

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 MARC SPITZER
Chairman
4 JIM IRVIN
Commissioner
5 WILLIAM A. MUNDELL
Commissioner
6 JEFF HATCH-MILLER
Commissioner
7 MIKE GLEASON
Commissioner

8 In the matter of:)
9) DOCKET NO. S-03482A-03-0000
10 INTERSECURITIES, INC.)
570 Carillon Parkway) **NOTICE OF OPPORTUNITY FOR**
St. Petersburg, Fl 33716-1202) **HEARING REGARDING PROPOSED**
11 CRD# 16164) **ORDER TO CEASE AND DESIST, FOR**
GREGORY RUSSELL BROWN and JANE DOE) **RESTITUTION, FOR ADMINISTRATIVE**
12 BROWN, husband and wife) **PENALTIES, OF REVOCATION AND/OR**
16417 South 15th Drive) **SUSPENSION, AND FOR OTHER**
Phoenix, Arizona 85045) **AFFIRMATIVE ACTION**
13 CRD# 2233684)
14 Respondents.)
15)

16 **NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**
17 **EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

18 The Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”)
19 alleges that RESPONDENTS INTERSECURITIES, INC. (“ISI”) and GREGORY RUSSELL
20 BROWN (“BROWN”) have engaged in acts, practices and transactions, which constitute violations of
21 the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* (“Securities Act”).

22 **I.**
23 **JURISDICTION**

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

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II.

RESPONDENTS

2. ISI is and was at all pertinent times a registered securities dealer in Arizona, since 1985, CRD# 16164. ISI's home office is located at 570 Carillon Parkway, St. Petersburg, Florida, 33716-1202. At all pertinent times, ISI's Arizona office was located at 7373 N. Scottsdale Road, A-287, Scottsdale, Arizona 85353.

3. BROWN is and was at all pertinent times a registered securities salesman in Arizona, since October 16, 1995, CRD# 2233684, and operated as an investment advisor and financial planner. BROWN's last known address is 16417 South 15th Drive, Phoenix, Arizona 85045. At all times pertinent to this action, BROWN was registered in Arizona in association with ISI, from 1995 through October 19, 2001. BROWN is currently registered with Jonathan Roberts Financial Group, Inc. since July 3, 2002. At all pertinent times, BROWN was licensed as an insurance salesman in Arizona.

4. JANE DOE BROWN was at all pertinent times the spouse of BROWN. JANE DOE BROWN is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital community.

5. At all pertinent times, BROWN and JANE DOE BROWN were acting for their own benefit, and for the benefit or in furtherance of the marital community.

6. ISI and BROWN may be collectively referred to as "RESPONDENTS." JANE DOE BROWN may be referred to as RESPONDENT SPOUSE.

III.

FACTS

BROWN Sold Payphone Investment Contracts In Arizona.

7. Beginning in or around April 1999 through about August 2000, BROWN offered and sold investments marketed as "business opportunities" involving payphones sold together with service or lease-back agreements. These investments were securities in the form of investment contracts, notes, or evidences of indebtedness.

1 8. BROWN solicited approximately \$2,752,850 from 49 Arizona investors for these payphone
2 investments. BROWN presented the payphone “business opportunities” as a passive investment, where
3 investors made a single payment and entered into two contracts, one to purchase equipment and the
4 other to lease or to service the equipment. Investors were not required to exercise managerial or
5 entrepreneurial duties in connection with the payphones or to be involved in the day-to-day operations of
6 the enterprise, and did not take possession or control of the payphones. Investors had no expertise or
7 experience in operating pay telephones and were dependent on the sales and service companies to
8 manage and operated the pay telephones.

9 9. BROWN acted as a sales agent for various companies that sold “customer-owned, coin-
10 operated” payphone packages. The payphone vendors and service providers teamed up to offer
11 investors a package of services, including locating sites for the phones, installing the phones, monitoring
12 and maintaining the payphone investments, paying the investors monthly distributions from the
13 investments, and repurchasing the payphones at the end of the investment term:

14 a) Investors entered into lease agreements with Phoenix Telecom, LLC (“Phoenix”), located
15 in Georgia, after purchasing payphones sold by TSI Group, Inc (“TSI”) or Tri-Financial Group,
16 Inc. (“Tri-Financial”), located in Michigan. These investments will be referred to as the
17 “Phoenix” investments.

