

ARIZONA CORPORATION COMMISSION

SECURITIES DIVISION

PRELIMINARY DRAFT

"SECURITIES ACT OF ARIZONA"



NOV 14 1937

SEC. DIV.
CORPORATION COMMISSION

INDEX

SECTION		PAGE
I	Title.....	1
II	Definitions.....	1
III	Administration of Act.....	2
IV	Registration of Securities.....	3
V	Exempt Securities.....	3
VI	Exempt Transactions.....	4
VII	Registration by Description.....	6
VIII	Registration by Qualification.....	8
IX	Suspension or Revocation of Registration of Securities.....	13
X	Registration of Dealers and Salesmen.....	14
XI	Suspension or Revocation of Dealer's and Salesmen's Registration.....	18
XII	Hearings.....	20
XIII	Appeals.....	21
XIV	Consent to Service.....	22
XV	Investigations and Examinations.....	22
XVI	Fraudulent Practices.....	23
XVII	Injunctions and Prosecutions.....	23
XVIII	Remedies.....	24
XIX	Penalties.....	25
XX	Evidentiary Matters.....	25
XXI	Separability of Provisions.....	26
XXII	Repeal of Certain Prior Acts, Saving of Cer- tain Rights and Liabilities Thereunder.....	26
XXIII	Intent and Construction.....	27
XIV	Emergency.....	27

1
2 SECTION I3
4 TITLE5 This Act shall be known as "The Securities Act of Arizona."
6
7
8

9 SECTION II

10 DEFINITIONS

11 When used in this Act, unless the text otherwise indicates:
1213 (A) "Commission" shall mean the Arizona Corporation
14 Commission.
1516 (B) "Director" shall mean the Director of the Securities
17 Division of the Arizona Corporation Commission.
1819 (C) "Person" shall mean an individual, a corporation, a
20 partnership, an association, a joint stock company, a trust or
21 any other unincorporated organization.
2223 (D) "Securities" shall mean any note, stock, treasury stock,
24 bond, debenture, evidence of indebtedness, certificate or any
25 instrument representing any interest in oil, gas or other mineral
26 rights, collateral trust certificate, preorganization certificate
27 or subscription, transferable share, investment contract, voting-
28 trust certificate, or beneficial interest in title to property,
29 profits or earnings, or any other instrument commonly known as a
30 security, including any guarantee of, temporary or interim certifi-
31 cate of interest or participation in, or warrant or right to sub-
32 scribe to, convert into or purchase, any of the foregoing.
3334 (E) "Issuer" shall mean every person who issues or proposes
35 to issue any security; except that (i) with respect to certifi-
36 cates of deposit, voting-trust certificates, collateral-trust
37 certificates, certificates of interest, or shares in an unin-
38 corporated investment trust, whether or not of the fixed, re-
39 stricted management, or unit type, issuer means the person or
40 persons performing the acts and assuming the duties of depositor
41 or manager pursuant to the provisions of the trust or other agree-
42 ment or instrument under which such securities are issued; (ii)
43 with respect to equipment-trust certificates or like securities,
44 issuer means the person by whom the equipment or property is or
45 is to be used; and (iii) with respect to fractional interests in
46 oil, gas or other mineral rights, issuer means the owner of any
47 such right or any interest in such rights (whether whole or
48 fractional), fractional interests in which are created for the
49 purpose of sale.
5051 (F) "Dealer" shall mean every person, other than a sales-
52 man, who engages in this state, either for all or part of his
53 time, (i) directly or indirectly, as agent, broker or principal
54 in the business of offering, buying, selling or otherwise dealing
55 or trading in securities issued by another person or (ii) directly
56 or through an officer, director, employee or agent (which officer,
57 director, employee or agent is not registered as a dealer under
58 this Act), in selling securities issued by such person.
59
60

1 "Registered dealer" shall mean a dealer registered under this
2 Act.

3
4 (G) "Salesman" shall mean an individual, other than a dealer,
5 employed or appointed or authorized by a dealer, to sell securities
6 in this state. The partners or executive officers of a dealer
7 shall not be deemed to be salesman within the meaning of this
8 definition.

9
10 "Registered salesman" shall mean a salesman registered under
11 this Act.

12
13 (H) "Sale" or "sell" shall mean every sale or other dis-
14 position of a security or interest in a security for value, and
15 every contract to make any such sale or disposition. Any security
16 given or delivered with, or as a bonus on account of, any purchase
17 of securities or any other thing, shall be conclusively presumed
18 to constitute a part of the subject of such purchase and to have
19 been sold for value.

20
21 (I) "Offer to sell" or "offer for sale" shall mean every
22 attempt or offer to dispose of, or solicitation of an order or
23 offer to buy, a security or interest in a security for value.
24 Every sale or offer for sale of a warrant or right to subscribe
25 to another security of the same issuer or of another issuer, and
26 every sale or offer for sale of a security which gives the holder
27 thereof a present or future right or privilege to convert such
28 security into another security of the same issuer or of another
29 issuer, shall be deemed an offer to sell the security to be ac-
30 quired by such subscription or conversion.

31
32 (J) "Securities Act of 1933" shall mean the Act of Congress
33 of the United States known as the Securities Act of 1933, as now
34 or hereafter amended.

35
36 (K) "Broker" shall mean a person licensed under Section 67-
37 501, Arizona Code Annotated 1939. ?

38
39
40
41 SECTION III

42 ADMINISTRATION OF ACT

43
44 (A) The Commission shall appoint a Director of Securities,
45 subject to removal for cause, at a salary not to exceed six
46 thousand dollars (\$6,000) per annum, who shall, subject to the
47 authority and under the supervision of the Commission, be the
48 administrator of the Securities Division. He shall be a person
49 of at least thirty (30) years of age and shall be qualified in
50 either one or both of the following ways: (i) by broad experience
51 and training in corporate finance and investment banking, or (ii)
52 by having earned a college or graduate degree in business adminis-
53 tration the major subjects of which have relation to investment
54 banking and corporate finance. He shall accept the findings of
55 examinations of issuers of, and dealers in, securities which have
56 been conducted by either the United States Securities and Exchange
57 Commission or the New York Stock Exchange. The Director of Securi-
58 ties shall devote his entire time to the discharge of his duties
59 as such.
60

1 (B) The Commission shall appoint an experienced assistant
2 to the Director of Securities at a salary not to exceed three
3 thousand dollars (\$3,000) per annum, to aid in the proper dis-
4 charge of the duties imposed upon the Securities Division.
5

6 (C) The Director with the approval of the Commission, may
7 employ from time to time such examiners, investigators and cleri-
8 cal employees as are necessary for the administration of this Act,
9 and they shall perform such duties as the Director shall assign.
10

11 (D) The Director, or any person under his supervision, ex-
12 cept the examiners or investigators as provided in subsection (C),
13 shall be paid, in addition to their regular compensation, the
14 railroad fare, board, lodging and other traveling expenses nec-
15 essary and actually incurred by each of them in the performance of
16 their duties under this Act. Such traveling expenses shall include
17 the expenses of the Director in attending the Annual Convention of
18 the National Association of Securities Administrators.
19

20 (E) The Director shall have the authority to administer
21 oaths in, and to prescribe forms for, all matters arising under
22 this Act. The Director shall cooperate with the administrators
23 of the securities laws of other states and of the United States
24 with a view to achieving maximum uniformity in the interpretation
25 of like provisions of the laws administered by them.
26

27 (F) All fees collected under this Act shall be turned into
28 the State Treasury.
29
30
31

32 SECTION IV

33 REGISTRATION OF SECURITIES

34 It shall be unlawful to sell any securities within this State,
35 except those exempt under Section V or those sold in transactions
36 exempt under Section VI unless such securities shall have been
37 registered by description under Section VII, or by qualification
38 as hereinafter provided in Section VIII.
39
40

41 Violation of this section shall be a felony with penalty as
42 provided in Section XIX (A).
43
44
45
46

47 SECTION V

48 EXEMPT SECURITIES

49 Sections IV, VII and VIII of this Act shall not apply to any
50 of the following securities:
51
52

53 (A) Securities issued or guaranteed by the United States, or
54 by any state, territory or insular possession thereof, or by any
55 political subdivision of any such state, territory or insular
56 possession, or by the District of Columbia, or by any public agency
57 or instrumentality of one or more of any of the foregoing.
58

59 (B) Securities issued by a national bank or a bank or credit
60

1 or loan association organized pursuant to an Act of Congress and
2 supervised by the United States or any agency thereof, or issued
3 by a state bank, trust company or savings institution incorpora-
4 ted under the laws of this or any other state and subject to
5 supervision by such state or by any agency thereof.
6

7 (C) Securities issued by a building and loan association or
8 an insurance company subject to supervision by an agency of this
9 state.
10

11 (D) Securities issued or guaranteed either as to principal,
12 interest or dividend by a railroad or public utility if the
13 issuance of its securities is regulated by any public authority
14 of the United States, or of any state, territory or insular
15 possession thereof, or of the District of Columbia, or of the
16 Dominion of Canada or any province thereof; also equipment trust
17 certificates in respect of equipment conditionally sold or leased
18 to a railroad or public utility, if other securities issued by
19 such railroad or public utility would be exempt under this sub-
20 section.
21

22 (E) Securities issued by a person organized and operated
23 exclusively for religious, educational, benevolent, fraternal,
24 charitable, social or reformatory purposes and not for pecuniary
25 profit, and no part of which inures to the benefit of any private
26 stockholder or individual, excluding, however, securities made
27 liens upon revenue producing property subject to taxation.
28

29 (F) Securities fully listed, or regularly approved for full
30 listing upon the issuance thereof, upon the New York Stock Ex-
31 change, the Midwest Stock Exchange, the New York Curb Exchange,
32 or any other stock exchange approved by the Commission as herein-
33 after provided; and all securities senior or equal in rank to any
34 securities so listed or approved, or represented by subscription
35 rights which have been so listed or approved. The Commission may
36 by written order approve any stock exchange in addition to those
37 specified in this subsection if it finds that it would be in the
38 public interest for securities listed on such exchange to be
39 exempt under this subsection. The Commission shall have power at
40 any time by written order to withdraw the approval theretofore so
41 granted.
42

43 (G) Commercial paper maturing in not more than twelve months
44 from date of issue.
45

46 (H) Securities, other than common stock, providing for a
47 fixed return, which have been outstanding and in the hands of the
48 public for not less than five years and upon which no default has
49 occurred during the five years next preceding the date of sale.
50

51 SECTION VI

52 EXEMPT TRANSACTIONS

53 Except as hereinafter in this section expressly provided,
54 sections IV, VII, VIII and X of this Act shall not apply to any
55 of the following transactions:
56
57
58
59
60

1 (A) Any judicial, executor's, administrator's, guardian's or
2 conservator's sale, or any sale by a receiver or trustee in in-
3 solvency or bankruptcy.

4
5 (B) The sale in good faith and not for the purpose of avoid-
6 ing the provisions of this Act by a pledgee of securities pledged
7 for a bona fide debt.
8

9 (C) The sale of securities, whether made through a dealer or
10 otherwise, by the bona fide owner thereof who is not an issuer,
11 underwriter or dealer, or controlling person in respect of such
12 securities; provided, that such sale is not made directly or in-
13 directly for the benefit of an issuer, underwriter, or controlling
14 person, and which is not made in the course of repeated and succes-
15 sive transactions of a similar nature.
16

17 (D) Stock dividends or other distributions by a corporation
18 out of its earnings or surplus; or the issuance of securities to
19 existing security holders or creditors of a corporation in a bona
20 fide reorganization, merger or consolidation of such corporation
21 either in exchange for the securities or claims of such security
22 holders or creditors, or partly in exchange therefor and partly
23 for cash; or the sale of distribution of additional capital stock
24 of a corporation to or among its own stockholders, where no
25 commission or other remuneration is paid or given for soliciting
26 or effecting such sale or distribution to stockholders.
27

28 (E) The sale of securities to any bank, savings institution,
29 trust company, insurance company, dealer, or to any organization
30 or association a principal part of whose business consists of the
31 buying of securities.
32

33 (F) The issuance and delivery of any securities in exchange
34 for any other securities of the same issuer pursuant to a right
35 of conversion entitling the holder of the securities surrendered
36 in exchange to make such conversion.
37

38 (G) The sale by a registered dealer, acting either as princi-
39 pal or agent, of securities theretofore sold and distributed to
40 the public; provided that:
41

42 (1) Such securities are sold at prices reasonably
43 related to the current market price thereof at
44 the time of sale and, if such registered dealer
45 is acting as agent, the commission collected by
46 such registered dealer on account of the sale
47 thereof is not in excess of usual and customary
48 commissions collected with respect to securities
49 and transactions having comparable characteristics;
50

51 (2) Such securities are not being sold for the benefit
52 of an issuer, underwriter or controlling person in
53 respect of such securities (for the purposes of
54 this proviso, a controlling person shall be any
55 person or group of persons acting in concert who
56 own beneficially each number of the voting securi-
57 ties of the issuer of the securities involved as
58 would permit such person or group of persons to
59 elect a majority of the board of directors or
60 other managing body of said issuer and, in the

*in this
one also
(1)*

*Query how far (C) covers same
ground as (G) & thus makes
limitations in (C) meaningless?*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

absence of actual knowledge to the contrary, the record owner of such securities may be assumed to be the beneficial owner); and

- (3) Information as to the issuer of such securities is published in a recognized manual of securities, such information to include at least the names of the officers of such issuer, a balance sheet of such issuer as of a date not more than 18 months prior to the date of such sale, and an income account of such issuer for a period of not less than two years next prior to the date of the balance sheet or for the period prior to the date of the latest balance sheet if the issuer has been in existence for less than two years.

The Commission may revoke the exemption afforded by this subsection (G) with respect to any securities by issuing an order to that effect if he shall find that the further sale of such securities in this state would work or tend to work a fraud or deceit on purchasers thereof.

(H) Subscriptions for shares of the capital stock of a corporation prior to the incorporation thereof when no commission or other remuneration is paid or given for on in connection with the subscription, and (i) the number of subscribers does not exceed 15 or (ii) the amount raised by such subscriptions does not exceed twenty-five thousand (\$25,000) dollars.

(I) The issuance and delivery of securities of one corporation to the security holders of another corporation in exchange for all or substantially all of the assets of such other corporation or in connection with a consolidation or merger of such corporations.

SECTION VII

REGISTRATION BY DESCRIPTION

The following securities shall be entitled to registration by description in the manner provided in this section:

(A) Securities of an issuer which (i) has been in continuous operation for not less than three years and which (ii) has shown, during a period of not less than three years and not more than five years next prior to the date of registration under this section, average annual net earnings after deducting all prior charges except charges upon securities to be retired out of the proceeds of sale, as follows:

- (1) In the case of interest-bearing securities, not less than one and one-half times the annual interest charges on such securities and on all other outstanding interest-bearing securities of equal rank.
- (2) In the case of securities having a specified dividend rate, not less than one and one-half times the annual dividend requirements on such securities and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

on all outstanding securities of equal rank.

- (3) In the case of securities wherein no dividend rate is specified, not less than 5% upon all outstanding securities of equal rank, together with the amount of such securities then offered for sale, based upon the maximum price at which such securities are to be offered for sale.

The ownership by an issuer of more than 50% of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of such corporation and shall permit the inclusion of the earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the issuer of the securities being registered by description.

(B) Procedure for Registration by Description. Securities entitled to registration by description shall be registered by the filing with the Commission by the issuer or by a registered dealer of, but not limited to, the following:

- (1) A registration statement in a form prescribed by the Director, signed by the person filing such statement and containing the following information:
 - (a) Name and business address of person filing statement;
 - (b) Name and business address of issuer, and address of issuer's principal office in this state, if any;
 - (c) Title of securities being registered and total amount of securities to be offered;
 - (d) Amount of securities to be offered in this state, price at which securities are to be offered for sale to the public, and amount of registration fee, computed as hereinafter provided in subsection (C);
 - (e) A copy of any prospectus filed with the Securities & Exchange Commission and any other prospectus used for sales inducement whether so filed or not; and
 - (f) A copy of the resolution of the board of directors of the issuer authorizing the registration of securities; and
 - (g) A statement of the facts which show that securities are entitled to be registered by description.
- (2) Payment of the required registration fee.
- (3) If the person who is registering the securities is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this state, a consent to service

1 of process conforming to the requirements of Section
2 XIV of this Act.
3

4 Such filing with the Commission, which may be made either by
5 delivery in the office of the Director or by posting by registered
6 mail properly addressed to the Commission, shall constitute the
7 registration of securities by description and such registration
8 shall become effective as of the time of such filing. Upon such
9 registration by description, securities may be sold in this state
10 by any registered dealer, or by any registered salesman employed
11 by the issuer or registered dealer.
12

13 (C) Record and Renewal of Registration. Upon the receipt of
14 a registration statement, payment of the registration fee, and, if
15 required, a consent to service of process, the Director shall
16 record the registration by description of the securities described
17 therein in the Register of Securities. Such registration shall be
18 effective for a period of one year and may be renewed for addition-
19 al periods of one year, if the securities are entitled to regis-
20 tration under this section at the time of renewal, by a new filing
21 under this section together with the payment of a fee.
22

23 (D) Fees. For the registration of securities by description
24 there shall be paid to the Commission a registration fee of 1/10th
25 of 1% of the aggregate offering price of the securities which are
26 to be sold in this state, but in no case shall such registration
27 fee be less than \$25.00 or more than \$500.00. For the renewal of
28 the registration of securities by description there shall be paid
29 to the Commission a renewal fee of \$25.00.
30

31 (E) Filing of Additional Information. If at any time, in
32 the opinion of the Commission, the information in a registration
33 statement filed with it is insufficient to establish the fact that
34 the securities described therein are entitled to registration by
35 description under this section, the Commission may require the
36 person who filed such statement to file such further information
37 as may in its judgment be necessary to establish the fact that
38 such securities are entitled to registration under this section.
39
40
41

42 SECTION VIII

43 REGISTRATION BY QUALIFICATION

44 Securities required to be registered by qualification under
45 this Act before they may be sold in this state shall be regis-
46 tered as provided in this section.
47
48
49

50 (A) Application for Registration. Application for regis-
51 tration of securities by qualification shall be made by the
52 issuer of the securities or by a registered dealer by filing in
53 the office of the Commission of, but not limited to, the following:
54

- 55 (1) An application for registration which shall be made
56 in writing and shall contain the following infor-
57 mation together with such other information as may
58 be prescribed:
59

- 60 (a) Name and business address of applicant.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

*File copy, yes.
Dec 11*

- (b) Name and address of issuer, and address of issuer's principal office in this state, if any.
- (c) Title of securities to be registered and total amount of such securities to be offered.
- (d) Amount of securities to be offered in this state, price at which securities are to be offered to the public and amount of registration fee.
- (e) If application has been made for registration of the securities under the Securities Act of 1933,
 - (i) date on which documents were first filed to register the securities under that Act, and
 - (ii) a statement whether registration under that Act is effective, and, if so, the effective date.
- (f) Eligibility of securities for sale in other states as of date of application:
 - (i) states in which it is proposed to offer the securities for sale to the public;
 - (ii) states, if any, in which the securities are eligible for sale to the public;
 - (iii) states, if any, which have refused, by order or otherwise, to render the securities eligible for sale to the public or have revoked or suspended the right to sell the securities, or in which an application for qualification has been withdrawn.

There shall be submitted as part of such application for registration one copy of each of the following:

- (a) Issuer's charter or other instrument of organization and by-laws, together with all amendments thereto.
- (b) The indenture and all supplements thereto under which the securities are to be issued.
- (c) The underwriting agreement, if any, and any agreement among under-writers and dealers pertaining to the purchase and offering of the securities.
- (d) Opinion or opinions of counsel, if any, as to the validity of securities.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

(e) A specimen certificate, or the form thereof of each security to be registered.

Any of the foregoing documents (a) to (e), inclusive, may be submitted in preliminary form, in which case a conformed copy of each must be submitted promptly after execution.

Any of the documents already on file with the Commission need not be submitted again but shall be identified by appropriate reference.

M. J. Adams
based?

(2) A prospectus which shall contain the following information:

(a) The names and addresses of the directors, trustees and officers, if the issuer be a corporation or association or trust; of all partners, if the issuer be a partnership; and of the issuer, if the issuer be an individual.

(b) The purpose of incorporation (if incorporated) and a detailed statement of the general character of the business actually transacted or to be transacted by the issuer.

(c) The specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as to determinable, for which the funds from the sale of securities are to be used.

(d) A statement of the capitalization of the issuer.

(e) A balance sheet as of a date not more than 90 days prior to the date of filing, and, if such balance sheet is not certified, also a certified balance sheet as of a date not more than one year prior to the date of filing unless the fiscal year of the issuer has ended within 90 days prior to the date of filing in which case the certified balance sheet may be as of the end of the preceding fiscal year.

(f) A profit and loss statement for each of the 3 fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of such fiscal years and the date of the most recent balance sheet filed; or, if the issuer has been in existence for less than 3 fiscal years, a profit and loss statement for the period preceding the date of the most recent balance sheet filed. These statements shall be certified up to the date of the most recent certified balance sheet filed.

(g) A statement showing the price at which such

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

securities are proposed to be sold, together with the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities.

(h) A detailed statement showing the items of cash, property, services, patents, good will and any other consideration for which any securities of the issuer have been or are to be issued in payment.

If the issuer has one or more totally-held subsidiaries, there may be required, in addition to the balance sheet and profit and loss statements required by items (e) and (f) hereof, a consolidated balance sheet and a consolidated profit and loss statement for the issuer and its totally-held subsidiaries as of the same dates as the balance sheet and profit and loss statements required by items (e) and (f).

If the securities being registered are also to be registered under the Securities Act of 1933 or if such securities have already been registered under the Securities Act of 1933 and the effective date of such registration is not more than 30 days prior to the date of submission of the application under this section, the Commission shall accept in lieu of the prospectus prescribed in this subsection the final prospectus under the Securities Act of 1933 with all amendments to that prospectus as of the date on which the application is filed for registration by qualification under this section.

If the prospectus which is filed with the Commission is subsequently revised, supplemented or amended, copies of such revisions, supplements or amendments shall be promptly filed with the Director.

(3) Payment of an examination fee of \$25.00 and a registration fee of 1/10 of 1% of the aggregate offering price of securities to be sold in this state, but in no case shall such registration fee be less than \$25.00 or more than \$500.00. If the application for registration is denied such registration fee shall be returned to the applicant.

(4) If the issuer is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this State, a consent to service of process conforming to the requirements of section XIV of this Act.

All of the statements, exhibits, documents and prospectuses of every kind required under this subsection, or ordered by any rule or regulation of the Commission pertaining thereto, shall be certified by the applicant or the issuer or any person having

1 knowledge of the facts. An applicant may, with the consent of the
2 Director, amend or withdraw an application and any or all state-
3 ments, exhibits, documents or prospectuses filed therewith under
4 this section at any time prior to the registration of the securi-
5 ties sought to be registered or the entry of an order denying the
6 registration of such securities.

7
8 (B) Registration or Denial of Registration. The Director
9 shall within a reasonable time examine an application and all
10 documents and exhibits filed therewith. If, in the opinion of
11 the Commission they conform to the requirements of this section
12 and to rules and regulations of the Commission pertaining thereto,
13 and it is not found that the sale of the securities sought to be
14 registered would work or tend to work a fraud or deceit upon
15 purchasers thereof or present an unfair or inequitable method of
16 doing business, the Director shall register the securities by
17 qualification, together with such limitations and conditions as
18 are imposed by the Commission, in a Register of Securities which
19 shall be kept in his office and he shall so notify the applicant.
20 After such registration the securities may be sold by any regis-
21 tered dealer, or by any registered salesman employed by such
22 dealer.
23

24 If, in the opinion of the Commission, the application or any
25 of the accompanying documents or exhibits are incomplete or the
26 information contained is deemed insufficient for a true appraisal
27 of the application or does not conform to the requirements of this
28 section, and to rules and regulations of the Commission pertaining
29 thereto, or the sale of the securities sought to be registered
30 would work or tend to work a fraud or deceit upon purchasers
31 thereof or present an unfair or inequitable method of doing busi-
32 ness, the Commission shall enter an order denying the registration
33 of such securities by qualification, or shall order an examination
34 or a hearing at a time and place set by the Commission for the pre-
35 sentation of evidence and testimony supporting the application for
36 registration; and the Director shall send to the applicant a copy
37 of such order which shall state specifically the grounds for its
38 issuance.
39

40 Additional amounts of securities registered under this sec-
41 tion may, with the consent of the Commission, be registered by
42 payment of the proper registration fee, which shall be computed
43 as provided in subsection A (3) of this section as a separate fee
44 for each additional amount registered.
45

46 Registration under this section shall be effective for a
47 period of one year and may be renewed for additional periods of
48 one year by filing, by a date not later than 15 days prior to the
49 expiration of registration, a balance sheet and a profit and loss
50 statement of the issuer as of a date not more than 90 days prior
51 to the date of filing, together with the payment of a renewal fee
52 of \$25.00.
53

54 (C) Delivery of Securities in Escrow. If any prospectus,
55 document, or exhibit filed or testimony given in hearing or
56 examination shall disclose that any of the securities sought to
57 be registered or any securities senior thereto shall have or
58 shall be intended to be issued for any patent right, copyright,
59 trade mark, process, formula, good will, options, leases, assign-
60 ments, services or other intangible assets, or for organization

specific share in class?
-12-

1 or promotion fees or expenses the Commission may require that any
2 or all such securities shall be delivered in escrow to some deposi-
3 tory satisfactory to the Commission under an escrow agreement
4 whereby the owners of such securities shall not be entitled to
5 sell or transfer such securities or to withdraw such securities
6 from escrow until all other stockholders who have paid for their
7 stock in cash shall have been paid a dividend or dividends
8 aggregating not less than 6% of the initial offering price shown
9 to the satisfaction of the Commission to have been actually earned
10 on the investment in any common stock so held. In case of disso-
11 lution or insolvency during the time such securities are held in
12 escrow, the owners of such securities shall not participate in
13 the assets until after the owners of all other securities shall
14 have been paid in full.

15
16 Unissued securities may be required by the Commission to be
17 escrowed in a suitable depository under such terms or conditions
18 as it deems best suited to the circumstances.

19
20 (D) The Commission may at its discretion impose restrictions
21 or limitations including the impoundment of funds derived from the
22 sale of securities as a condition of registration of issues of a
23 speculative nature (for the purpose of this subsection an issue
24 of speculative nature is one in which the issuer's business is
25 predicated upon future developments and potentials rather than on
26 current tangible assets).

27
28
29
30 SECTION IX

31
32 SUSPENSION OR REVOCATION OF REGISTRATION OF SECURITIES

33
34 The Commission may revoke the registration of any securities
35 registered under this Act if, after a hearing or opportunity for
36 hearing as provided in Section XII, he finds that:

- 37
38 (1) The sale of such securities would work or tend to
39 work a fraud or deceit upon the purchasers thereof;
40 or
41
42 (2) The issuer of such securities is insolvent, or has
43 violated any of the provisions of this Act or any
44 order of the Commission of which such issuer has
45 notice, or does not conduct its business in accord
46 with law; or
47
48 (3) The issuer of such securities has made any fraudu-
49 lent or misleading representations or omissions of
50 material fact in any prospectus or in any circular,
51 advertising or other literature that has been
52 distributed or published concerning the issuer or
53 its securities; or
54
55 (4) The issuer of such securities has refused to permit
56 an examination into its affairs, or has failed to
57 furnish the Commission any further information re-
58 quired; or
59
60 (5) Securities registered by description were not

1 entitled to registration by description.

2
3 (A) Suspension Orders. If the Commission has reasonable
4 grounds to believe that the registration of any securities under
5 this Act should be revoked on any ground specified in this section,
6 or on the ground of non-compliance with the Commission's rules,
7 regulations or orders pertaining thereto, it may enter an order
8 suspending the registration of such securities pending an examina-
9 tion into the affairs of the issuer of such securities or pending
10 a hearing or opportunity for hearing as provided in section XII
11 of this Act; provided, that no such suspension order shall be
12 effective for more than 30 days and such an order, if not with-
13 drawn by the Commission within 30 days, shall automatically termin-
14 ate 30 days after the date of its issuance. Such suspension order
15 shall state specifically the grounds for its issuance. Upon the
16 entry of an order suspending the registration of any securities
17 or of an order withdrawing a suspension order previously issued,
18 the Director shall send notice of such order to the issuer of
19 such securities and to all registered dealers by mail, or by tele-
20 graph, or by telephone confirmed in writing.
21

22 (B) Entry of Revocation Order. If the Commission finds,
23 after a hearing or opportunity for hearing as provided in section
24 XII, that there are grounds for revoking the registration of cer-
25 tain securities, it may enter an order revoking the registration
26 of such securities. Such order shall state specifically the
27 grounds for its issuance. Upon the entry of an order revoking the
28 registration of securities, the Director shall send a notice of
29 such order to the issuer of such securities and to all registered
30 dealers by mail, or by telegraph, or by telephone confirmed in
31 writing.
32
33
34

35 SECTION X

36
37 REGISTRATION OF DEALERS AND SALESMEN

38
39 It shall be unlawful for any dealer or salesman to sell or
40 offer for sale any securities within or from this State, except in
41 transactions exempt under Section VI, unless he is registered as a
42 dealer or salesman pursuant to the provisions of this section.
43 Violation of this provision shall be a felony with penalty as
44 provided in Section XIX (A).
45

46 (A) Dealers. Application for registration as a dealer may
47 be made by any person. Such application for registration shall be
48 made in writing in a form prescribed by the Director, shall be
49 signed by the applicant, duly verified by oath, shall be filed in
50 the office of the Director, and shall contain, but is not limited
51 to, the following information:
52

- 53 (1) The name of the applicant.
54
55 (2) The address of the principal place of business of
56 the applicant and the addresses of all branch
57 offices, if any, of the applicant in this State.
58
59 (3) The form of business organization and the date of
60 organization of the applicant.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

- (4) The names and business addresses of all members, partners, officers, directors, trustees or managers of the applicant; a statement of the limitations, if any, of the liability of any partner, member, manager, or trustee; and a statement setting forth in chronological order the occupational activities of each such partner, member, officer, director, trustee or manager during the preceding ten (10) years.
- (5) A brief description of the general character of the business conducted or proposed to be conducted by the applicant.
- (6) A list of any other states in which the applicant is registered as a dealer, and, if registration of the applicant as a dealer has ever been refused, cancelled, suspended or withdrawn in any state, full details with respect thereto.
- (7) Whether the applicant is registered as a dealer under the Securities Exchange Act of 1934 or any act adopted in amendment thereof and whether any such registration of the applicant has ever been denied, revoked or suspended or is then the subject of proceedings for revocation or suspension by the Securities and Exchange Commission.
- (8) The names of all organizations of dealers or brokers of which the applicant is a member or before which any application for membership on the part of the applicant is then pending, and whether any such membership of the applicant has ever been denied, revoked or suspended or is then the subject of proceedings for revocation or suspension.
- (9) The names of any securities exchanges of which the applicant or any of its partners, officers, directors, trustees, members, managers or employees is a member, and whether any such membership has ever been denied, revoked or suspended or is then the subject of proceedings for revocation or suspension.
- (10) A financial statement or balance sheet, prepared in accordance with standard accounting practice, showing the financial condition of the applicant as of the most recent practicable date prior to the date of such application, such financial statement or balance sheet to be certified to by an independent certified public accountant.
- (11) Whether applicant or any officer, director, partner, member, trustee, or manager of the applicant, has ever been convicted of or charged with a felony or any misdemeanor of which fraud is an essential element and, if so, all pertinent information with respect to any such conviction or charge.

The Commission may also require such additional information, including but not limited to, the previous history, record or

*any document
Dec 3
1934
Commission*

1 association of the applicant, its officers, directors, employees,
2 members, partners, managers or trustees as he may deem necessary
3 to establish whether or not the applicant should be registered as
4 a dealer under the provisions of this Act.

5
6 There shall be filed with such application (i) a written con-
7 sent to the service of process upon the Commission in actions
8 against such dealer, conforming to the requirements of section XIV
9 of this Act and (ii) payment of the prescribed registration fee,
10 which shall be returned if registration is refused.
11

12 When an applicant has fully complied with the provisions of
13 this subsection the Director shall register such applicant as a
14 dealer unless the Commission shall have found that the applicant
15 is not of good business reputation, or is not solvent, or does not
16 appear qualified by training or experience to act as a dealer in
17 securities. When the Director has registered an applicant as a
18 dealer he shall immediately notify the applicant of such regis-
19 tration.
20

21 (B) Salesmen. Application for registration as a salesman
22 may be made by any individual. Such application for registration
23 shall be made in writing in a form prescribed by the Director,
24 shall be signed by the applicant and by the issuer or registered
25 dealer employing or proposing to employ such applicant, duly
26 verified by oath, shall be filed in the office of the Director,
27 and shall contain, but is not limited to, the following information:
28

- 29 (1) Name and residence and business address of the
30 applicant.
- 31
- 32 (2) Name of the dealer employing or proposing to employ
33 the applicant.
- 34
- 35 (3) Names and addresses of five persons of whom the
36 Director may inquire as to the character and busi-
37 ness reputation of the applicant.
- 38
- 39 (4) Applicant's age and education.
- 40
- 41 (5) The nature of employment and names and addresses
42 of employers of the applicant for the period of
43 ten years immediately preceding the date of appli-
44 cation.
- 45
- 46 (6) Other state or federal laws under which the appli-
47 cant has ever been registered as a dealer or sales-
48 man of securities, and, if any such registration
49 has ever been refused, cancelled, suspended or re-
50 voked, full details with respect thereto.
- 51
- 52 (7) Whether applicant has ever been convicted of or
53 charged with a felony or any misdemeanor of which
54 fraud is an essential element and, if so, all
55 pertinent information with respect to any such
56 conviction or charge.
- 57

58 The Commission may also require such additional information
59 as to applicant's previous business experience as he may deem
60 necessary to determine whether or not the applicant should be

Henry McLean

1 registered as a salesman under the provisions of this Act. There
2 shall be filed with such application payment of the prescribed
3 registration fee, which shall be returned if registration is
4 refused.

5
6 When an applicant has fully complied with the provisions of
7 this subsection the Director shall register such applicant as a
8 salesman unless the Commission finds that such applicant is not of
9 good business reputation, or does not appear to be qualified by
10 training or experience to act as a salesman of securities, or that
11 the issuer or dealer named on the application is not a registered
12 issuer or registered dealer. When the Director has registered an
13 applicant as a salesman he shall immediately notify the applicant
14 of such registration.

15
16 Every issuer or registered dealer shall promptly notify the
17 Director of the termination of the employment by him of a regis-
18 tered salesman; and the registration of such salesman shall auto-
19 matically be suspended from the time of termination of such
20 employment until such time as he shall notify the Director of his
21 employment by another registered dealer.

22
23 (C) Refusal of Registration. If, after affording an appli-
24 cant a hearing or an opportunity for a hearing as provided in
25 Section XII, the Commission finds that there is a sufficient ground
26 to refuse to register such applicant as provided in this section,
27 it shall enter an order refusing to register such applicant. Such
28 order shall state specifically the grounds for its issuance. A
29 copy of such order shall be mailed to the applicant at his busi-
30 ness address and, if the application is for registration as a
31 salesman, to the registered dealer who proposed to employ such
32 applicant.

33
34 If the Commission finds that an applicant has been guilty of
35 any act or omission which would constitute a sufficient ground
36 for revocation of a dealer's or salesman's registration under
37 Section XI of this Act, such act or omission may constitute a
38 sufficient ground for a finding by the Commission, under sub-
39 section (A) or subsection (B) of this section, that such applicant
40 is not of "good business reputation".

41
42 (D) Record and Renewal of Registrations. The names and
43 addresses of all persons who have been registered as dealers or
44 salesmen, and all orders with respect thereto, shall be recorded
45 in a Register of Dealers and Salesmen in the office of the Director.
46 Every registration under this section shall expire on the 30th
47 day of June in each year. Registration of dealers and salesmen
48 may be renewed each year, at any time not less than fifteen (15)
49 and not more than sixty (60) days before the expiration thereof,
50 by (i) the payment of the proper registration fee and (ii) in the
51 case of a dealer, the filing of a financial statement, prepared
52 in accordance with standard accounting practice and certified to
53 by an independent certified public accountant, showing the finan-
54 cial condition of such dealer as of the most recent practicable
55 date.

56
57 Upon any change in the proprietors, partners, officers or
58 directors of a registered dealer, such registered dealer shall
59 promptly notify the Director in writing of such changes. The
60 Director shall record such changes, without fee, in the Register

7
0

7
0

implied
other
states
may not
other
date

how about other changes?
-17-

1 of Dealers and Salesmen.

2
3 (E) Fees. The fee for registration and for each annual re-
4 newal thereof shall be:

- 5
6 (1) For each dealer employing not more
7 than 3 salesmen in this state.....\$ 50.00
8
9 (2) For each dealer employing more than
10 3, but not more than 5 salesmen in
11 this state.....\$ 75.00
12
13 (3) For each dealer employing more than
14 5 salesmen in this state.....\$100.00
15
16 (4) For each salesman.....\$ 5.00
17

18 The registration fee for any dealer, who deals exclusively in
19 a security of which he is the issuer shall equal 10% of the fees
20 scheduled in (1), (2) and (3) of this subsection.
21
22

23
24 SECTION XI

25
26 SUSPENSION OR REVOCATION OF DEALERS'
27
28 AND SALESMEN'S REGISTRATION
29

30 The Commission may revoke the registration of any dealer or
31 salesman if, after a hearing or opportunity for hearing as pro-
32 vided in Section XII, he finds that such registered dealer or
33 salesman:

- 34
35 (1) Has willfully violated any provision of this Act,
36 or any order or regulation pertaining thereto; or
37
38 (2) Is, in the case of a dealer, insolvent; or
39
40 (3) Has been guilty of any fraudulent act or practice
41 in connection with the purchase or sale of any
42 securities; or
43
44 (4) Conducts business in purchasing or selling securi-
45 ties at such variations from current market prices
46 as, in the light of all the circumstances, are un-
47 conscionable; or
48
49 (5) Has failed to file with the Commission any record,
50 list or financial statement required, or has re-
51 fused to permit an examination into his affairs; or
52
53 (6) In the case of a dealer has knowingly retained a
54 salesman after notice that such salesman has
55 committed an offense under the Act.
56

57 It shall be sufficient cause for revocation of registration
58 of a dealer as provided in this section, in case of a partnership
59 or corporation or any unincorporated association, if any member
60 of a partnership or any officer or director of the corporation or

1 association has been guilty of any act or omission which would be
2 sufficient ground for revoking the registration of an individual
3 dealer.

4
5 (A) Interim reports. The Commission may at any time require
6 a registered dealer to file with it a financial statement showing
7 the financial condition of such dealer as of the most recent
8 practicable date, but such financial statement need not be certi-
9 fied; provided, however, that the Director shall not require any
10 registered dealer to file such a financial statement more than
11 twice in any one year. If the Commission has reasonable grounds
12 to believe that the registration of any registered dealer or sales-
13 man should be revoked upon any grounds specified in this section,
14 the Director or his agent may conduct an examination into the
15 affairs of any such registered dealer or salesman as provided in
16 section XV.

17
18 (B) Suspension Orders. If the Commission has reasonable
19 grounds to believe that a registered dealer or salesman has been
20 guilty of any act or omission which would be sufficient ground
21 for revoking the registration of such dealer or salesman, he may
22 enter an order suspending the registration of such dealer or sales-
23 man pending an examination into the affairs of such dealer or
24 salesman or pending a hearing or opportunity for hearing as pro-
25 vided in section XII of this Act; provided, that no such order
26 shall be effective for more than 30 days, and such order, if not
27 withdrawn by the Director within 30 days, shall automatically
28 terminate 30 days after the date of its issuance. Such suspension
29 order shall state specifically the grounds for its issuance. Upon
30 the entry of such suspension order, or of an order withdrawing a
31 suspension order previously entered, the Director shall send a
32 copy of such order, by registered mail, to the dealer or salesman
33 whose registration is affected thereby at his business address,
34 and, if such order affects the registration of a salesman, to the
35 registered dealer who employs such salesman.

36
37 (C) Entry of Revocation Order. If the Commission finds,
38 after affording a registered dealer or a registered salesman a
39 hearing or opportunity for hearing as provided in section XII,
40 that there are grounds to revoke the registration of such dealer
41 or salesman, the Director shall enter an order in the Register of
42 Dealers and Salesmen revoking the registration of such dealer or
43 salesman. Such order shall state specifically the grounds for its
44 issuance. A copy of such order shall be sent by registered mail
45 to the dealer or salesman whose registration is revoked thereby at
46 his business, and, if the revocation of the registration of a
47 salesman, to the issuer or registered dealer who employs such
48 salesman.

49
50 Suspension or revocation of the registration of a dealer shall
51 also suspend or revoke the registration of all his salesmen; but
52 suspension or revocation of the registration of a salesman solely
53 because he was employed by a dealer whose registration was sus-
54 pended or revoked shall not prejudice subsequent applications
55 for registration by such salesman.
56
57
58
59
60

SECTION XII

HEARINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

Hearings may be ordered by the Commission upon its own initiative or at the written request of any interested person, either before or after registration of issuers, dealers, or salesman, for the purpose of obtaining any and all information, (i) to enable the Commission to properly pass upon any pending application, (ii) to modify the terms and conditions of any registration, and, (iii) to administer any provision of this Act or orders, rules and regulations pertaining thereto.

(A) Before entering an order revoking the registration of any securities as provided in Section IX, the Commission shall send to the issuer of such securities and, if the application for registration of such securities was filed by a registered dealer, to such registered dealer a notice of opportunity for hearing. Before entering an order refusing to register any person as a dealer or salesman as provided in Section X, or revoking the registration of any person as a registered dealer or registered salesman as provided in Section XI, the Commission shall send to such person, and if such person be a salesman or an applicant for registration as a salesman, to the registered issuer or dealer who employs or proposes to employ such salesman, a notice of opportunity for hearing. Notices of opportunity for hearing shall be sent by registered mail, return receipt requested, to the addressee's business address, or to the statutory agent of record, and such notice shall state:

- (1) The order which the Commission proposes to issue;
- (2) The grounds for issuing such proposed order;
- (3) That the person to whom such notice is sent will be afforded a hearing upon request to the Commission if such request is made within ten days after receipt of the notice.

(B) Whenever a person requests a hearing in accordance with the provisions of this section, the Commission shall set a date, time and place for such hearing and shall forthwith notify the person requesting such hearing thereof. The date set for such hearing shall be within 15 days, but not earlier than five days, after the request for hearing has been made, unless otherwise agreed to by both the Commission and such person as requests such hearing.

(C) For the purpose of conducting any hearing as provided in this section, the Commission shall have the power to call any party to testify under oath at such hearings, to require the attendance of witnesses, the production of books, records and papers, and to take the depositions of witnesses; and for that purpose the Commission is authorized, at the request of the person requesting such hearing or upon its own initiative, to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees and mileage of the witnesses shall be paid from the fund in the state treasury for the use of

1 the Commission in the same manner that other expenses in the
2 administration of the Act are paid.

3
4 (D) At any hearing conducted under this section, a party
5 or an affected person may appear in his own behalf or may be
6 represented by an attorney. A stenographic record of the testi-
7 mony and other evidence submitted shall be taken. The Commission
8 or its agent conducting the hearing shall pass upon the admissi-
9 bility of evidence, but a party may at any time make objections to
10 the rulings thereon, and if the Commission or its agent refuses
11 to admit evidence the party offering the same shall make a proffer
12 thereof and such proffer shall be made a part of the record of
13 such hearing.

14
15 (E) In any hearing under this section, the Director or other
16 authorized agent of the Commission may conduct such hearing and
17 shall have the same powers and authority in conducting such hear-
18 ing as are granted to the Commission; the Commission may, however,
19 order additional testimony to be taken or permit the introduction
20 of further documentary evidence. A transcript of testimony and
21 evidence, objections, if any, of the parties, and additional
22 testimony and evidence, if any, shall have the same force and
23 effect as if such hearing or hearings had been conducted by the
24 Commission. All recommendations of the Director to the Commission
25 shall be advisory only and shall not have the effect of an order
26 of the Commission.

27
28 (F) All hearings before the Commission shall be governed by
29 this section, and by the rules of practice and procedure to be
30 adopted by the Commission. Neither the Commission nor any
31 Commissioner nor Director, nor other authorized agent of the
32 Commission, shall be bound by the technical rules of evidence,
33 and no informality in any proceeding, as in the manner of taking
34 testimony, before the Commission, any Commissioner, Director, or
35 other authorized agent of the Commission shall invalidate any
36 order, decision, rule or regulation made, approved or confirmed
37 by the Commission.

38
39
40
41 SECTION XIII

42
43 APPEALS

44
45 An appeal may be taken from any order of the Commission by
46 any person adversely affected thereby to the Superior Court of
47 Maricopa County, Arizona, by serving on the Commission within 20
48 days after the date of entry of such order a written notice of
49 appeal, signed by the appellant, stating:

- 50
51 (1) The order from which the appeal is taken; and
52
53 (2) The grounds upon which a reversal or modifica-
54 tion of such order is sought; and
55
56 (3) A demand for a certified transcript of the record
57 of such order.

58
59 (A) Upon receipt of such notice of appeal, the Commission
60 shall, within 20 days thereafter, make, certify and deliver to

1 the appellant a transcript of the record of the order from which
2 the appeal is taken; provided, that the appellant shall pay the
3 reasonable costs of such transcript. The appellant shall, within
4 5 days after receipt of such transcript, file such transcript and
5 a copy of the notice of appeal with the Clerk of the Court. Said
6 notice of appeal and transcript of the record shall constitute
7 appellant's complaint. Said complaint shall thereupon be entered
8 on the trial calendar of the Court.

9
10 (B) If the order of the Commission shall be reversed, the
11 Court shall by its mandate specifically direct the Commission as
12 to its further action in the matter, including the making and
13 entering of any order or orders in connection therewith, and the
14 conditions, limitations, or restrictions to be therein contained.

15
16
17
18
19 SECTION XIV

20
21 CONSENT TO SERVICE

22
23 Where a consent to service of process is required under this
24 Act, such consent to service of process shall be in the form
25 prescribed by the Commission, shall be irrevocable, and shall
26 provide that actions arising out of or founded upon the sale of
27 any securities in violation of this Act may be commenced against
28 the person executing such consent in any court of competent
29 jurisdiction and proper venue within this state, by the service
30 of process or pleadings upon the Commission. Service of any such
31 process or pleadings in any such action against a person who has
32 filed a consent to service with the Commission shall, if made on
33 the Commission, be by duplicate copies, one of which shall be
34 filed in the office of the Director and the other immediately for-
35 warded by the Director by registered mail to the person against
36 whom such process or pleadings are directed at his latest address
37 on file in the office of the Director.

38
39
40
41 SECTION XV

42
43 INVESTIGATIONS AND EXAMINATIONS

44
45 The Commission, or the Director, or other agents, at the
46 Commission's direction, may at any time prior to or subsequent to
47 the registration of any securities investigate and examine into
48 the affairs of any person issuing or dealing in or proposing to
49 issue or deal in securities, or into the affairs of any person
50 when the Commission has grounds to believe that such person is
51 or may be issuing or dealing in securities.

52
53 (A) The Commission may at its discretion appoint special
54 investigators who shall be compensated by the applicant for
55 registration at the rate of \$25.00 per day plus actual travel
56 and other expenses properly incurred in connection therewith,
57 excepting that, should the investigation be made by an attorney-
58 at-law, a certified public accountant, or a registered profess-
59 ional engineer, the prevailing fee for such service shall be
60 specifically authorized in writing by the Commission prior to the

1 commencement of the examination or investigation. It shall be a
2 felony, subject to penalty as provided in Section XIX (A), for
3 any person to compensate such examiner or investigator in money
4 or other things of value in excess of rates provided for in this
5 subsection.
6

7 The Commission may require an advance deposit to be made to
8 the investigator prior to the investigation, and any balance for
9 services and expenses due at the conclusion of the investigation
10 shall be payable within 15 days after the submission of an
11 itemized statement by the investigator, and failure to make pay-
12 ment of such account within the specified time shall work a for-
13 feiture upon the right of the person under investigation to do
14 business within the State.
15

16 (B) The Commission, the Director, or other agent may, in
17 connection with any investigation or examination, require the
18 person being investigated to produce all books and records, and
19 may administer oaths to and examine the person, officers, and
20 employees of such person as to his or its business and affairs,
21 and may require such person to submit certified statements and
22 reports of his or its business and affairs.
23

24 SECTION XVI

25 FRAUDULENT PRACTICES

26 It shall be a fraudulent practice and it shall be unlawful:
27

28 (A) For any person knowingly to subscribe to, or make or
29 cause to be made, any material false statement or representation
30 in any application, financial statement or other document or
31 statement required to be filed under any provision of this Act, or
32 any Commission regulation or order relating thereto; or
33

34 (B) For any person, in connection with any transaction or
35 transactions in this state which involves any offer to sell or to
36 buy securities, or any sale or purchase of securities, including
37 securities exempted under the provisions of Section V and includ-
38 ing any transactions exempted under the provisions of Section VI,
39 either directly or indirectly (i) to employ any device, scheme,
40 artifice or omission to mislead or defraud or (ii) to engage in
41 any act, practice, transaction or course of business which
42 operates or would operate as a fraud or deceit upon the purchaser
43 or seller.
44

45 (C) Violation under this section shall be a felony with
46 penalty as provided in Section XIX (A).
47
48

49 SECTION XVII

50 INJUNCTIONS AND PROSECUTIONS FOR VIOLATIONS

51 Whenever it shall appear to the Commission, either upon com-
52 plaint or otherwise, that any person has engaged in, or is en-
53 gaging in, or is about to engage in any act or practice or trans-
54
55
56
57
58
59
60

1 action which is prohibited by this Act, or by any order of the
2 Commission issued pursuant to any section of this Act, or which
3 is declared to be illegal in this Act, the Commission may, in its
4 discretion:
5

6 (1) Apply to the Superior Court of any county in this
7 state for an injunction restraining such person and his agents,
8 employees, partners, officers and directors, from continuing such
9 act, practice or transaction or engaging therein or doing any
10 acts in furtherance thereof, and for such other and further relief
11 as the facts may warrant.
12

13 (2) Transmit such evidence as may be available concern-
14 ing such act, practice or transaction to the Attorney General
15 whereupon he shall petition the proper court of jurisdiction for
16 the appointment of a conservator to reorganize the affairs of, or
17 a receiver to wind up the affairs of, the violator under this act,
18

19 (3) Transmit such evidence as may be available concern-
20 ing such act, practice or transaction to the Attorney General who
21 may, in his discretion, institute the necessary criminal pro-
22 ceedings.
23

24 (A) In any proceeding for an injunction, the Commission may
25 apply for and on due showing be entitled to have issued the Court's
26 subpoena requiring (i) the appearance forthwith of any defendant
27 and his agents, employees, partners, officers or directors, and
28 (ii) the production of such documents, books and records as may
29 appear necessary for the hearing upon the petition for an in-
30 junction. Upon proof of any of the offenses described in this
31 section, the Court may grant such injunction as the facts may
32 warrant.
33

34 (B) In any criminal proceeding, the Attorney General, or
35 other prosecuting attorney, may apply for and on due showing be
36 entitled to have issued the Court's subpoena requiring (i) the
37 appearance forthwith of any defendant and his agents, employees,
38 partners, officers or directors, and (ii) the production of such
39 documents, books and records as may impose upon any defendant con-
40 victed of any of the offenses described in this section such
41 penalty, in accord with the provisions of Section XIX, as the
42 facts may warrant.
43
44
45

46 SECTION XVIII

47 REMEDIES

48
49
50 Every sale or contract for sale made in violation of any
51 of the provisions of this Act, or of any order issued by the
52 Commission under any provisions of this Act, shall be voidable at
53 the election of the purchaser. The person making such sale or
54 contract for sale, and every director, officer, salesman or agent
55 of or for such seller who shall have participated or aided in any
56 way in making such sale, shall be jointly and severally liable to
57 such purchaser in an action at law in any court of competent juris-
58 diction upon tender to the seller, in person or in open court, of
59 the securities sold or of the contracts made for the full amount
60 paid by such purchaser, together with all taxable court costs and

1 reasonable attorney's fees in any action or tender under this
2 section. Provided:

3
4 (A) That no purchaser shall claim or have the benefit of
5 this section if he shall have refused or failed to accept, within
6 30 days from the date of such offer, an offer in writing of the
7 seller to take back the securities in question and to refund the
8 full amount paid by such purchaser, together with interest on
9 such amount for the period from the date of payment by such pur-
10 chaser down to the date of repayment, such interest to be computed:

11
12 (1) In case such securities consist of interest-
13 bearing obligations, at the same rate as pro-
14 vided in such securities; or

15
16 (2) In case such securities consist of other than
17 interest-bearing obligations, at the rate of
18 5% per annum; less, in every case, the amount
19 of any income from such securities that may
20 have been received by such purchaser.

21
22 (B) Nothing in this Act shall limit any statutory or common
23 law right of any person in any court for any act involved in the
24 sale of securities.

25
26
27
28 SECTION XIX

29
30 PENALTIES

31
32 (A) Any person who shall engage in any act, practice or
33 transaction declared by any provision of the Act to be a felony,
34 shall upon conviction thereof be punished by a fine of not less
35 than \$500.00 or more than \$5,000.00 or imprisonment for not less
36 than 1 year and not more than 10 years, or by both fine and
37 imprisonment.

38
39 (B) Any person who shall violate any provision of this Act
40 for which penalty is not provided in subsection (A) of this section
41 shall be deemed guilty of a misdemeanor and upon conviction thereof
42 shall be punished by a fine of not less than \$100.00 or more than
43 \$500.00 or imprisonment for not more than one year, or by both
44 fine and imprisonment.

45
46
47
48 SECTION XX

49
50 EVIDENTIARY MATTERS

51
52 (A) In any action, civil or criminal, where a defense is
53 based upon any exemption provided for in this Act, the burden
54 of proving the existence of such exemption shall be upon the
55 party raising such defense.

56
57 (B) In any action, civil or criminal, a certificate signed
58 and sealed by the Commission, stating compliance or non-compliance
59 with the provisions of this Act, shall constitute prima facie
60 evidence of such compliance or non-compliance with the provisions

1 of this Act and shall be admissible in any such action.

2
3 (C) In any action, civil or criminal, brought under this
4 Act the accused shall be deemed to have had knowledge of any
5 matter of fact, where in the exercise of reasonable diligence,
6 he should, prior to the commission of the offense complained of,
7 have secured such knowledge.
8

9
10
11 SECTION XXI

12
13 SEPARABILITY OF PROVISIONS

14
15 If any provision or provisions of this Act shall be held in-
16 valid, the remainder of this Act shall not be affected thereby.
17
18

19
20 SECTION XXII

21
22 REPEAL OF CERTAIN PRIOR ACTS
23 SAVING OF CERTAIN RIGHTS AND LIABILITIES THEREUNDER

24
25 (A) Articles 10 and 11 of Chapter 53, Arizona Code Annotated,
26 1939, as amended, are hereby repealed, to take effect upon the day
27 that this Act goes into force, subject to the limitations provided
28 in subsections (B), (C) and (D) of this section.
29

30 (B) The provisions of all laws which are repealed by this
31 Act shall remain in force for the prosecution and punishment of
32 any person who, before the effective date of this Act, shall have
33 committed any act contrary to the provisions of any law in force
34 at the time such act was done, and such person may be prosecuted
35 and punished under the law as it existed when such violation
36 occurred.
37

38 (C) In case of sales, contracts, or agreements made prior to
39 the effective date of this Act, the civil rights and liabilities
40 of the parties thereto shall remain as provided by the law as it
41 existed at the time such sales, contracts, or agreements were made,
42 and all parts of laws repealed by this Act shall remain in force
43 for the enforcement of such rights and liabilities.
44

45 (D) All securities for which a permit, issued by the Corpora-
46 tion Commission pursuant to the provisions of Article 10, Chapter
47 53, Arizona Code Annotated, 1939, as amended, is in effect on the
48 day prior to the effective date of this Act, if such securities
49 are not exempt under this Act, such registration to be effective
50 for a period of 6 months from the effective date of this Act; and
51 the Commission shall have the same powers with respect to such
52 securities that it has with respect to securities registered under
53 the provisions of this Act. All dealers who are duly registered
54 as dealers and all salesmen who are registered as agents under the
55 said Article 11 of Chapter 53, Arizona Code Annotated, 1939, as
56 amended, on the day prior to the effective date of this Act shall
57 be deemed to be duly registered under and subject to the provisions
58 of this Act, such registration to expire on the 30th day of June
59 of the year in which this Act becomes effective and to be subject
60 to renewal as provided in this Act.

1 (E) The Director provided for by this Act shall respectively
2 succeed the Director of Securities heretofore acting under the law
3 hereby repealed, and as such successor shall receive all the files,
4 papers, and property of said Director of Securities relating to the
5 administration of the said Articles 10 and 11 of Chapter 53,
6 Arizona Code Annotated, 1939, as amended. All proceedings pending
7 before the said Director of Securities under the law hereby repeal-
8 ed shall be continued under the provisions of this Act by the
9 Director.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60

SECTION XXIII

INTENT AND CONSTRUCTION

The intent and purpose of this Act is for the protection of
the public, the preservation of equitable business practices
wherein such enterprise or business is financed through the sales
of securities, the suppression of fraudulent practices in sales or
offers to sell securities, and the prosecution of persons operating
or tending to operate a fraud, a deceit or an inequitable practice
upon any purchaser of securities. It is a proper and needful
exercise of the power of the state and should not be given narrow
or restricted interpretation or construction by any court of proper
jurisdiction which would tend to restrain or hamper the performance
of officials in their duties of administration of the Act.

SECTION XXIV

or rather

EMERGENCY

To preserve the public peace, health, and safety it is
necessary that this Act become immediately operative. It is there-
fore declared to be an emergency measure, to take effect as pro-
vided by law.