio consents to the entry of this Order and agrees to be fully bound by its terms and conditions.

14. Guercio acknowledges and understand that if he fails to comply with the provisions of the Order and this consent, the Commission may bring further legal proceedings against him, including application to the superior court for an order of contempt.

15. Guercio understands that default shall render him liable to the Commission for its costs of collection, including reasonable attorneys' fees and interest at the maximum legal rate.

16. Guercio agrees and understands that if he fails to make any payment as required in the Order, any outstanding balance shall be in default and shall be immediately due and payable without notice or demand. Guercio agrees and understands that acceptance of any partial or late payment by the Commission is not a waiver of default by the Commission.

*[Signature]*

BRUCE GUERCIO

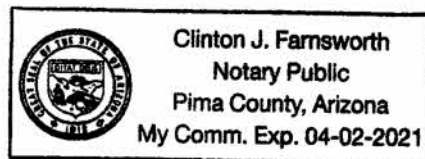
STATE OF Arizona )  
COUNTY OF Pima ) ss

SUBSCRIBED AND SWORN TO BEFORE me this 5<sup>th</sup> day of February, 2018.

*[Signature]*  
NOTARY PUBLIC

My commission expires:

04/02/2021





1 SERVICE LIST FOR: DrHorsepower, Inc. *et al.*

2  
3 Alfred Bradley Randall  
4 RANDALL TANDY PLLC  
5 2345 South Alma School Road  
6 Suite 204  
7 Mesa, Arizona 85210  
8 *Attorneys for Respondents Steven Scholl, Sandra Jones, and DrHorsepower, Inc.*

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Bruce Guercio  
4130 N. Cerro de Falcon  
Tucson, Arizona 85718  
*Respondent*

1                                   **BEFORE THE ARIZONA CORPORATION COMMISSION**

2                                   **COMMISSIONERS**

3                                   TOM FORESE - Chairman  
4                                   BOB BURNS  
5                                   ANDY TOBIN  
6                                   BOYD DUNN  
7                                   JUSTIN OLSON

In the matter of	)	
DRHORSEPOWER, INC., a California	)	DOCKET NO. S-21015A-17-0200
corporation,	)	
STEVEN SCHOLL and SANDRA JONES,	)	<b>CERTIFICATION OF SERVICE OF</b>
husband and wife,	)	<b>PROPOSED OPEN MEETING AGENDA</b>
BRUCE GUERCIO, a single man,	)	<b>ITEM</b>
Respondents.	)	

13                                   On this 27th day of March, 2018, the foregoing document was filed with Docket Control as  
14 a Securities Division Memorandum & Proposed Order, and copies of the foregoing were mailed on  
15 behalf of the Securities Division to the following who have not consented to email service. On this  
16 date or as soon as possible thereafter, the Commission's eDocket program will automatically email  
17 a link to the foregoing to the following who have consented to email service.

18  
19 Alfred Bradley Randall  
20 RANDALL TANDY PLLC  
21 2345 South Alma School Road  
22 Suite 204  
23 Mesa, Arizona 85210  
24 *Attorneys for Respondents Steven Scholl, Sandra Jones, and DrHorsepower, Inc.*

25 Bruce Guercio  
26 4130 N. Cerro de Falcon  
Tucson, Arizona 85718  
*Respondent*

By:   
Emie R. Bridges, Executive Assistant