18 b) Investors entered into lease agreements with ETS Payphone, Inc. (“ETS”), a Georgia
19 company, after purchasing payphones sold by BCI Financial, Inc. (“BCI”), BEE
20 Communications, Inc. (“BEE”), National Communications Marketing, Inc. (“NMCI”), or
21 Communications Marketing, Associates (“CMA”), located in Georgia and Florida. These
22 investments will be referred to as the “ETS” investments.

23 c) Investors entered into service agreements with Alpha Telecom, Inc. (“Alpha”), an
24 Oregon company, after purchasing payphones sold by American Telecommunications Company,
25 Inc. (“ATC”), a Nevada corporation located in Oregon, Alpha’s subsidiary. These investments
26 will be referred to as the “Alpha” investments.

1 10. Under the full service options of the lease and service agreements, investors were offered monthly
2 income distributions, or profits, and the opportunity to sell their equipment for the full purchase price, i.e.,
3 the return of their principal, at the end of the term of their investments.

4 11. Although the service and lease contracts presented options that varied in the amount of service
5 provided, all of BROWN's investors purchased full service options, which included the service or leasing
6 company choosing a site and installing the telephone, collecting all revenue from the telephone's
7 operation, repairing the telephone when necessary, and repurchasing the telephone at the end of the term
8 unless the investor chose to renew the contract.

9 12. Although the contracts provided that the investors could choose other companies to manage their
10 phones, all of BROWN's investors purchased full service contracts with Phoenix, ETS, or Alpha. Other
11 service companies were not even discussed.

12 13. Investors were told that a "typical return" on each pay telephone was 14% per year, under the
13 full service options. In the Phoenix and ETS investments, the price of each phone was \$7,000 under the
14 full-service option; the distribution was \$82.25 per month for each phone. Alpha investors paid \$5,000
15 per phone regardless of the service option chosen. Alpha was to pay the investor a monthly base amount
16 of \$58.34 per telephone, and to split the net proceeds from the operation of the phone with the investor
17 on a 70/30 basis, Alpha retaining 70% and the investor receiving 30%.

18 14. In or around late 1999 or early 2000, Phoenix transferred all of its lease agreements with
19 investors to ETS. On September 11, 2000, ETS filed for bankruptcy protection under chapter 11 of the
20 Bankruptcy Code, and investors stopped receiving their monthly payments.

21 15. Alpha's monthly payments to investors ceased prior to August, 2001, when Alpha sought
22 bankruptcy protection in Florida pursuant to chapter 11 of the Bankruptcy Code. A court-appointed
23 trustee subsequently took over the remaining operations of Alpha. In August 2001, the Securities and
24 Exchange Commission brought an action against Alpha in the United States District Court, District of
25 Oregon (Case No. CV 01-1283 PA) ("District Court Case"). On February 7, 2002, the judge in the
26 District Court Case issued a ruling determining that the payphone sales program constituted the sale or

1 offer to sell unregistered securities in violation of the Securities Act of 1933. In making its rulings in the
2 District Court Case, the court also found that the Alpha pay telephone operations resulted in losses and
3 that Alpha used money from new investors to make payments to existing investors.

4 **ISI Approved BROWN's Sale of Payphone Investment Contracts in Arizona**
5 **Despite Prior Regulatory Problems in Other Sates.**

6 16. On or about November 1, 1996, in an Annual Regulatory Questionnaire, BROWN responded to
7 a question regarding participation in multi-level marketing programs, and reported to ISI that he had
8 "signed up for TSI phone cards."

9 17. On September 25, 1998, the Kansas Securities Commission issued an Emergency Cease and
10 Desist Order against ETS, NCMI and others, for the sale of unregistered securities in Kansas. On
11 September 21, 1999, the Kansas Securities Commission executed a Memorandum of Understanding, in
12 which the Commission alleged, *inter alia*, that the sale of the phones and leases were securities in
13 violation of the Kansas securities laws. NCMI agreed to discontinue the previous arrangements, and
14 ETS agreed to refund the purchase price of the telephones to all Kansas customers. On February 8,
15 2000, the Kansas Securities Commission dismissed the prior Emergency Cease and Desist Order.

