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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

In the matter of:)	DOCKET NO. S-03530A-03-0000
)	
DOUGLAS SANCHEZ and KAREN SANCHEZ,)	NOTICE OF OPPORTUNITY FOR
husband and wife,)	HEARING REGARDING PROPOSED
837 West Kiowa)	ORDER TO CEASE AND DESIST
Mesa, Arizona)	ORDER, FOR RESTITUTION, FOR
)	ADMINISTRATIVE PENALTIES AND
DMS POWER CASH FLOW, L.L.C.)	FOR OTHER AFFIRMATIVE ACTION
1125 W. Baseline, #2-3)	
Mesa, Arizona 85210)	
)	
PERSANCO, L.L.C.)	
1125 W. Baseline, #2-3)	
Mesa, Arizona 85210)	
)	
Respondents.)	

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

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

I.
JURISDICTION

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

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II.

RESPONDENTS

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3 2. DOUGLAS SANCHEZ (“SANCHEZ”) is an Arizona citizen, residing at 837 West Kiowa,
4 Mesa, Arizona.

5 3. KAREN SANCHEZ is at all relevant times the spouse of SANCHEZ. KAREN SANCHEZ is
6 joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the
7 marital community.

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9 4. At all times relevant, SANCHEZ was acting for his own benefit, and for the benefit or in
10 furtherance of the marital community.

11 5. DMS POWER CASH FLOW, L.L.C. (“DMS”), is an Arizona limited liability company, located
12 at 1125 W. Baseline, #2-3, Mesa, Arizona 85210. SANCHEZ is the manager of DMS.

13 6. PERSANCO, L.L.C. (“PERSANCO”) is an Arizona limited liability company, located at 1125
14 W. Baseline, #2-3, Mesa, Arizona 85210. SANCHEZ is the manager of PERSANCO

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16 7. SANCHEZ, DMS and PERSANCO may be collectively referred to as “RESPONDENTS.”
17 Karen Sanchez may be referred to as “RESPONDENT SPOUSE.”

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19 **III.**

20 **FACTS**

21 8. Starting in 1998, RESPONDENTS began raising money from the general public.
22 RESPONDENTS raised at least \$533,000 from at least eight investors.

23 9. RESPONDENTS provided promissory notes to some of the investors. RESPONDENTS
24 promised to pay interest ranging from 10 to 30 percent per annum on investor funds.

25 10. RESPONDENTS told some investors that they would use the funds in business ventures or in
26 stock trading. RESPONDENTS told at least one investor that they would purchase second deeds of

1 trust. RESPONDENTS did not disclose to some investors how funds would be used, merely stating that
2 the funds would be invested.

3 11. RESPONDENTS provided a quarterly account statement to some investors, showing trading
4 they had done in stocks.

5 12. Funds raised by RESPONDENTS were pooled into a common account under the DMS name.
6 RESPONDENTS used funds from that account for various purposes, including paying interest or
7 principal to some of the investors. RESPONDENTS also used the funds in that account to undertake
8 stock trading.

9 13. RESPONDENTS opened accounts under the names of DMS and PERSANCO at Charles
10 Schwab and Scottrade in which they undertook stock trading. RESPONDENTS did not generate
11 sufficient income from those accounts to pay investors the profits they were promised. That information
12 was not disclosed to investors. Additionally, RESPONDENTS never calculated their profits or losses
13 from trading stocks, thus having no idea whether they could generate sufficient revenues to pay investors.
14 This information was not disclosed to investors. RESPONDENTS also traded on margin and undertook
15 to trade short in some stocks. Investors were not informed that such trading would be undertaken and
16 were not told of the risks or expense of such trading.

17 14. RESPONDENTS began trading in stocks in 1998. Prior to that, RESPONDENTS only
18 background or knowledge of trading stocks came from a Wade Cook seminar that SANCHEZ
19 attended. This lack of experience was not disclosed to at least some investors.

20 15. Some investors utilized funds from tax sheltered accounts to invest with RESPONDENTS.
21 RESPONDENTS represented to those investors that they would make sufficient profits from the
22 investing to make up for any losses suffered from withdrawing funds from tax sheltered accounts.

