BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

In the matter of: MARK J. SHEEHY, CRD#2224709, and JANE DOE SHEEHY, husband and wife, 28432 N. 112th Way Scottsdale, AZ 85262 Respondent.	DOCKET NO. S-03593A-05-0000 DECISION NO. **67962** **ORDER TO CEASE AND DESIST, FOR RESTITUTION, FOR ADMINISTRATIVE PENALTIES, AND OF REVOCATION AGAINST RESPONDENT MARK J. SHEEHY**

On April 15, 2005, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order To Cease and Desist, Order for Restitution, for Administrative Penalties, of Revocation, and for Other Affirmative Action ("Notice") of Opportunity for Hearing against Respondents MARK J. SHEEHY ("SHEEHY") and JANE DOE SHEEHY, subsequently identified as Terri A. Sheehy ("RESPONDENTS") alleging violations of the Arizona Securities Act (the "Act"). The Notice specified that RESPONDENTS would be afforded an opportunity for an administrative hearing upon written request filed with the Commission's Docket Control within ten (10) days after receipt of the Notice, in accordance with A.A.C. R14-4-306(B).

SHEEHY was served by publication pursuant to A.A.C. Rule R14-4-303(H). Pursuant to A.C.C. R14-4-303(H), the Division has published a statement regarding the administrative proceedings at least once a week for four consecutive weeks in the "Arizona Business Gazette" on April 21, 2005; April 28, 2005; May 5, 2005; and May 12, 2005. The "Arizona Business Gazette"

is published in Maricopa County, the county of SHEEHY's last known residence. Terri A. Sheehy was served by certified mail and requested a hearing.

Service of process of the Notice as to SHEEHY is complete. SHEEHY failed to request an administrative hearing within 10 days after receipt of the Notice, pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. SHEEHY failed to file an Answer within 30 days of service of the Notice, pursuant to A.A.C. R14-4-305. Upon information and belief, SHEEHY is not represented by counsel.

I.

FINDINGS OF FACT

1. SHEEHY was at all pertinent times a registered securities salesman in Arizona since February 3, 1992, CRD# 2224709. At all times pertinent to this action, SHEEHY was registered in Arizona in association with UBS Financial Services, Inc. f/k/a PaineWebber Inc. ("UBS") from October 1999 through April 2004; Morgan Stanley from April 2004 through December 2004; and Southwest Securities Inc. d/b/a First Financial Equity Corporation ("First Financial") from January 2005 to February 4, 2005, when First Financial terminated SHEEHY. SHEEHY's registration was automatically suspended pursuant to A.R.S. § 44-1949.

2. From in or around January 2003 through January 2005, SHEEHY solicited $87,034.00 from an unsophisticated retired nurse and homemaker for the purchase of stock in a real estate development company.

3. SHEEHY advised the client to invest her inheritance through him in a brokerage account, and assured her that he would assist her in purchasing conservative stocks to provide for her future needs. SHEEHY had his client sign account documents, including a margin agreement.

4. Beginning in or around January 2003, SHEEHY solicited his client to invest in stock in a real estate development company, representing the investment as a "sure thing," which would start paying dividends immediately.

5. SHEEHY told his client that he was also investing his own money in the stock and was making the investment available to a select few of his clients.

6. SHEEHY advised his client to transfer money from her brokerage account to her personal checking account and to write checks payable to SHEEHY to purchase stock in the real estate development company.

7. SHEEHY conducted unauthorized transactions in his client's brokerage account to fund distributions to her in the amount of approximately $3,400 per month, which he told her were "dividends" from the investment.

8. In addition, from in or around January 2005, SHEEHY borrowed $1150 from the client, in violation of his dealers' policies and procedures.

9. In or around January 2005, after SHEEHY failed to repay the loan or to return the client's telephone calls, the client contacted SHEEHY's dealer, First Financial. First Financial conducted an investigation of the client's brokerage account with First Financial, UBS and Morgan Stanley and found no evidence of any real estate development investments, and further discovered that the client's withdrawals from her account for the purported real estate investment and the purported stock dividend distributions to the client were funded by unauthorized sales of stock and margin loans in the client's account.

10. The client was not aware that she had incurred margin loan interest charges in the amount of approximately $6,450.00 from the withdrawals from her brokerage account.

11. SHEEHY misrepresented and/or failed to disclose the use of the client's investment funds.

12. SHEEHY misrepresented and/or failed to disclose background or financial information about the purported development company or its principals.

13. SHEEHY misrepresented the source of "returns" from the purported investment.

14. SHEEHY failed to adequately disclose the risks of the purported investment.

15. SHEEHY engaged in unauthorized transactions in the client's account.

16. SHEEHY engaged in dishonest or unethical practices by borrowing money from a customer, who was not a relative of SHEEHY or a person in the business of lending funds and by selling securities that were not recorded on the records of the dealer with whom he was registered at the time of the transactions.

II.

CONCLUSIONS OF LAW

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

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

3. SHEEHY violated A.R.S. § 44-1991 by offering or selling securities within or from Arizona by (a) employing a device, scheme or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, and (c) engaging in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

4. SHEEHY's conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-2032 and 44-1962.

5. SHEEHY's conduct is a violation of A.R.S. § 44-1991 and grounds for a restitution order pursuant to A.R.S. §§ 44-2032 and 44-1962.

6. SHEEHY's conduct is grounds for administrative penalties under A.R.S. §§ 44-2036 and 44-1962.

7. SHEEHY's conduct is grounds to revoke SHEEHY's registration as a securities salesman with the Commission pursuant to A.R.S. § 44-1962.

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III.

ORDER

THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, 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 and 44-1962, that SHEEHY, his agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act. Respondent shall not sell any securities in or from Arizona without being registered in Arizona as dealers or salesmen, or exempt from such registration. Respondent shall not sell securities in or from Arizona unless the securities are registered in Arizona or exempt from registration. Respondent shall not transact business in Arizona as an investment adviser or an investment adviser representative unless licensed in Arizona or exempt from licensure.

IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-1962, that SHEEHY shall pay restitution to investors shown on the records of the Commission in the amount of $94,634, plus interest at the rate of 10% per annum from the date of this Order. Payment shall be made by cashier's check or money order payable to the "State of Arizona" to be placed in an interest-bearing account maintained and controlled by the Arizona Attorney General. The Arizona Attorney General shall disburse the funds on a pro rata basis to investors. Any funds that the Attorney General is unable to disburse shall be transferred to the general fund of the state of Arizona. If Respondent does not comply with this order of restitution, any outstanding balance shall be in default and shall be immediately due and payable.

IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2036 and 44-1962, that SHEEHY shall pay administrative penalties in the amount of $20,000. Payment shall be made in full by cashier's check or money order on the date of this Order, payable to the "State of Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until paid in full.

IT IS FURTHER ORDERED that SHEEHY's registration as a securities salesman is revoked pursuant to A.R.S. § 44-1962.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary 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 11th day of July, 2005.

BRIAN C. McNEIL
Executive Secretary

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, Executive Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail lhogan@azcc.gov

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