

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL

Chairman

3 JIM IRVIN

Commissioner

4 MARC SPITZER

Commissioner

5 In the matter of:

) DOCKET NO. S-03424A-00-0000

6 GLOBAL HARVEST CORP.

) DECISION NO. _____

An Arizona corporation

8 4800 N. Scottsdale Rd., Suite 2600

9 Scottsdale, AZ 85251

) **ORDER TO CEASE AND DESIST,
ORDER OF RESTITUTION, ORDER
FOR ADMINISTRATIVE PENALTIES
AND CONSENT TO SAME**

10 DAVID PATTEN

An individual

11 7333 E. Chaparral Rd.

12 Scottsdale, AZ 85250

13 ALBERT TABAH

An individual

14 6915 E. Orange Blossom Lane

15 Scottsdale, AZ 85253,

16 Respondents.

17 RESPONDENTS GLOBAL HARVEST CORP. (“GHC”), DAVID PATTEN (“PATTEN”)

18 and ALBERT TABAH (“TABAH”) (collectively “RESPONDENTS”), elect to permanently waive

19 their right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S.

20 § 44-1801 *et seq.* (“Securities Act”) with respect to this Order To Cease And Desist (“Order”).

21 RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission (“Commission”);

22 neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and

23 consent to the entry of this Order by the Commission.

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I.

FINDINGS OF FACT

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3 1. Global Harvest Corp. (“GHC”), is an Arizona corporation, located at 4800 N.
4 Scottsdale, Rd., Suite 2600, Scottsdale, Arizona 85251.

5 2. David Patten (“PATTEN”) is president of GHC and resides at 7333 E. Chaparral Rd.,
6 Scottsdale, Arizona 85250.

7 3. Albert Tabah (“TABAH”) is employed by GHC and resides at 6915 E. Orange
8 Blossom Lane, Scottsdale, Arizona 85253.

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10 4. RESPONDENTS have engaged in the offer or sale within or from Arizona of
11 securities in the form of commodity investment contracts to the general public.

12 5. In April 2000, representatives of GHC contacted the Division regarding their
13 alleged desire to become licensed with the Commission in order to offer foreign exchange currency
14 trading accounts to the public. On April 26, 2000, GHC and its legal counsel met with the Division
15 at the Division’s offices. Among the representatives of GHC at the meeting was PATTEN. At the
16 meeting, GHC acknowledged that it had reviewed the decision of the Commission in *In re Forex*
17 *Investment Services Corp.*, Docket No. S-03177A-98-0000, Decision No. 62403, in which a
18 foreign currency trading firm was sanctioned for, among other things, selling unregistered
19 securities. GHC expressed to the Division its desire to properly register its forex investments.

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21 6. After the meeting, on May 5, 2000, GHC’s counsel wrote to the Division stating
22 that GHC had not offered or sold foreign currency in Arizona and was not pursuing clients. GHC’s
23 counsel also stated that the company was owned entirely by Great Capitol Group, Ltd., a British
24 Virgin Islands’ corporation. GHC’s counsel further assured the Division that GHC “will not open
25 its doors until they are given approval by the Arizona Corporation Commission.” Soon thereafter,
26 GHC ceased providing any further information to the Division.

1 7. In or about June 2000, GHC ran an advertisement in the Arizona Business Gazette,
2 a weekly newspaper of general circulation, based in Phoenix, Arizona. The advertisement ran for
3 several weeks. The advertisement stated:

4 Do you have all your eggs in one basket? Are you tired of your brokerage firm?
5 Here is your chance to learn technical analysis and use your knowledge to trade
6 your own FOREX (Foreign Exchange) and short-term stocks investment.
7 GLOBAL HARVEST Corp. is offering specialized workshops to successfully
8 self-trade FOREX and Stocks. Hands-on experience. Live market trading. For
9 further information and registration, please contact Albert Tabah PHONE: 480-
10 425-2010, GLOBAL HARVEST CORP., Finova Corporate Center, 4800 N.
11 Scottsdale Road, Suite 2600, Scottsdale, AZ 85251.

12 8. In July 2000, an Arizona investor called the number that was advertised and talked
13 with TABAH. The investor later met with TABAH in August 2000. At the meeting, TABAH
14 stated that GHC was a forex company based in Hong Kong. TABAH said that GHC had been in
15 business for a number of years in Asia and the United States. He said the company did actual forex
16 trading, rather than just train people to trade forex by themselves.

17 9. TABAH described the forex investments as being high risk but with a high reward.
18 He said that Patten, the president and part-owner of GHC, earns 33% per annum on his accounts.
19 TABAH said that a trader, such as himself, would do the forex trading for the investor. The
20 trading would be short term, with the trades normally closed out within an hour of being opened.
21 All the trading would be done through Macau.

22 10. TABAH said that the minimum investment was \$20,000. He said that he would be
23 the personal trader for the investor. He said that if the investor brought in other investors, the
24 investor would earn money off those accounts. TABAH also told the investor that if the investor
25 kept his or her money offshore in Macau, he could avoid paying income taxes on any profits.

26 11. TABAH said that GHC did not need a license to trade in forex.

1 12. Later in August, the investor met with PATTEN and TABAH. PATTEN described
2 GHC as mostly his company. He said that GHC was currently taking accounts. He said large
3 marketing seminars and a public campaign would occur very soon.

