

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 CARL J. KUNASEK
4 Chairman
5 JIM IRVIN
6 Commissioner
7 WILLIAM A. MUNDELL
8 Commissioner

9 In the matter of) DOCKET NO. S-03382A-99-0000
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7 WALTER M. ELZE, JR.
8 17823 North 53rd Lane
9 Glendale, Arizona 85308
10 CRD#2857881,

10 Respondent.

FINAL ORDER OF RELIEF

Decision No. _____

13 **I.**

14 **INTRODUCTION**

15 On December 29, 1999, the Securities Division (Division) of the Arizona Corporation Commission
16 (Commission) filed a Notice of Opportunity for Hearing Regarding Proposed Order of Relief (Notice) against
17 WALTER M. ELZE, JR. (ELZE). The Notice specified that ELZE would be afforded an opportunity for an
18 administrative hearing regarding this matter upon filing a written request with Docket Control of the
19 Commission within ten (10) days of receipt of the Notice. ELZE failed to request a hearing within the
20 required time.

21 **II.**

22 **FINDINGS OF FACT**

23 1. ELZE (CRD No. 2857881), whose last known residential address is 17823 North 53rd Lane,
24 Glendale, Arizona 85308, was registered as a securities salesman with American Express Financial Advisors
25 (“AEFA”) from April 8, 1997, until August 20, 1999.
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1 2. At all relevant times, while registered as a salesman with AEFA, ELZE worked at the AEFA
2 branch office located at 10240 West Bell Road, Sun City, Arizona 85351.

3 3. In approximately August 1997, ELZE was assigned by AEFA as the securities salesman for
4 the accounts of Shirley Noe ("Noe").

5 4. On or about August 20, 1997, ELZE had Noe execute an AEFA advisor-assisted telephone
6 transaction authorization ("AATT") which allowed ELZE to make exchanges, transfers, redemptions, and
7 surrenders from Noe's accounts.

8 5. On or about January 27, 1998, ELZE established an address under his control at Post Net
9 Postal and Business Services located at 20229 North 67th Avenue, Suite C-4121 in Glendale, Arizona.

10 6. After the establishment of this controlled address, ELZE changed the mailing address for all of
11 Noe's AEFA accounts having all statements and documents regarding her AEFA accounts delivered to the
12 controlled address.

13 7. Once the controlled address was established by ELZE and Noe had executed the AATT,
14 ELZE proceeded to redeem funds from the Noe accounts and had checks delivered to the controlled
15 address.

16 8. Once checks were received at the controlled address, ELZE forged or obtained Noe's
17 signature and deposited money into a bank account previously established by ELZE and to which he had
18 added Noe's name as signatory.

19 9. In connection with the above scheme, from approximately September, 1997 through July,
20 1999, ELZE converted or misappropriated approximately \$226,000 from the accounts of Noe.

21 **III.**

22 **CONCLUSIONS OF LAW**

23 1. The Commission has jurisdiction over these matters pursuant to Article XV of the Arizona
24 Constitution and the Securities Act of Arizona ("the Act") A.R.S. § 44-1801 et seq.

25 2. On January 4, 2000, the Notice was properly served on ELZE in accordance with A.R.S.
26 §§ 44-1862(B), 44-1972(D) and A.A.C. R14-4-304(B)(4).

1 3. ELZE failed to request a hearing within the time limits set forth in the Notice and A.R.S. § 44-
2 1972.

3 4. The Commission has grounds to revoke ELZE’s salesman registration pursuant to A.R.S. §
4 44-1962(9) in that ELZE has been guilty of fraudulent acts or practices in connection with the purchase or
5 sale of securities and pursuant to A.R.S. § 44-1962(2) in that he has violated provisions of the Securities Act.

6 **IV.**

7 **ORDER**

8 Therefore, on the basis of the Findings of Fact and Conclusions of Law, the Commission finds that the
9 following Order is appropriate, in the public interest, and necessary for the protection of investors.

10 IT IS HEREBY ORDERED that the securities salesman registration of ELZE is revoked pursuant to
11 A.R.S. § 44-1962.

12 IT IS FURTHER ORDERED that ELZE permanently cease and desist from violating the Securities
13 Act pursuant to A.R.S. § 44-2032.

14 IT IS FURTHER ORDERED that ELZE pay the State of Arizona an administrative penalty in the
15 amount of \$10,000 pursuant to A.R.S. § 44-2036 upon the effective date of this Order with interest accruing
16 at 10% per annum for any amounts not paid on that date.

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24 IT IS FURTHER ORDERED that this Order shall become effective within ten days after service of
25 the Order unless a motion for review is filed pursuant to A.A.C. R14-3-112.

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BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of March, 2000.

BRIAN C. McNEIL
Executive Secretary

DISSENT

(MJN)

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.az.us.