16 18. On February 2, 1999, the Pennsylvania Securities Commission issued a Summary Order to
17 Cease and Desist against Alpha and others, for the sale of unregistered securities in Pennsylvania.

18 19. On or about April 19, 1999, BROWN requested ISI to approve as "outside business activity"
19 his sale of payphone "business opportunities." BROWN sent ISI a package of materials to review
20 relating to these payphone investments. Upon information and belief, those materials included marketing
21 and offering documents relating to the ETS and Phoenix investments.

22 20. On April 26, 1999, ISI's home office Compliance Department instructed BROWN that "Arizona
23 was one of the states that uncovered fraudulent payphone operations" and to contact the Arizona
24 Securities Division to inquire whether the BCI/ETS Payphones operation "(A) operated in Arizona, (B)
25 Has a clean record."
26

1 21. On April 28, 1999, BROWN responded to ISI that he had spoken with an attorney at the
2 Division named “Wendy,” who informed him that certain payphone investments offered in Arizona had
3 problems because they were sold as limited partnerships and were securities. BROWN extrapolated on
4 Wendy’s cautionary statement, telling ISI in his Memo that, because the ETS and Phoenix payphones
5 were not sold as limited partnerships, these payphone sales had no problems. BROWN’s interpretation
6 was unfounded. Apparently ISI did no independent investigation or legal interpretation to determine
7 whether these investments constituted securities under Arizona law, or due diligence investigation to
8 determine the background or track record of these companies in other states.

9 22. On April 29, 1999, ISI approved BROWN’s sale of “ETS Payphones/BEE Communications”
10 as outside business activity.

11 23. On June 30, 1999, the Illinois Secretary of State issued a Temporary Order of Prohibition
12 against Alpha, prohibiting the continued offering in Illinois of its public pay telephone investment program,
13 finding that the offering of said opportunity constituted the offering of unregistered securities. On January
14 18, 2000, the Illinois Secretary of State issued a Consent Order of Prohibition against Alpha for the sale
15 of unregistered securities, and Alpha, without admitting or denying the allegations, agreed to offer
16 rescission to all Illinois purchasers.

17 24. On July 21, 1999, the South Carolina Division of Securities, Office of the Attorney General
18 issued an Order to Cease and Desist from the sale of unregistered securities in South Carolina, against
19 Alpha.

20 25. On November 17, 1999, the North Carolina Secretary of State issued a Summary Order to
21 Cease and Desist from the sale of unregistered securities and securities fraud in North Carolina, against
22 Alpha and ATC. On March 20, 2001, the North Carolina Securities Division issued a Consent Order in
23 which Alpha and ATC, without admitting or denying the allegations the Summary Order to Cease and
24 Desist, agreed to rescind the purchase agreements and service agreements entered into with all residents
25 of North Carolina.

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1 26. On November 24, 1999, the Wisconsin Division of Securities Department of Financial
2 Institutions issued an Order of Prohibition and Revocation (Summary), prohibiting Alpha and ATC from
3 sales of unregistered securities in Wisconsin.

4 27. On November 25, 1999, ISI approved BROWN's outside business activity request to sell
5 payphones sponsored by Phoenix.

6 28. Upon information and belief, sometime in 1999, BROWN reported his sales of the Alpha/ATC
7 payphones to ISI as outside business activity.

8 29. On March 7, 2000, the Rhode Island Department of Business Regulation issued a Temporary
9 Order to Cease and Desist from the sale of unregistered securities in Rhode Island, against Alpha and
10 ATC.

11 30. In April 2000, BROWN reported his activity involving the sale of Alpha payphones in his Annual
12 Compliance Review Questionnaire for Calendar Year 1999. ISI approved the activity.

13 31. On or about July 14, 2000, BROWN reported to ISI that the "phone deals" comprised
14 approximately 50% of his business, with year-to-date sales of \$200,000.

15 32. On or about July 17, 2000, the Florida Department of Banking and Finance filed an
16 administrative action against Alpha and others, seeking an Order to Cease and Desist from the sale of
17 unregistered securities in Florida.

