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BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION

January 25 2008

Members of Senate and House Committees on Appropriations
1700 West Washington Street
Phoenix, Arizona 85007

Re: Effect on Proposed FY 2009 Budget Cuts on ACC's Securities Division

Dear Members:

The Legislature's proposal to reduce Arizona Corporation Commission's (ACC) FY 2009 GF appropriation by 10% may compromise our ability to protect the public from investment fraud. We are particularly concerned that in times of an economic slowdown investors are more vulnerable to fraudulent schemes that promise higher returns on their money.

The ACC's Securities Division is responsible for investigating securities violations; registering securities' dealers, securities salesmen, and investment advisor representatives; and administering investor education and outreach programs. For FY 2009, the Division will receive \$927,100 in GF monies to support its overall appropriated budget of \$4,937,700.

In recent years, the Division has worked on many high-profile civil and criminal cases involving millions of dollars bilked from investors, including the Baptist Foundation, Mathon Fund, American National Mortgage Partners and Yucatan Resorts. Staff also has actively participated in the negotiation of global settlement agreements with various prominent Wall Street investment firms that involved serious conflict-of-interest charges.

One of the primary functions of the Division is to collect restitution for victims of securities fraud. As a result of various administrative actions and civil and criminal litigation since 2001, the ACC has successfully collected and returned over \$309 million to defrauded investors, as well as directed \$10.9 million in administrative penalties to the state GF. Any base cut, however, could jeopardize our success in recovering restitution for victims and collecting administrative penalties from violators.

For example, in the case of the Baptist Foundation of Arizona (BFA), Division staff was heavily involved in the administrative, civil and criminal cases. Staff devoted over 20,000 hours to these cases, with two key employees — Chief Counsel of Enforcement and Chief Accountant of Enforcement — spending a vast amount of time working on them from 1998 to 2007. The Division also investigated BFA's accounting firm, Arthur Anderson, and law firm, Jennings Strouss and Salmon, for allegations of negligence and fraud, receiving a combined \$238 million for wronged investors in out-of-court settlements.

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As a result of the Division's efforts, five individuals were indicted by the Attorney General in April 2001. Three of them later pled guilty and cooperated with the investigation. Staff played a crucial role in the Attorney General's criminal prosecution, which began in 2000, providing expert testimony before and during the criminal trial. As you can see, without the involvement of the ACC's Securities Division, the majority of investors would not have recovered 65% of their investment in BFA and the masterminds of this sophisticated Ponzi scheme would not have been prosecuted.

Although we understand that the State is facing severe budget woes, we are emphasizing that any GF cut to the ACC will have a spillover effect on the Division's ability to enforce and investigate fraudulent activity.

Thank you for your consideration.

Sincerely,



Mike Gleason
Chairman



William A. Mundell
Commissioner



Jeff Hatch-Miller
Commissioner



Kristin K. Mayes
Commissioner



Gary Pierce
Commissioner