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## ARIZONA CORPORATION COMMISSION

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### **Commission Approves Settlements with Credit Suisse and an American National Mortgage Partners Defendant**

*Also Sanctions Promoters of Unregistered Gold Mining, Oil and Gas & Forex Schemes*

PHOENIX, AZ—The Arizona Corporation Commission today approved a consent order requiring Credit Suisse Securities (USA), LLC to pay a \$167,444 administrative penalty in connection with its auction-rate securities (ARS) sales in Arizona. The Commission also reached a settlement with an American National Mortgage Partners defendant who is accused of promoting a million-dollar Ponzi scheme involving land trusts. In other cases, the Commission approved multiple orders, requiring the payment of over \$513,498 in restitution and \$92,500 in administrative, civil and contempt penalties.

The penalty amount levied against Credit Suisse represents Arizona's pro-rata share of a \$15 million global settlement negotiated by a multistate task force of state regulators formed by the North American Securities Administrators Association (NASAA). The agreement marks the eighth settlement of an ARS case in Arizona since the widespread market failure last year. In the past eight months, the Commission has sanctioned JP Morgan Chase & Company, Deutsche Bank Securities, Inc., RBC Capital Markets, Merrill Lynch, Wachovia Securities, LLC, Wachovia Capital Markets, LLC, Citigroup Global Markets, Banc of America Securities, LLC, and Banc of America Investment Services, Inc. Among the principal components of the Credit Suisse settlement is the buyback of ARS from investors who purchased them from or through Credit Suisse. In Arizona, the Credit Suisse buyback involves 14 Arizona investors and over \$4.375 million in ARS.

The Commission found that certain Credit Suisse employees misled investors about ARS by marketing the securities as safe, highly liquid, cash-alternative investments when ARS are actually long-term investments subject to a complex auction process that, upon failure, can lead to illiquidity and financial loss. Additionally, the Commission found that Credit Suisse failed to reasonably supervise its employees.

For eligible customers, Credit Suisse agreed to buyback at par any ARS purchased from Credit Suisse prior to February 14, 2008. To each investor who sold ARS below par between February 14, 2008 and September 16, 2008, Credit Suisse agreed to reimburse any investor who sold at a financial loss. Additionally, Credit Suisse agreed to refund refinancing fees from specified municipal ARS issuers and make a best effort to provide liquidity solutions for institutional investors and other customers. Any investor who purchased ARS from Credit Suisse during the specified time frame, but has not received notice from them, can call Credit Suisse's ARS assistance hotline at 1-800-647-2516 to request a repurchase.

In settling this matter, Credit Suisse neither admits nor denies the Commission findings, but agrees

to the entry of the consent order. This consent order is the final step in Arizona's ARS case against Credit Suisse. Penalties and settlements arising from securities law violations are directed by law to the Arizona General Fund and do not remain with the Arizona Corporation Commission. The Commission's funding is appropriated through the normal state budget process.

The Commission approved a settlement with Frank Caspare of New York in a civil matter against American National Mortgage Partners, LLC. Caspare agreed to pay \$465,000 in restitution and a total of \$45,000 in civil and contempt penalties for fraudulently selling interests in land trusts while not registered to offer or sell securities in Arizona. Caspare claimed that investor funds would be loaned to small- to medium-sized businesses secured by deeds of trusts on commercial real estate, but the Commission alleged that the investment opportunity was a Ponzi scheme, using investor funds to make interest payments to other investors. Caspare neither admits nor denies the Commission's allegations, but agrees to the entry of the judgment. In March 2003, the court appointed a receiver to take control of the assets of American National Mortgage Partners and its affiliated companies. The receiver continues to marshal assets on behalf of the investors.

In a separate case, the Commission ordered Avison C. West of Gilbert and his company to pay a \$2,500 administrative penalty for fraudulently promoting an unregistered gold mining investment program while not registered to offer or sell securities in Arizona. The Commission found that West and his now-defunct company, West Mining and Innovations, Inc., fraudulently promoted the gold mining investment opportunity through an advertisement on "Craigslist" of Phoenix. The ad emphasized a high-tech method of extracting gold on a microscopic or sub-atomic level from water, salt deposits and a particular "clay" used in kitty litter. Touting his doctorate in geology and over 25 years of specializing in precious metals recovery, West stated that the investment was safer than the stock market. The Commission found, however, that West and his company did not possess any state or federal mining claims in Arizona and that he failed to disclose to investors the material risks associated with the investment. Due to the swift action by the Commission's Securities Division, West removed the ad for the unregistered gold mining venture before anyone invested. In settling this matter, West neither admits nor denies the Commission's findings, but agrees to the entry of the consent order.

In the next case, the Commission issued a default order against California resident Thomas Anthony Labry and his company, requiring the payment of \$99,481 in restitution and \$50,000 in administrative penalties for fraudulently selling unregistered investment contracts in an oil and gas investment program. Labry was president and owner of a suspended Oklahoma-based company, Iron Horse Petroleum, Inc., but was not registered to offer and sell securities in Arizona. The Commission found that Labry promised potential investors a safe, double-digit investment return from the oil wells, but failed to adequately disclose risks and the fact that he and his company were previously the subject of securities enforcement actions taken by four U.S. states involving the same oil and gas investments.

In another matter, the Commission revoked the securities salesman registration of Glendale resident Robert Franklin Hockensmith, requiring him to pay \$200,000 in restitution for offering and selling an unregistered foreign currency trading program. The Commission found that Hockensmith offered and sold unregistered investment contracts in the forex investment program without the authorization of his former securities dealer, H.D. Vest Investment Services, Inc., a non-bank subsidiary of Wells Fargo Bank. The Commission found that Hockensmith, who is also a certified public accountant and a former licensed insurance agent, offered and sold the forex investment program to his tax, accounting and financial planning clients then borrowed money from one of them to invest in the forex investment program. In settling this matter, Hockensmith agrees to the entry of the consent order and

admits to the Commission's findings only for purposes of the administrative proceeding. Also, Hockensmith agrees to never reapply for registration as a securities salesman or dealer or for licensure as an investment adviser or investment adviser representative at any time in the future.

Finally, the Commission ordered Helmut and Vera Weber of Scottsdale and their company to pay \$214,017 in restitution and a \$40,000 administrative penalty for defrauding investors in a Ponzi scheme involving a forex investment program. As the owner of Weber Capital Management, Helmut Weber promoted himself as a master foreign currency trader, but neither Weber nor his company is registered to sell securities in Arizona. The Commission found that Helmut Weber transferred some of the investor funds to his wife, Vera Weber, and created the illusion of profits with fictitious, virtual forex accounts, but returned funds to one investor who threatened to file a complaint with the authorities. Currently, Helmut Weber faces criminal charges filed by the Office of the Arizona Attorney General.

**More caution for investors:**

Even when investing with someone they know, investors should verify the registration of sellers and investment opportunities and investigate disciplinary histories by contacting the Arizona Corporation Commission's Securities Division at 602-542-4242 or toll free in Arizona at 1-866-VERIFY-9. The Division's investor education web site also has helpful information at [www.azinvestor.gov](http://www.azinvestor.gov).

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