18 33. On or about August 18, 2000, ISI instructed BROWN to stop selling any telephone leasing or
19 pay telephone "arrangements" for any company.

20 34. Among actions that have proceeded more recently against ETS, Phoenix, Alpha and/or the
21 companies or individuals that marketed their contracts, finding that these purchases of pay telephones and
22 accompanying service contracts were unregistered securities in the form of investment contracts that were
23 sold by unregistered persons and/or entities, and ordering the companies to cease and desist from further
24 violations of state or federal securities laws, are the following:

- 25 a. On October 23, 2000, the California Department of Corporations issued Orders to Desist
26 and Refrain from the sale of unregistered securities and securities fraud in California, against
ETS, NCMI and others.

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- b. On October 23, 2000, the California Department of Corporations issued Orders to Desist and Refrain from the sale of unregistered securities and securities fraud in California, against Alpha and ATC.
- c. On February 6, 2001, the Alabama Securities Division issued an Order to Cease and Desist from the sale of unregistered securities in Alabama, against ETS and others.
- d. On February 26, 2001, the Washington Securities Division issued a Summary Order to Cease and Desist from the sale of unregistered securities and securities fraud in Washington, against ETS, NMCI.
- e. On February 28, 2001, the Indiana Securities Division Office of the Secretary of State issued an Order to Cease and Desist from the sale of unregistered securities and securities fraud in Indiana, against ETS, NCMI.
- f. On March 5, 2001, the Indiana Securities Division Office of the Secretary of State issued an Order to Cease and Desist from the sale of unregistered securities and securities fraud in Indiana, against Phoenix, Tri-Financial and others.
- g. On July 26, 2001, the Ohio Commissioner of Securities issued a Final Order to Cease and Desist Order the sale of unregistered securities in Ohio, after a hearing, against Alpha.
- h. On August 27, 2001, the United States District Court, District of Oregon issued a Temporary Restraining Order against Alpha, for the sale of unregistered securities. On September 6, 2001, the United States District Court, District of Oregon issued a Preliminary Injunction against Alpha, ATC, and others. February 7, 2002, the United States District Court, District of Oregon issued a Final Judgment of Permanent Injunction against Alpha from the sale of unregistered securities and fraud, ordering disgorgement and civil penalties, freezing assets and appointing a receiver.
- i. On September 5, 2001, the Arkansas Securities Department issued a Cease and Desist Order for the sale of unregistered and securities fraud in Arkansas, against Alpha.
- j. On November 6, 2001, and November 30, 2001, the Minnesota Department of Commerce issued Consent Orders to cease and desist and for censure against a salesman of ATC and Alpha for the sale of unregistered securities by unregistered salesmen, and failure to disclose material facts, in Minnesota.
- k. On January 25, 2002, the Connecticut Department of Banking, Securities and Business Investments Division issued an Order to Cease and Desist the sale of unregistered securities and fraud in Connecticut, against Alpha and ATC.
- l. March 13, 2002, the Washington Department of Financial Institutions issued a Final Order to Cease and Desist the sale of unregistered securities and fraud in Washington, against Alpha and ATC.

1 The SEC's Complaint in the United States District Court, District of Oregon, alleged that Alpha and its
2 affiliates engaged in a Ponzi-like scheme that never generated enough income to pay expenses, and that
3 the money paid to existing investors always came from sales to new investors. Alpha consented on
4 October 19, 2001 to entry of the Final Judgment of Permanent Injunction against it, without admitting
5 the allegations of the Complaint.

6 **ISI Failed to Properly Supervise Brown's Sale of the Payphone Investment Contracts.**

7 35. ISI failed to maintain a system of supervision reasonably designed to achieve compliance with
8 applicable securities laws and regulations.

9 36. After approving BROWN's sale of ETS, Phoenix, and Alpha payphone investment contracts,
10 ISI failed to supervise BROWN in connection with his sale of these securities.

