

Meg Pallard

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY 13 1999

JIM IRVIN
Commissioner-Chairman
TONY WEST
Commissioner
CARL J. KUNASEK
Commissioner

DOCKETED BY *sd*

In the matter of
Richard A. Lavoie,
11600 E. Summer Trail
Tucson, AZ 85749
(CRD No. 1178443),
Respondent.

) DOCKET NO. S-03321A-99-0000
)
) DECISION NO. 61718
)
) **FINAL ORDER AND CONSENT TO SAME**
)
)

I.

Richard A. Lavoie ("Lavoie") elects to permanently waive his right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona (the "Act") with respect to this Final Order and Consent to Same ("Order"); admits the jurisdiction of the Arizona Corporation Commission (Commission): neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this Order by the Commission.

II.

FINDINGS OF FACT

Respondent

1. Lavoie, National Association of Securities Dealers ("NASD") Central Registration Depository ("CRD") No. 1178443, is a securities sales representative registered in Arizona in association with the brokerage firm Geneva Securities, Inc. ("Geneva"). CRD No. 16178. Lavoie has been associated with Geneva since February 1990.

The Client

2. In early 1991, the client ("H") opened an account at Geneva's Tucson branch office through another Geneva broker. At the time, H was a widow and in her 70s. Shortly thereafter, H

1 learned that Lavoie was formerly from Vermont, where H had lived for many years. Due in large part
2 to their common ties to Vermont, H and Lavoie soon established a close relationship and within a few
3 months of opening her account, H requested that Lavoie become her broker.

4 The Loan.

5 3. In October 1992, H loaned Lavoie \$8,000.00. H understood that the funds were to be
6 used by Lavoie to purchase a used Porsche automobile from a friend in Vermont. Lavoie deposited the
7 funds to his personal checking account and shortly thereafter, used them to purchase the Porsche.

8 4. While the loan terms were not memorialized in writing, H understood that this was a
9 short-term loan to be repaid within several weeks. Lavoie maintains that he only took the loan from H
10 in return for his agreeing to construct a one-room addition to her house and that he repaid H in full by
11 the spring of 1993 through his efforts in completing the construction project. There is no evidence,
12 however, that substantiates the extent of Lavoie's efforts as Lavoie failed to maintain any written
13 record of the time he spent working on the construction project.

14 The Meridian Financial Corporation Five-Year Series I Bond Transaction

15 5. In February 1994, H invested \$18,000 in the Meridian Financial Corporation Five-Year
16 Series I Bond ("Meridian Bond"). The Meridian Bond offering was a private placement offered
17 pursuant to Regulation D with Geneva acting as the placement agent. The private placement
18 memorandum warned that the securities were speculative, subject to a high degree of risk, and illiquid.
19 The offering was not to be sold to more than 35 qualified persons ("experienced investors") who were
20 not accredited investors.

21 6. H trusted and relied on Lavoie's expertise and knowledge with respect to investments
22 he recommended. This trust and reliance included a belief that Lavoie would complete all documents
23 accurately and truthfully. In qualifying H for this investment, Lavoie completed an investor
24 qualification questionnaire for H, which she signed at his direction.

25 7. In completing the qualification questionnaire, Lavoie misrepresented H's qualifications
26 in two instances. Lavoie inaccurately valued H's limited partnership holdings by stating her limited

1 partnership holdings at their original purchase price. This inflated her net worth, which was
2 misleading. As an experienced securities professional, Lavoie knew or should have known that it was
3 improper to value these investments at their original purchase price given their illiquidity and age.

4 8. Lavoie also misrepresented H's qualifications by claiming that she was an experienced
5 investor. The offering was not to be sold to persons unless they were experienced investors or unless
6 they met certain financial standards. H did not meet the financial standards, thus, she needed to be
7 characterized as an experienced investor. Lavoie represented that H had such knowledge and
8 experience in financial and business matters that she was capable of evaluating the offering's merits
9 and risks. This was misleading and inaccurate. H always relied on Lavoie's advice and
10 recommendations. While H had owned and operated several small businesses during her life, these
11 cash basis businesses had no relation to her ability to evaluate the Meridian Bond offering's merits and
12 risks and did not, in and of itself, make her an experienced investor.

13 III.

14 CONCLUSIONS OF LAW

15 1. The Commission has jurisdiction over this matter pursuant to the Act, A.R.S. §44-1801
16 et. seq., and Article XV of the Arizona Constitution.