4 13. PATTEN said that the trading was high risk with high rewards. He said that profit
5 comes naturally to forex trading; the job is to control risks. PATTEN told the investor that trading
6 would be done conservatively. He said that in his trading he had made over 100% gain in six
7 months. PATTEN said that there were currently 15 marketers and traders at GHC.

8 14. GHC told the investor that it would like the investor to open an account to trade in
9 the forex market with it.

10 **II.**

11 **CONCLUSIONS OF LAW**

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

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

17 3. RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that
18 were neither registered, nor exempt from registration.

19 4. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities
20 while neither registered as dealers or salesmen, nor exempt from registration.

21 5. RESPONDENTS' conduct is grounds for a cease and desist order pursuant to
22 A.R.S. § 44-2032.

23 6. RESPONDENTS' conduct is grounds for penalties under A.R.S. § 44-2036.

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III.
ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and the RESPONDENTS’ consent to the entry of this Order, 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, that RESPONDENTS, their agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED that in the event that the Commission in the future becomes aware of additional investors in GHC, pursuant to A.R.S. § 44-2032, RESPONDENTS shall, jointly and severally, pay restitution to those investors as will be shown on the records of the Commission, plus interest at the rate of 10% per annum from the date of each investment until paid in full. Payment is to 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 revert to the state of Arizona.

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1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall pay
2 an administrative penalty, jointly and severally, in the amount of \$20,000, payable to the State of
3 Arizona. Payment shall be made in full by cashier's check or money order on the date of this Order.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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8 CHAIRMAN

COMMISSIONER

COMMISSIONER

9 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive
10 Secretary of the Arizona Corporation Commission, have hereunto
11 set my hand and caused the official seal of the Commission to be
12 affixed at the Capitol, in the City of Phoenix, this ____ day of
_____, 2001.

13 _____
14 BRIAN C. McNEIL
Executive Secretary

15 _____
16 DISSENT
(md)

17 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,
18 voice phone number 602-542-3931, E-mail shood@cc.state.az.us

CONSENT TO ENTRY OF ORDER

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2 1. RESPONDENTS GHC, PATTEN and TABAH, admit the jurisdiction of the Commission
3 over the subject matter of this proceeding. RESPONDENTS acknowledge that they have been fully
4 advised of their right to a hearing to present evidence and call witnesses and RESPONDENTS
5 knowingly and voluntarily waive any and all rights to a hearing before the Commission and all
6 other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona
7 Administrative Code. RESPONDENTS acknowledge that this Order constitutes a valid final order
8 of the Commission.
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10 2. RESPONDENTS knowingly and voluntarily waive any right they may have under Article
11 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary
12 relief resulting from the entry of this Order.

13 3. RESPONDENTS acknowledge and agree that this Order is entered into freely and
14 voluntarily and that no promise was made or coercion used to induce such entry.
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16 4. RESPONDENTS acknowledge that they have been represented by counsel in this matter,
17 they have reviewed this Order with their attorney and understand all terms it contains.

18 5. RESPONDENTS neither admit nor deny the Findings of Fact and Conclusions of Law
19 contained in this Order. RESPONDENTS agree that they shall not challenge the Findings of Fact
20 and Conclusions of Law in any present or future administrative proceeding before the
21 Commission or any other state agency concerning the denial or issuance of any license or
22 registration required by the State to engage in the practice of any business or profession.

23 6. By consenting to the entry of this Order, RESPONDENTS agree not to take any action or
24 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
25 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual
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1 basis. RESPONDENTS will undertake steps necessary to assure that all of their agents and
2 employees understand and comply with this agreement.

3 7. While this Order settles this administrative matter between RESPONDENTS and the
4 Commission, RESPONDENTS understand that this Order does not preclude the Commission from
5 instituting other administrative proceedings based on violations that are not addressed by this
6 Order.

7 8. RESPONDENTS understand that this Order does not preclude the Commission from
8 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
9 that may be related to the matters addressed by this Order.

10 9. RESPONDENTS understand that this Order does not preclude any other agency or officer
11 of this state or its subdivisions from instituting administrative, civil or criminal proceedings that
12 may be related to matters addressed by this Order.

13 10. GHC agrees that within five business days of this Order being docketed by the
14 Commission, it shall dismiss with prejudice its case currently pending in United States District
15 Court for the District of Arizona, *Global Harvest Corp. v. Arizona Corporation Commission, et al.*,
16 No. CIV 001793 PHX SMM, with each party to bear their own attorneys' fees and costs.

17 11. RESPONDENTS agree that they will not offer or sell foreign currency contracts to or
18 from Arizona at any time in the future.

19 12. RESPONDENTS PATTEN and TABAH agree that they will not exercise any control
20 over any entity that offers or sells securities within or from Arizona.

21 13. RESPONDENTS consent to the entry of this Order and agree to be fully bound by its
22 terms and conditions. If RESPONDENTS breach any provision to which they have consented,
23 the Commission may vacate this Order and restore this case to its active docket.

24 14. PATTEN represents that he is authorized to execute this Consent on behalf of GHC.
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David Patten

SUBSCRIBED AND SWORN TO BEFORE me this ____ day of _____, 2000.

NOTARY PUBLIC

My Commission Expires:

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Albert Tabah

SUBSCRIBED AND SWORN TO BEFORE me this ____ day of _____, 2000.

NOTARY PUBLIC

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