

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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

9 In the matter of:)
10)
11 21st CENTURY SATELLITE)
12 COMMUNICATIONS, INC.)
13 14910 Winding Creek Court, Suite 101A)
14 Tampa, Florida 33613)
15)
16 HOWARD S. BALDWIN)
17 5926 E. Lewis Av.)
18 Scottsdale, AZ 85257)
19)
20 GLENN A. LIBERATORE FINANCIAL)
21 SERVICES)
22 165 W. Canyon Crest Rd., Suite 305)
23 Alpine, UT 84004)
24)
25 GLENN A. LIBERATORE)
26 165 W. Canyon Crest Rd., Suite 305)
Alpine, UT 84004,)
Respondents.)

DOCKET NO. S-03449A-01-0000

**NOTICE OF OPPORTUNITY FOR
HEARING REGARDING PROPOSED
ORDER TO CEASE AND DESIST,
ORDER FOR RESTITUTION, FOR
ADMINISTRATIVE PENALTIES AND
FOR OTHER AFFIRMATIVE ACTION**

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

19 The Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) alleges
20 that respondents have engaged in acts, practices and transactions, which constitute violations of the Securities
21 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.
26

1 **II.**

2 **RESPONDENTS**

3 2. 21st CENTURY SATELLITE COMMUNICATIONS, INC. (“21st CENTURY”), is a
4 foreign corporation whose current address is 14910 Winding Creek Court, Suite 101A, Tampa, Florida
5 33613.

6 3. HOWARD S. BALDWIN (“BALDWIN”) is an Arizona resident whose current address is
7 5926 East Lewis Av., Scottsdale, Arizona 85257.

8 4. GLENN A. LIBERATORE FINANCIAL SERVICES (“GALFS”) is a company located at
9 165 W. Canyon Crest Road, Suite 305, Alpine, Utah 84004.

10 5. GLENN A. LIBERATORE (“LIBERATORE”) is a Utah resident whose current address is
11 165 W. Canyon Crest Road, Suite 305, Alpine, Utah 84004. LIBERATORE is the owner of GALSF.

12 6. The respondents may be collectively referred to as “RESPONDENTS.”

13 **III.**

14 **FACTS**

15 8. Baldwin is licensed in Arizona to sell insurance.

16 **The 21st CENTURY Promissory Note Scheme**

17 9. On or about February 18, 1998, BALDWIN entered into a contract with GALSF to sell
18 promissory notes issued by 21st CENTURY. 21st CENTURY is a Florida based company that allegedly
19 installed satellite antenna equipment at gated communities, receiving monthly fees from subscribers in exchange
20 for programming. 21st CENTURY began in business in 1997, raising over \$23,000,000 from the sale of
21 promissory notes nationwide. 21st CENTURY offered its promissory notes through marketing agents, such as
22 GALFS and LIBERATORE, who recruited sales agents such as BALDWIN. 21st CENTURY paid
23 commissions of between 12% and 23%. The 21st CENTURY promissory notes stated that interest payable to
24 the note holders was 13% per annum. The notes offered were generally for five years terms. In addition,
25 some investors received promises of an additional profit incentive. That additional profit incentive provided
26 that the investor would receive 25% of 21st CENTURY’s profit, in proportion to the amount the investor

1 invested compared to the total capital cost of equipment. Despite such a promise, no Arizona investor
2 received any return from the profit incentive.

3 10. RESPONDENTS sold at least 18 promissory notes to at least 14 Arizona investors for a total
4 investment of at least \$268,000. The notes were sold from April 1998 through February 2000.

5 11. BALDWIN conducted no due diligence prior to offering the promissory notes to investors,
6 other than talking to LIBERATORE about 21st CENTURY. He failed to inquire as to the investor's financial
7 status. He told investors that there was little risk from the notes as the notes were secured by a UCC-1 that
8 would be filed by 21st CENTURY. He took no steps to ascertain whether 21st CENTURY actually filed the
9 UCC statement or whether 21st CENTURY had any assets to secure the note. BALDWIN relied entirely
10 upon the information provided by LIBERATORE in offering the notes to investors. He obtained no
11 information from any independent source prior to offering the notes.

12 12. BALDWIN did not inform the investors that the above promissory notes were not registered
13 as securities in Arizona or exempt from registration, failed to inform the investors that he was not registered as
14 a securities dealer or salesman, failed to fully disclose the financial incentives of up to 12 % commissions that he
15 received for selling the promissory notes and failed to provide full disclosure regarding the investment including
16 risk, disclosure statements, prospectuses, financial statements or his lack of due diligence in investigating the
17 investment.

18 13. 21st CENTURY made interest payments until October 2000, when it defaulted on its notes.
19 No interest payments have been made since that time. No investor has received his or her principal back from
20 21st CENTURY. Despite the existence of the UCC paperwork, no security has been foreclosed upon on
21 behalf of any investor.

22 **The Viatical Policies**

23 14. In or about 1997, BALDWIN sold at least two investment contracts, in the form of viatical
24 settlement contracts, to investors. One of the contracts was obtained through GALFS and LIBERATORE.
25 One investor purchased two contracts for \$10,000 each, while the other purchase one contract for \$16,794 in
26 her Individual Retirement Account ("IRA").

VIOLATION OF A.R.S. § 44-1991

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

22. 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. In connection with the 21st Century Promissory Note Scheme, RESPONDENTS' conduct includes, but is not limited to, the following:

- a) Failing to inform investors that the promissory notes were not registered as securities in Arizona and were not exempt from registration;
- b) Failing to disclose the financial incentives of up to 12 % commissions that BALDWIN received for selling the promissory notes;
- c) Failing to provide full disclosure regarding the risk of the investment, including the potential to lose principal, the fact that UCC filings, even if filed, must be foreclosed upon in order to collect against any assets, the possibility that no assets existed to secure the UCC filings and the riskiness of investing in a company with a limited track record;
- d) 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 these entities; and
- e) Failing to disclose BALDWIN's own lack of due diligence in investigating the investment.

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

VII.

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- v. the fact that certain policies, such as group policies, may be subject to change, and may not provide returns as promised;
- vi. the fact that the investment may not be suitable for persons who have a need for a regular income from their investments;
- vii. the fact that all involved parties, such as GALFS, LIBERATORE and BALDWIN, and any medical advisors or other participants receive their commissions and fees from the investment up front, thus the investor is reliant on the continuing operations of these parties in order to receive a return;
- viii. the fact that an investment made with IRA funds may require mandatory withdrawals before the investment itself matures, thereby causing tax issues for the investor.

- c) Failing to provide full disclosure that the medical reports on the viators were outdated;
- d) Failing to provide disclosure statements, prospectuses or financial statements of the viatical service providers 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 these entities;
- e) Failing to inform at least one investor that she would need to pay the policy premiums if the viator lived longer than expected.;
- f) Failing to provide investors with any information about the use of investor proceeds, such as the cost to purchase the policy, the fees and commissions payable to GALFS, LIBERATORE and BALDWIN, medical advisors, or any other participants in the program;
- g) Failing to provide investors with information that would allow them to verify the existence and terms of a policy or its provisions.

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

IX.