17 2. Lavoie engaged in a dishonest or unethical practice by borrowing money from a
18 customer in violation of A.R.S. §44-1962 (10).

19 3. Lavoie engaged in fraudulent conduct by misrepresenting H's qualifications in
20 connection with the Meridian Bond purchase in violation of A.R.S. §44-1961 (A) (2).

21 4. The above conduct constitutes grounds for the imposition of an administrative
22 assessment pursuant to A.R.S. §44-2036.

23 IV.

24 ORDER

25 THEREFORE, on the basis of the Findings and Conclusions of Law, the Commission issues the
26 following Order.

1 1. IT IS ORDERED, pursuant to A.R.S. §44-2036, that Lavoie pay an administrative
2 assessment in the amount of Five Thousand Five Hundred Dollars and No Cents (\$5,500.00) by
3 cashiers check or certified funds. Lavoie shall pay \$1,000.00 upon entry of this Order with the
4 balance of \$4,500.00 payable at the rate of \$1,000.00 per month for three (3) months and \$1,500.00 for
5 the fourth and final month beginning thirty (30) days from the date of entry of this Order.

6 2. IT IS ORDERED that Lavoie shall henceforth comply with the Act and its regulations.
7 rules and orders.

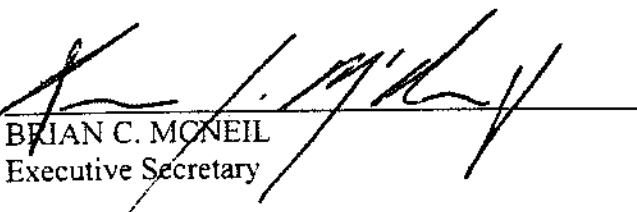
8 3. IT IS ORDERED that Lavoie's failure to comply with any term of this Order, shall
9 constitute grounds for the revocation or suspension of Lavoie's registrations approved by the Division
10 subject to Lavoie's right to a hearing pursuant to the Act.

11 4. IT IS ORDERED that this Order shall become effective immediately upon the date set
12 forth below.

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

14
15 
16 _____
COMMISSIONER-CHAIRMAN COMMISSIONER COMMISSIONER

17 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive
18 Secretary of the Arizona Corporation Commission, have
19 hereunto set my hand and caused the official seal of the
20 Commission to be affixed at the Capitol, in the City of
21 Phoenix, this 13th day of May, 1999.

22 
23 _____
24 BRIAN C. MCNEIL
25 Executive Secretary

26
DISSENT
(PH)

This document is available in alternative formats by contacting Cynthia Mercurio-Sandoval, ADA
Coordinator, voice phone number 602/542-0838, E-mail csandoval.cc.state.as.us.

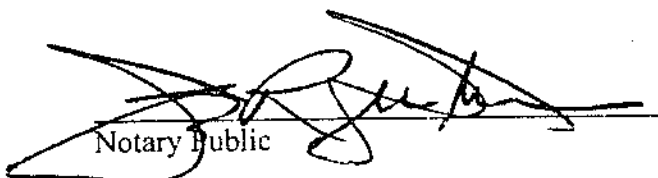
1 including the fact that no promise or representation has been made by the Commission or its designee
2 or staff with regard to any potential criminal liability or immunity from any potential criminal liability.

3 7. This Order represents the complete and final resolution with respect to all
4 administrative or civil claims and causes of action by the Commission against Lavoie for violations of
5 the Act arising out of the facts set forth in this Order and including specifically all facts known to the
6 Commission regarding the relationship between Lavoie and H and her account at Geneva Securities,
7 Inc., and is in lieu of any further administrative or civil proceedings based on facts known to the
8 Commission at this time.

9 8. Lavoie neither admits nor denies the Findings of Fact and Conclusions of Law
10 contained in the Order but he consents to the issuance of the Findings of Fact and Conclusions of Law
11 contained in the Order. Lavoie agrees that he shall not challenge their validity in any present or future
12 administrative proceedings before the Commission or any other branch of state government concerning
13 the denial or issuance of any license or registration required by the State in order to engage in the
14 practice of any business or profession.

15
16 
17 RICHARD A. LAVOIE

18
19 SUBSCRIBED AND SWORN TO before me this 29th day of April, 1999.

20
21 
22 Notary Public

23 My Commission Expires: _____

