

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 CARL J. KUNASEK
Chairman
4 JIM IRVIN
Commissioner
5 WILLIAM A. MUNDELL
Commissioner
6

7 In the matter of)
8) DOCKET NO. S-03433A-00-0000
9 ROBERT SCALZI)
6626 East Morning Vista Lane)
Cave Creek, Arizona 85331) DECISION NO. _____
10 CRD# 2133452) **ORDER TO CEASE AND DESIST,**
11) **ORDER FOR ADMINISTRATIVE**
Respondent.) **PENALTIES AND CONSENT TO**
) **SAME**
_____)

12 ROBERT SCALZI (“SCALZI”) elects to permanently waive his right to a hearing and
13 appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801, *et seq.*
14 (“Securities Act”) with respect to this Order to Cease and Desist, Order for Administrative
15 Penalties and Consent to Same (“Order”). SCALZI admits the jurisdiction of the Arizona
16 Corporation Commission (“Commission”); admits only for purposes of this proceeding and any
17 other administrative proceeding before the Commission or any other agency of this State, the
18 Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this
19 Order by the Commission.

20 **I.**
21 **FINDINGS OF FACT**

- 22 1. SCALZI’S last known business address is 6626 East Morning Vista Lane, Cave
23 Creek, Arizona 85331.
24 2. From June 9, 1993, until July 29, 1997, SCALZI was registered to sell securities
25 in Arizona through United Planners’ Financial Services of America, a limited partnership
26 ...

1 (“UPFS”). SCALZI’S registration to sell securities in Arizona expired on December 31, 1997,
2 pursuant to A.R.S. § 44-1947(B).

3 3. SCALZI allowed Medco, Inc. (“Medco”) place the following solicitation in the
4 Arizona Republic newspaper on April 27, 1997: “12%+ Per Annum, Fixed Income, 12-36
5 Months, DOUBLY Collateralized, Paid Monthly, IRA Qualified, Insured; R. Scalzi & Assoc.,
6 Inc., Robert Scalzi, PhD, MBA, RFC; 677-1142, 998-3200. We pay penalties and surrender
7 charges.” This solicitation was for the purchase of promissory notes collateralized by chattel
8 mortgages from Medco. Medco was a Ft. Lauderdale, Florida corporation that purchased
9 medical equipment and then sold or leased the equipment. In 1997, a receiver was appointed
10 to control Medco’s assets after a temporary restraining order was entered at the request of the
11 Securities and Exchange Commission.

12 4. In or about April through July 1997, SCALZI offered for sale and sold Medco
13 securities, in the form of promissory notes, totaling approximately \$524,354.82 to five or more
14 investors. These securities were offered for sale and sold within or from Arizona. The Medco
15 securities offered were neither registered nor exempt from registration.

16 5. The five investors in Medco consisted of two married couples and an individual.
17 The two married couples subsequently sought arbitration with the National Association of
18 Securities Dealers, Inc. (“NASD”) and settled their claims against UPFS. All five of the
19 investors received interest payments from Medco before the company went into receivership.
20 These investors have also received four disbursements from the Medco Receiver.

21 6. UPFS did not authorize SCALZI to conduct any private securities transactions.
22 The sales of securities in Medco were not recorded on the books of UPFS.

23 7. In December 1998, the National Association of Securities Dealers Regulation,
24 Inc., accepted a Letter of Acceptance, Waiver and Consent (“AWC”), No. C3A980068, signed
25 by SCALZI. In the AWC, SCALZI neither admitted nor denied engaging in private securities
26 transactions in the securities of Medco, and allowing Medco place an advertisement for its

1 investment program in the Arizona Republic Newspaper, both without authorization from
2 UPFS. According to the terms of the AWC, SCALZI was barred from association with any
3 NASD member in any capacity and fined \$50,000.

4 **II.**

5 **CONCLUSIONS OF LAW**

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

8 2. SCALZI offered for sale and sold securities within or from Arizona, within the
9 meaning of A.R.S. §§ 44-1801(12), now known as 44-1801(15); 44-1801(18), now known as 44-
10 1801(21); and 44-1801(22), now known as 44-1801(26).

11 3. SCALZI violated A.R.S. § 44-1841, by offering for sale and selling securities that
12 were neither registered nor exempt from registration.

13 4. SCALZI'S conduct is grounds for a cease and desist order pursuant to A.R.S. §
14 44-2032.

15 5. SCALZI'S conduct is grounds for penalties under A.R.S. § 44-2036.

16 **III.**

17 **ORDER**

18 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and SCALZI'S
19 consent to the entry of this Order, the Commission finds that the following relief is appropriate, in
20 the public interest, and necessary for the protection of investors:

21 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that SCALZI permanently cease and
22 desist from violating the Securities Act.

23 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that SCALZI shall pay an
24 administrative penalty in the amount of \$10,000, payable to the "State of Arizona." Payment shall
25 be made as follows: \$2,500 on the date of this Order; \$250 per month on or before the 30th day of
26 each month beginning on December 30, 2000. Any amount of penalty outstanding will accrue

1 interest at the rate of 10% per annum from the date of this Order until paid in full. If SCALZI
2 does not comply with this order for administrative penalties, any outstanding balance may be
3 deemed in default and shall be immediately due and payable.

4 IT IS FURTHER ORDERED that this Order shall become effective immediately.

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6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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9 CHAIRMAN

COMMISSIONER

COMMISSIONER

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

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18 BRIAN C. McNEIL
19 Executive Secretary

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DISSENT

(ABB)

This document is available in alternative formats by contacting Shelly M. Hood, ADA
Coordinator, voice phone number 602-542-3931, E-mail shood@cc.state.az.us.

CONSENT TO ENTRY OF ORDER

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2 1. SCALZI, an individual, admits the jurisdiction of the Commission over the subject
3 matter of this proceeding. SCALZI acknowledges that he has been fully advised of his right to a
4 hearing to present evidence and call witnesses and SCALZI knowingly and voluntarily waives
5 any and all rights to a hearing before the Commission and all other rights otherwise available
6 under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. SCALZI
7 acknowledges that this Order To Cease And Desist, Order For Administrative Penalties and
8 Consent To Same (“Order”) constitutes a valid final order of the Commission.

9 2. SCALZI knowingly and voluntarily waives any right he may have under Article
10 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary
11 relief resulting from the entry of this Order.

12 3. SCALZI acknowledges and agrees that this Order is entered into freely and
13 voluntarily and that no promise was made or coercion used to induce him to enter into it.

14 4. SCALZI acknowledges that he has chosen not to be represented by counsel in this
15 matter, he has reviewed this Order and understands all terms it contains.

16 5. SCALZI admits, solely for purposes of this proceeding and any other
17 administrative proceeding before the Commission or any other agency of this State, the
18 Findings of Fact and Conclusions of Law contained in this Order.

19 6. By consenting to the entry of this Order, SCALZI agrees not to take any action or
20 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
21 Fact or Conclusion of Law in this Order or creating the impression that this Order is without
22 factual basis.

23 7. While this Order settles this administrative matter between SCALZI and the
24 Commission, SCALZI understands that this Order does not preclude the Commission from
25 instituting other administrative proceedings based on violations that are not addressed by this
26 Order.

1 8. SCALZI understands that this Order does not preclude the Commission from
2 referring this matter to any agency for administrative, civil, or criminal proceedings that may be
3 related to the matters addressed by this Order.

4 9. SCALZI understands that this Order does not preclude any other agency or officer
5 of this State or its subdivisions from instituting administrative, civil or criminal proceedings that
6 may be related to matters addressed by this Order.

7 10. SCALZI agrees that he will not apply in Arizona for registration as a securities
8 dealer or salesman or for licensure as an investment adviser or investment adviser representative
9 at any time in the future.

10 11. SCALZI agrees that until the penalty, with all outstanding accrued interest, is paid
11 in full, SCALZI will notify the Director of the Securities Division within 30 days of any change in
12 his residential address.

13 12. SCALZI acknowledges that the Commission does not waive any right or remedy
14 it may have by accepting any partial or untimely payment SCALZI may tender to the
15 Commission.

16 13. SCALZI understands that default will render him liable to the Commission for
17 its costs of collection and interest at the maximum legal rate.

18 14. SCALZI agrees that he will continue to cooperate with the Securities Division
19 including but not limited to, providing complete and accurate testimony at any hearing in this
20 and any related matter, and cooperating with the State in any related investigation and any
21 other matters arising from the activities described in this Order.

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