

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 WILLIAM A. MUNDELL
4 Chairman
5 JIM IRVIN
6 Commissioner
7 MARC SPITZER
8 Commissioner

6 In the matter of:) DOCKET NO. S-03391A-02-0000
7)
8 BRIAN BAMMAN) **NOTICE OF OPPORTUNITY FOR**
14104 E. ANDREW DRIVE) **HEARING REGARDING PROPOSED**
9 FOUNTAIN HILLS, ARIZONA 85268) **ORDER TO CEASE AND DESIST,**
10) **ORDER FOR RESTITUTION, FOR**
BAMEX INTERNATIONAL, LTD.,) **ADMINISTRATIVE PENALTIES AND**
1221 E. OSBORN RD., #105) **FOR OTHER AFFIRMATIVE ACTION**
11 PHOENIX, ARIZONA 85014)
12 Respondents.)

13 **NOTICE: RESPONDENTS HAVE 10 DAYS TO REQUEST A HEARING**

14 The Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”)
15 alleges that respondents have engaged in acts, practices and transactions, which constitute violations of
16 the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.*, (“Securities Act”).

17 **I.**

18 **JURISDICTION**

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

21 **II.**

22 **RESPONDENTS**

23 2. BRIAN BAMMAN (“BAMMAN”), whose address is 14104 E. Andrew Drive,
24 Fountain Hills, Arizona 85268, was the president of Respondent BAMEX INTERNATIONAL, LTD.
25
26

1 some of the investors were unsophisticated investors with limited net worth.

2 10. Despite promises to investors, RESPONDENTS did not provide monthly statements.
3 Investors were unable to obtain information regarding their account status, other than contacting
4 RESPONDENTS and being orally informed as to the amount held in their account. Some investors
5 were unaware of any losses in their accounts until informed by RESPONDENTS that they had no
6 funds left in their accounts.

7 11. In 1996, the National Futures Association (“NFA”) issued a complaint against
8 BAMMAN alleging that he, and others, used fraudulent or deceitful communications with the public,
9 in violation of NFA rules. On December 2, 1996, BAMMAN settled the complaint with the NFA,
10 agreeing to pay a \$10,000 fine. RESPONDENTS did not inform any investor of BAMMAN’s prior
11 regulatory problems.

12 12. RESPONDENTS obtained funds from at least 22 investors, who placed over
13 \$3,000,000 with RESPONDENTS. Despite the representations of safe trading, RESPONDENTS
14 used inherently risky strategies that ultimately lost over \$1,200,000 of investors’ funds.

15 13. Upon information and belief, BAMMAN is continuing to offer foreign currency
16 investment recommendations and services to investors through Bamex Currency Exchange, Inc.,
17 13225 North Verde River Drive, Suite 204, Fountain Hills, Arizona 85268.

18 **IV.**

19 **VIOLATION OF A.R.S. § 44-1841**

20 **(Offer or Sale of Unregistered Securities)**

21 14. From on or about 1999, RESPONDENTS offered or sold securities in the form of
22 commodity investment contracts, within or from Arizona.

23 15. The securities referred to above were not registered pursuant to the provisions of
24 Articles 6 or 7 of the Securities Act.

25 16. This conduct violates A.R.S. § 44-1841.

26 **V.**

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

17. RESPONDENTS offered or sold securities within or from Arizona, while not registered as dealers or salesmen pursuant to the provisions of Article 9 of the Securities Act.

18. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

19. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; and (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited to, the following:

- a) Failing to adequately inform investors regarding risk
- b) Failing to inform investors regarding the sanction imposed upon BAMMAN by the NFA.
- c) Providing misleading or incomplete information to investors regarding investment returns they could expect.
- d) Failing to inform investors regarding the losses suffered in their accounts, thereby allowing RESPONDENTS to continue trading the investors' accounts.
- e) Misleading investors regarding the trading strategy they were to employ.
- f) Falsely informing investors that RESPONDENTS did not need to be licensed in order to trade in foreign currencies for investors.

20. This conduct violates A.R.S. § 44-1991.

VII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief against
RESPONDENTS:

1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their practices or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
and
4. Order any other relief that the Commission deems appropriate.

VIII.

HEARING OPPORTUNITY

RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. A request must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. Each RESPONDENT must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made, the Commission

1 may, without a hearing, enter an order against each RESPONDENT granting the relief requested by
2 the Division in this Notice of Opportunity for Hearing.

3 Persons with a disability may request a reasonable accommodation such as a sign language
4 interpreter, as well as request this document in an alternative format, by contacting Shelly M.
5 Hood, Executive Assistant to the Executive Secretary, voice phone number 602/542-3931, e-mail
6 shood@cc.state.az.us. Requests should be made as early as possible to allow time to arrange the
7 accommodation.

8 Dated this _____ day of June, 2002.

9
10 _____
11 Mark Sendrow
12 Director of Securities
13
14
15
16
17
18
19
20
21
22
23
24
25
26