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## ARIZONA CORPORATION COMMISSION

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### Commission Decision in “Radical Bunny” Securities Fraud Case Affirmed by Arizona Court of Appeals *Largest Restitution Award in Commission History*

PHOENIX, AZ—Today, the Arizona Court of Appeals affirmed the Arizona Corporation Commission’s Decision which found that Radical Bunny and its managers defrauded over 900 investors by violating the anti-fraud and securities registration provisions of the Arizona Securities Act (ASA). The court affirmed Commission Decision No. 73768 which awarded nearly \$190 million in restitution and \$4.65 million in penalties. This is the largest restitution award ever issued by the Commission.<sup>1</sup> (*Tom Hirsch et al. v. Arizona Corporation Commission*, No. 1 CA-CV 14-0408)

The Commission found that Radical Bunny told investors that their money would be used to purchase fractionalized interests in promissory notes secured by real estate deeds of trust. Instead, the Commission found that Radical Bunny and its managers pooled investor funds in order to make unsecured loans to Mortgages Ltd., a Phoenix based entity providing high interest, short term loans to real estate developers. Additionally, the Commission found that Radical Bunny and its managers continued to raise investor funds despite being advised by lawyers as early as 2007 that they had or were engaged in the unlawful sale of unregistered securities, that the collateral documents were defective, and that the loans were not secured at all. In June 2008, Mortgages Ltd filed for bankruptcy and stopped making monthly interest payments to Radical Bunny.

The Commission’s Securities Division’s investigation involved initial cooperative efforts with the Arizona Department of Financial Institutions and progressed through a joint-investigation with the United States Securities & Exchange Commission.

Commission Chairman Susan Bitter Smith said, “Today the court affirmed the findings of the Commission and the hard work of our securities investigators and attorneys. By working cooperatively, state and federal enforcement agencies were effective in holding Radical Bunny and its managers accountable.”

#### **More caution for investors:**

Even when selling a legitimate product, some promoters do not recognize the investment program they have created is a security. Determining whether an alternative investment program is a security is not always easy to determine and depends upon the unique facts and circumstances of the transaction and not on what a promoter calls the investment product. 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 (837-4399). The Securities Division’s investor education website also has helpful information at [www.azinvestor.gov](http://www.azinvestor.gov).

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<sup>1</sup> In 2002, the Arizona superior court ordered \$217 million in restitution for violations of the Arizona Securities Act in a matter commonly known as the “Baptist Foundation” fraud case. While the Commission’s Securities Division participated in that investigation and the Commission issued a Cease and Desist Order against the Baptist Foundation, the restitution award was issued by the court and not by the Commission.