11 37. In many cases, BROWN used high pressure sales techniques to solicit investors who relied on
12 him as their financial planner or investment advisor. BROWN persuaded some investors and clients of
13 ISI who had purchased annuities from BROWN to transfer their funds from the annuities to the payphone
14 investments, assuring them that the payphone investments were as safe as the annuities but produced
15 higher income. BROWN persuaded some investors by telling them that he himself had invested in the
16 payphones, showing them copies of his profit checks, and telling him that he had sold the payphone
17 investments to his own relatives. BROWN further reassured some investors by telling them that he had
18 thoroughly investigated the investments, including contacting the Securities Division, and that he had
19 determined that they were safe investments. In some cases, BROWN's clients suffered penalties on
20 early withdrawal of their funds from annuities that BROWN had previously sold them. Some, if not all, of
21 these investors were elderly and/or unsuitable for this type of speculative investment.

22 38. Investors who purchased payphone investments from BROWN have sustained substantial losses
23 from these investments.

24 39. BROWN received commissions up to 16% from the sale of the ETS Payphones investment
25 totaling around \$200,000. BROWN received commissions up to 14% from the sale of the Alpha
26 investments totaling around \$30,000.

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IV.

VIOLATION OF A.R.S. § 44-1841

(Offer or Sale of Unregistered Securities)

40. From on or about April 1999, RESPONDENTS offered or sold securities in the form of investment contracts, notes, and/or evidences of indebtedness, within or from Arizona.

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

42. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1991

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

43. 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/or (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. Misrepresenting the safety of the investments;
- b. Misrepresenting that the investments offered preservation of capital and income;
- c. Misrepresenting to some investors that their investments were insured against loss;
- d. Misrepresenting that the investments were suitable for elderly investors, when in fact there was no reasonable basis to believe that these securities were suitable for the investment objectives of elderly investors who had conservative investment objectives or desired safe fixed income generating investments to help finance their retirement;
- e. Failing to adequately disclose the risks, including the potential loss of investment funds.

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- f. Misrepresenting to investors that the payphone “business opportunities” were not securities;
- g. Failing to inform investors that the investments were not registered as securities in Arizona, and that the investments were not exempt from registration;
- h. Failing to adequately disclose the background or track record of ETS, Phoenix or Alpha, the companies that were to manage the operation of the payphones to generate a profit for the investors;
- i. Failing to provide investors with disclosure statements, prospectuses or financial statements including, but not limited to, past operations, balance sheets, statements of income, retained earnings, cash flows and uses of proceeds that would reflect the financial position of ETS, Phoenix, or Alpha, the entities that were to manage the phones to produce a profit for investors;
- j. Failing to disclose RESPONDENTS’ own lack of due diligence in investigating the investments;
- k. Failing to disclose the high commissions to BROWN from his sale of the investments;
and
- l. Failing to disclose the following state and federal actions against ETS and the companies that sold the payphones leased to ETS, involving in the offer and sale of these payphone investments, which found violations of state or federal securities laws:
 - (1) September 25, 1998, Emergency Cease and Desist Order issued against ETS and NCMI by Kansas Securities Commission in *In the Matter of National Communications Marketing, Inc., et al.*, No. 99E039; and
 - (2) September 21, 1999, Memorandum of Understanding, against NCMI, ETS, and others, by the Kansas Securities Commission, alleging, *inter alia*, that the sale of the phones and leases were securities in violation of the Kansas securities laws, in which NCMI agreed to discontinue the previous arrangements, and ETS agreed to refund the purchase price of the telephones to all Kansas customers.

1 m. Failing to disclose the following state and federal actions against Alpha and/or ATC,
2 involving in the offer and sale of these payphone investments, which found violations
3 of state or federal securities laws:

- 4 (1) February 2, 1999, Cease and Desist Order issued against Alpha and ATC by
5 the Pennsylvania Securities Commission in *In the Matter of Alpha Telcom, Inc.,
6 et al.*, No. 9812-06.
- 7 (2) June 30, 1999, Temporary Order of Prohibition issued by Illinois Secretary of
8 State in *In the Matter of Alpha Telcom, Inc.*, No. 9900201.
- 9 (3) On July 21, 1999, Cease and Desist Order issued against Alpha by the South
10 Carolina Division of Securities, Office of the Attorney General.
- 11 (4) November 17, 1999, Cease and Desist Order issued by North Carolina
12 Secretary of State in *In the Matter of the North Carolina Securities Division
13 v. ATC, Inc., Paul Rubera, et al.*, No. 99-038-CC.
- 14 (5) November 24, 1999, Cease and Desist Order issued against Alpha and ATC by
15 the Wisconsin Department of Financial Institutions Division of Securities in *In the
16 Matter of Alpha Telcom aka ATC, Inc., et al.*, No. S-99225(EX).
- 17 (6) January 14, 2000, Consent Order of Prohibition issued by Illinois Secretary of
18 State in *In the Matter of Alpha Telcom, Inc.*, No. 9900201, Alpha agreeing to
19 offer rescission to all Illinois purchasers.
- 20 (7) March 7, 2000, Temporary Cease and Desist Ordered issued by Rhode Island
21 Department of Business Regulation in *In the Matter of Alpha Telcom, Inc. and
22 ATC, Inc.*

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

24 45. ISI directly or indirectly controlled BROWN within the meaning of A.R.S. § 44-1999.

25 Therefore, ISI is liable to the same extent as BROWN for his violations of A.R.S. § 44-1991.

26 46. ISI made, participated in or induced the sales of securities within the meaning of A.R.S. § 44-
2003(A). Therefore, ISI is jointly and severally liable for the above violations of A.R.S. § 44-1841 and
44-1991.

VI.

REMEDIES PURSUANT TO A.R.S. § 44-1961

(Denial, Revocation or Suspension of Dealer Registration)

1 47. ISI's conduct is grounds to revoke or suspend ISI's registration as a securities dealer with the
2 Commission pursuant to A.R.S. § 44-1961. Specifically, ISI has violated §§ 44-1841 and 44-1991 of
3 the Securities Act within the meaning of A.R.S. § 44-1961(A)(3), by offering and selling unregistered
4 securities and failing to disclose material facts in connection with the sale of those securities, and has failed
5 to reasonably supervise its salesman, as provided in A.R.S. § 44-1961(12).

6 **VII.**

7 **REMEDIES PURSUANT TO A.R.S. § 44-1962**

8 **(Denial, Revocation or Suspension of Registration of Salesman)**

9 48. BROWN's conduct is grounds to revoke or suspend BROWN's registration as a securities
10 salesman with the Commission pursuant to A.R.S. § 44-1962. Specifically, RESPONDENT has
11 violated §§ 44-1841 and 44-1991 of the Securities Act within the meaning of A.R.S. § 44-1962(A)(2),
12 by offering and selling unregistered securities and failing to disclose material facts in connection with the
13 sale of those securities.

14 **VIII.**

15 **REQUESTED RELIEF**

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

- 17 1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act,
18 pursuant to A.R.S. §§ 44-2032, and 44-1961 or 44-1962;
- 19 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from
20 their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. §§ 44-
21 2032;
- 22 3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five
23 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
- 24 4. Order the revocation or suspension of ISI's registration as a securities dealer pursuant to
25 A.R.S. § 44-1961;
- 26

X.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if any RESPONDENT or RESPONDENT SPOUSE requests a hearing, such RESPONDENT or RESPONDENT SPOUSE must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Notice of Opportunity for Hearing. A Docket Control cover sheet must accompany the Answer. 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.

Additionally, such RESPONDENT or RESPONDENT SPOUSE must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007, addressed to Pamela Johnson.

The Answer shall contain an admission or denial of each allegation in this Notice and the original signature of each RESPONDENT, RESPONDENT SPOUSE or RESPONDENT/RESPONDENT SPOUSE's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be considered admitted.

When a RESPONDENT or RESPONDENT SPOUSE intends in good faith to deny only a part or a qualification of an allegation, such RESPONDENT or RESPONDENT SPOUSE shall specify that part or qualification of the allegation and shall admit the remainder. Each RESPONDENT or RESPONDENT SPOUSE waives any affirmative defense not raised in the answer.

The officer presiding over the hearing may grant relief from the requirement to file an Answer for good cause shown.

Dated this 6th day of May, 2003.

/s/ Mark Sendrow
Mark Sendrow
Director of Securities