23 16. RESPONDENTS used some investor funds to pay SANCHEZ and his personal expenses. This
24 information was not disclosed to investors.

25 17. RESPONDENTS used some investor funds to pay other investors. This information was not
26 disclosed to investors.

1 18. SANCHEZ is a part-time pastor at a Mesa church. Some of the investors met him there.

2 19. RESPONDENTS paid some returns to investors, but are currently in default.

3 20. In its investigation of RESPONDENTS, the Securities Division issued subpoenas to
4 RESPONDENTS requiring production of documents. RESPONDENTS incompletely produced the
5 requested documents, but despite repeated requests, failed to produce all documents required by the
6 subpoenas.

7 **IV.**

8 **VIOLATION OF A.R.S. § 44-1841**

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

10 21. From on or about 1998, RESPONDENTS offered or sold securities in the form of promissory
11 notes and investment contracts, within or from Arizona.

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

14 23. This conduct violates A.R.S. § 44-1841.

15 **V.**

16 **VIOLATION OF A.R.S. § 44-1842**

17 **(Transactions by Unregistered Dealers or Salesmen)**

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

20 25. This conduct violates A.R.S. § 44-1842.

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1 **VI.**

2 **VIOLATION OF A.R.S. § 44-1991**

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

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

10 a) Failing to provide investors with any prospectus or other statement disclosing the risks of
11 investing with RESPONDENTS, including costs and risks associated with day trading, trading on margin,
12 trading short in securities and the expense of such trading;

13 b) Failing to provide investors with any financial statement, disclosing the limited financial
14 resources of RESPONDENTS;

15 c) Failing to disclose to investors their limited experience in stock trading;

16 d) Failing to disclose to investors that their investments would be used to pay interest to
17 other investors;

18 e) Failing to disclose to some investors that their investments would be used to pay
19 SANCHEZ, including his personal expenses;

20 f) Failing to disclose to investors that RESPONDENTS did not generate sufficient income
21 from stock trading in order to pay promised profits to investors;

22 g) Failing to disclose to investors that RESPONDENTS did not calculate profits or losses
23 from stock trading and thus lacked information to know whether they could generate sufficient revenues
24 from stock trading in order to pay investors; and

25 h) Falsely promising to some investors that they would make sufficient profits from the
26 investing to make up for any losses suffered from withdrawing funds from tax sheltered accounts.

1 27. This conduct violates A.R.S. § 44-1991.

2 **VII.**

3 **REQUESTED RELIEF**

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

6 1. Order RESPONDENTS to permanently cease and desist from violating the Securities
7 Act, pursuant to A.R.S. § 44-2032;

8 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting
9 from their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. §
10 44-2032;

11 3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five
12 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

13 4. Order that the marital communities of SANCHEZ and KAREN SANCHEZ be subject
14 to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action
15 pursuant to A.R.S. § 25-215; and

16 5. Order any other relief that the Commission deems appropriate.

17 **VIII.**

18 **HEARING OPPORTUNITY**

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

3 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to
4 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or
5 ordered by the Commission. If a request for a hearing is not timely made, the Commission may, without
6 a hearing, enter an order against each RESPONDENT, including RESPONDENT SPOUSE, granting
7 the relief requested by the Division in this Notice of Opportunity for Hearing.

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

13 **XIV.**

14 **ANSWER REQUIREMENT**

15 Pursuant to A.A.C. R14-4-305, if any RESPONDENT or RESPONDENT SPOUSE requests
16 a hearing, RESPONDENT or RESPONDENT SPOUSE must deliver or mail an Answer to this Notice
17 of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington,
18 Phoenix, Arizona 85007, within 30 calendar days after the date of
19 service of this Notice of Opportunity for Hearing. A Docket Control cover sheet must
20 accompany the Answer. A cover sheet form and instructions may be obtained from
21 Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
22 www.cc.state.az.us/utility/forms/index.htm.

23 Additionally, RESPONDENTS or RESPONDENT SPOUSE must serve the Answer upon the
24 Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
25 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona,
26 85007, addressed to Mark Dinell.

