

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK

Chairman

3 JIM IRVIN

Commissioner

4 WILLIAM A. MUNDELL

Commissioner

5 In the matter of the Investment Management)
6 application of)

DOCKET NO. S-03348A-99-0000

7 HERITAGE WEST ADVISORS, LLC)
7373 North Scottsdale Road, Suite #D-201)
8 Scottsdale, Arizona 85253-3506)
9 (S-0001024-IA) Respondent.)

DECISION NO. _____

**ORDER ASSESSING ADMINISTRATIVE
PENALTY AND CONSENT TO SAME**

10 **I.**

11 HERITAGE WEST ADVISORS, LLC elects to permanently waive its right to a hearing and
12 appeal under Articles 7 and 8 of the Investment Management Act of Arizona (the Act) with respect to this
13 Order Assessing Administrative Penalty and Consent to Same (Order); admits the jurisdiction of the
14 Arizona Corporation Commission (Commission); admits the Findings of Fact and Conclusions of Law
15 contained in this Order; and consents to entry of this Order by the Commission.

16 **II.**

17 **FINDINGS OF FACT**

18 1. HERITAGE WEST ADVISORS, LLC (“HERITAGE”), whose last known address is
19 7373 North Scottsdale Road, Suite #D-201, Scottsdale, Arizona 85253-3506, was at all times relevant
20 hereto conducting business in the State of Arizona.

21 2. HERITAGE has been an SEC registered investment adviser since February 6, 1998 and is
22 required to make Notice filings and pay an annual fee to conduct business as an investment adviser in
23 Arizona.

24 3. The Division became aware of this activity in May 1999. The Division then requested
25 information regarding investment advisory services provided to Arizona residents.

1 4. HERITAGE’s response indicated it began providing investment advisory services during
2 the period of June 24, 1998 to the present. HERITAGE provided investment advisory services to at least
3 one (1) client, Advisor Series Trust - The Heritage West Dividend Capture Income Fund, which is an
4 affiliated entity residing within Arizona. HERITAGE was paid approximately fifteen thousand six
5 hundred and fifteen dollars (\$15,615) in advisory fees from Advisor Series Trust - The Heritage West
6 Dividend Capture Income Fund since June 24, 1998.

7 5. HERITAGE failed to file in a timely manner the Notice filing required of an SEC
8 registered investment adviser.

9 6. HERITAGE believed that they had complied with the Arizona Investment Management
10 Act in becoming a registered investment adviser with the SEC. However, they misinterpreted the Notice
11 filing requirement, necessitated by their principal place of business in Arizona’s jurisdiction.

12 7. On June 3, 1999, the Commission received a Notice filing from HERITAGE.

13 **III.**

14 **CONCLUSIONS OF LAW**

15 1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona
16 Constitution and pursuant to the Act, A.R.S. § 44-3101 et seq.

17 2. At all relevant times, HERITAGE conducted business as an investment adviser within the
18 meaning of A.R.S. § 44-3101(2).

19 3. At all relevant times, while HERITAGE conducted business as an SEC registered
20 investment adviser in the State of Arizona. HERITAGE had not filed a notice as an SEC registered
21 investment adviser in violation of A.R.S. § 44-3151(A).

22 4. HERITAGE is subject to an Order of Administrative Penalty pursuant to A.R.S. § 44-3296
23 because it violated the provisions of A.R.S. § 44-3151(A).

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IV.

ORDER

THEREFORE, on the basis of the Findings of Fact and Conclusions of Law contained in this Order, The Commission finds the following Order is appropriate, in the public interest, and necessary for the protection of investors:

1. IT IS ORDERED that, pursuant to A.R.S. § 44-3296, HERITAGE shall pay an administrative penalty in the amount of five hundred dollars (\$500) payable upon entry of this Order.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

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 ____ day of _____, 1999.

BRIAN C. McNEIL
Executive Secretary

DISSENT

1 CONSENT TO ENTRY OF ORDER BY THE COMMISSION
2 AND WAIVER OF HEARING

3 HERITAGE WEST ADVISORS, LLC (“HERITAGE”) acknowledges that it has been
4 fully advised of its right to a hearing to present evidence and call witnesses. HERITAGE waives all
5 hearing procedures and right to appeal provided by the Securities Act of Arizona and Investment
6 Management Act of Arizona with respect to this Order and Consent.

7 HERITAGE admits the jurisdiction of the Arizona Corporation Commission with respect
8 to matters set forth in this Order and Consent.

9 HERITAGE admits the Findings of Fact and Conclusions of Law contained in this Order
10 and Consent.

11 HERITAGE consents to the entry of this Order and Consent.

12 HERITAGE states that its entry into this Consent to Entry of Order is a voluntary act and
13 that no promise was made nor coercion used to induce HERITAGE to enter into it.
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15 HERITAGE understands that this Consent to Entry of Order does not preclude the
16 Commission or any other agency, officer of this state or its subdivision, from instituting other civil or
17 criminal proceedings now or in the future.

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CRAIG JOLLY, represents that he is Member/Manager of HERITAGE WEST ADVISORS, LLC and that, as such, he has been authorized by HERITAGE to enter this Order and Consent for, and on behalf of, HERITAGE.

CRAIG JOLLY
HERITAGE WEST ADVISORS, LLC

SUBSCRIBED AND SWORN TO BEFORE me this ____ day of _____,1999.

NOTARY PUBLIC

My Commission Expires: