ORIGINAL NEW APPLICATION

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE - Chairman
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DOUG LITTLE
ANDY TOBIN
BOYD DUNN

In the matter of: Real Estate Finance Corporation, an Arizona corporation, WIN Opportunity Fund, LLC, an Arizona limited liability company, WIN Management, LLC, an Arizona limited liability company, Adam W. Child and Erin M. Child, husband and wife, and Respondents.	DOCKET NO. S-21018A-17-0232 **TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING**

Arizona Corporation Commission
DOCKETED
JUL 11 2017
DOCKETED BY

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY

EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents Real Estate Finance Corporation, LLC, WIN Opportunity Fund, LLC, WIN Management, LLC, and Adam W. Child (collectively, "Respondents") are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

The Division also alleges that Adam Child is a controlling person, within the meaning of A.R.S. § 44-1999(B), of all the Respondents that are entities so that he is jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as these entities for their violations of the antifraud provisions of the Securities Act.

I.

JURISDICTION

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

II.

RESPONDENTS

2. Real Estate Finance Corporation ("REFCORP") was formed in Arizona on April 25, 2008. The original Articles of Organization filed with the Commission's Corporations Division list Adam Child as the sole director, the President/Secretary, and as the incorporator. On October 23, 2009, the Corporations Division administratively dissolved REFCORP for failing to file its annual report. After several years of not filing an annual report, on March 19 and 20, 2015, REFCORP filed annual reports for 2009 – 2015. On April 13, 2015, the Corporations Division reinstated REFCORP. In its most recent Annual Report, filed on April 23, 2017, Child is listed as a REFCORP director and as REFCORP's president.

3. WIN Opportunity Fund, LLC was incorporated on April 28, 2016. It is a member-managed company with WIN Management, LLC as the only listed member. Child is listed as the organizer and signed the Articles of Organization that were filed with the Corporations Division.

4. WIN Management, LLC was incorporated on April 28, 2016. It is a member-managed company with Adam Child as one of two listed members. Child is listed as the organizer and signed the Articles of Organization that were filed with the Corporations Division.

5. Erin Child has been at all relevant times the spouse of Adam Child (Erin Child may be referred to as "Respondent Spouse"). Respondent Spouse is joined in this action under A.R S. § 44-2031(C) solely for purposes of determining the liability of the marital communities.

6. At all relevant times, Respondent Adam Child has been acting for his own benefit and for the benefit or in furtherance of his marital community.

III.

FACTS

7. From 2009 through October 2015, Adam Child was the president of Titan Capital Holdings, LLC and a key manager of several of Titan's related entities. Titan's primary business consisted of lending money to real estate developers for the purchase and rehab of residential properties. As president, Child raised money for Titan by meeting with potential investors, explaining Titan's business, and describing different investment options, including purchasing notes or limited liability company interests in an investment fund.

8. In October 2015, Titan ceased operations and was put in receivership. At that time, Titan had insufficient assets to repay its investors more than a small fraction of their principal, much less the interest owed to those investors.

9. About the time that Titan ceased operations, REFCORP began doing business.

10. REFCORP is a hard-money lender, i.e. makes shorter-term loans (usually less than two years) to builders and contractors at relatively higher interest rates than those offered by banks or credit unions.

11. REFCORP obtains its capital by selling notes for at least three types of investments. The first was the opportunity to fund a specific real estate loan for a specific piece of real property and for which the investor would receive a first position security interest in the property for which the loan was made. The second type of investment is a note secured by a second position deed of trust or mortgage with real property as collateral. This investment would pay the investor 14% on the amount invested. The last investment opportunity is a pooled investment in WIN Opportunity Fund. This investment would provide a 10% rate of return.

12. In its offering materials, WIN Opportunity Fund states that REFCORP is its manager and that REFCORP will "originate, issue and finance the loans that [WIN] will provide to borrowers to purchase (i) real property – single family and small commercial, (ii) Bank Owned (REO) properties (that is, available for sale from inventory) and (iii) properties available through a Short

Sale[.]" WIN will also make second-position loans on properties where REFCORP has the first position loan. It further states that WIN Opportunity Fund "proposes to finance its acquisition of these loans or real estate investments through the sale of Series A 10% Notes."

13. From October 2015, Child and REFCORP sold notes secured by deed of trust on a specific real property to at least 28 different investors for a total of approximately $10,819,900. These investors have received a return of approximately $3,239,100 of their principal.

14. From October 2015 through at least June 2017, Child, REFCORP, and WIN Opportunity Fund offered to sell notes in WIN Opportunity Fund. From August 2016 through June 2017, Child, REFCORP, and WIN Opportunity Fund sold notes to at least 33 persons for a total of at least $2,656,348. These investors have received interest payments totaling approximately $55,043.

15. REFCORP and WIN Opportunity Fund find note purchasers and offerees by cold-calling potential investors, hosting seminars for potential investors, maintaining a Facebook page, and by contacting persons who have invested in Titan Capital Holdings. REFCORP has at least one staff member whose job consists of cold-calling potential investors from a list of contacts provided by a marketing service. Through these means, Child, REFCORP, and WIN Opportunity Fund offered to sell the above-described investments to several people.

16. At the REFCORP seminars, in its cold calls, and on its Facebook page, Respondents Child and REFCORP represented to offerees and investors that Respondents provided a program designed to help investors' money grow with a 10%, secured return.

17. Child and REFCORP represented to investors and offerees that REFCORP made a profit on the spread between interest rates they charged for the hard money loans and the interest rate that REFCORP paid investors.

18. REFCORP has held at least three seminars for potential investors. On its Facebook page, REFCORP calls these seminars "Investor Learning Events" and "Lunch and Learns" where attendees can "learn how to earn a secured return."

19. Approximately 90 people attended an April 2017 seminar. During this seminar, Child described REFCORP's business model (i.e. funding hard-money real estate loans) and the investment opportunity in REFCORP. Child told attendees that if they invested with REFCORP, they would receive a 10% return on their investment, stated that the price of the investment was a minimum of $10,000, and told attendees that the term of the investment was one year. Child told attendees that they could use their IRA accounts to fund the investment.

20. At the April seminar, Child and REFCORP provided attendees with a handout that contained a short description of Child's business history. The handout describes Child as the President/CEO of REFCO. It states that Child has been a "Real Estate Lender and investor in Arizona since 1989 and is a Licensed Mortgage Broker and a licensed Mortgage Loan Originator in Arizona." It also states that Child has "underwritten and funded more than 500 Private Money loans in recent years and has maintained a default rate of less than 1%, which is much lower than the industry average."

21. At the April seminar, Child told the attendees not to confuse him with a different "Adam Child" in or from Flagstaff who had a several-million-dollars judgment against him. Child told the attendees that this was not him. In fact, in 2009, Child was sued for fraud and racketeering for his actions in a real estate development in Flagstaff, Arizona. The Coconino County Superior Court, located in Flagstaff, entered judgment against Child for $2,957,227 which includes $1,956,000 treble damages for fraud and racketeering.

22. In May 2017, Child and REFCORP conducted an investor seminar in Scottsdale, Arizona for a group consisting of approximately 12 people who were interested in investing in REFCORP and its related entities. Child told attendees that if they invested with REFCORP, they would receive a 10% return on their investment, stated that the price of the investment was a minimum of $10,000, and told attendees that the term of the investment was one year. At this seminar, Child introduced himself as the president of REFCORP. He told attendees that he had been a mortgage broker/banker in the Phoenix valley since 1989 and that he had been providing financing

for "fix and flips" and "re-designs" since at least 2008. Child stated that his 28-year background in lending helps him differentiate borrowers that REFCORP lends to. Child stated that this company, REFCORP, was formed in 2008 specifically for the purpose of doing hard money bridge loans to real estate developers.

23. During the May investor seminar, Child also stated that in 2016, REFCORP funded just under $15,000,000, and that REFCORP had $7,000,000 "in process" at the time of the seminar. Child stated that all the money came from individual investors. Child also stated that, at the time of the seminar, REFCORP had "some 57 right now active investors."

24. During the April and May investor seminars, Child and REFCORP provided a brochure to the persons in attendance, at least one of whom later purchased a note in WIN Opportunity Fund. The brochure states that REFCORP was established in 2008.

25. In the brochure, Child and REFCORP represent that, for a minimum investment of only $10,000, REFCORP will produce for its "investors" "A Secured 10% Return." The brochure states that REFCORP's program is "designed to help your money grow without risking your principal balance." The brochure includes a chart labeled "Earnings with our 10% Program" that shows the monthly and annual returns from $10,000 to $500,000 "investments."

26. Respondents omitted material information that would allow investors to evaluate Respondent's claims of Child's past success, the claims of Respondents' ability to generate 10% secured returns, and Child's ability to manage a company that would generate these returns. These omissions include:

a) As described above, on June 8, 2009, the Coconino County Superior Court entered judgment against Child for $2,957,227 which includes $1,956,000 treble damages for fraud and racketeering committed by Child in a real estate development enterprise in Flagstaff, Arizona.

b) In 2009, Child filed for bankruptcy protection. In his bankruptcy, Child sought to discharge the judgment described above along with $2,800,004 of unsecured claims which included $263,945 of credit card debt, several deficiencies on foreclosed properties totaling over

$405,000, unpaid office rent, unpaid HOA fees, a $40,000 deficiency on an automobile lease, a $570,000 personal loan. Child's bankruptcy schedules also list $130,000 of unpaid taxes and $60,000 of unpaid child and spousal support.

c) On December 3, 2008, the Department of Financial Institutions found that through statements made by Child, Child's company, Child Mortgage Corporation, violated A.R.S. § 6-909(L) (making a false promise or misrepresentation or conceal an essential or material fact in the course of the mortgage broker business), (M) (failure to truthfully account for the monies belonging to a party to a mortgage loan transaction or failure to disburse monies in accordance with his agreements) and (N) (engaging in illegal or improper business practices). In a consent order signed by Child, DFI revoked the entity's mortgage broker license and ordered payment of a $2,705 penalty.

d) Child was the president of Titan Capital Funding, which, like REFCORP, purported to use investor funds to finance the purchase and rehab of residential properties. Titan failed as a business, ceased operating in October 2015, and was put in receivership so its remaining assets could be managed and distributed to investors, most of whom have received either no return on their investment or received pennies on the dollar.

IV.

VIOLATION OF A.R.S. § 44-1841

(Offer and Sale of Unregistered Securities)

27. From on or about October 2015, Respondents have been offering or selling securities in the form of notes and/or investment contracts, within or from Arizona.

28. The securities referred to above are not registered pursuant to Articles 6 or 7 of the Securities Act.

29. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

30. Respondents are offering or selling securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

31. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

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

32. In connection with the offer or sale of securities within or from Arizona, Respondents are, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes the following:

a) Representing to investors and offerees that REFCORP was established in 2008, without informing investors/offerees that REFCORP started doing business in 2015 and that Child had been principally employed by Titan Capital from 2009 to 2015.

b) Failing to disclose that Child was the president of Titan Capital, which operated a business that was substantially similar to REFCORP. Titan failed as a company and was put into receivership. Most Titan investors did not receive the returns Titan promised them and lost all or a portion of their investment funds.

c) Failing to disclose that Child lost a civil suit in which the Coconino County Superior Court in Flagstaff, Arizona, found Child had committed fraud and racketeering and ordered Child to pay over $2.9 million, $1.9 million of which was treble damages.

d) Telling several offerees and at least one investor that they should not confuse Child with a different "Adam Child" who had legal trouble in Flagstaff when in fact the judgment described in the preceding paragraph was the result of Child's fraudulent activities in connection with a real estate development in Flagstaff.

e) Failing to disclose that one of Child's previous mortgage-lending companies, Child Mortgage Company, had its licensed revoked because it violated A.R.S. § 6-909(L) (making a false promise or misrepresentation or conceal an essential or material fact in the course of the mortgage broker business), (M) (failure to truthfully account for the monies belonging to a party to a mortgage loan transaction or failure to disburse monies in accordance with his agreements) and (N) (engaging in illegal or improper business practices).

f) Failing to disclose that Child filed for bankruptcy protection in 2009.

33. This conduct violates A.R.S. § 44-1991.

VII.

CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999

From at least October 2008 through the present, Adam Child directly or indirectly controlled REFCORP, WIN Opportunity Fund, and WIN Management within the meaning of A.R.S. § 44-1999. Therefore, Child is jointly and severally liable to the same extent as these entities for their violations of A.R.S. § 44-1991.

VIII.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondents, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with Respondents CEASE AND DESIST from any violations of the Securities Act.

IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that this Order shall be effective immediately.

IX.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

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

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

3. Order Respondents to pay the state of Arizona administrative penalties of up to $5,000 for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order that the marital communities of Respondent Adam Child and Respondent Spouse are subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

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

X.

HEARING OPPORTUNITY

Each respondent including Respondent Spouse may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a hearing, the requesting respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary

Order and Notice. The requesting respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602)542-3477 or on the Commission's website at www.azcc.gov/divisions/hearings/docket.asp.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

If a request for hearing is not timely made, the Division will request that the Commission make permanent this Temporary Order, with written findings of fact and conclusions of law, which may include ordering restitution, assessing administrative penalties, or other relief.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon, ADA Coordinator, voice phone number (602)542-3931, e-mail kcannon@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

XI.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing, the requesting respondent must deliver or mail an Answer to this Temporary Order and Notice to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Temporary Order and Notice. Filing instructions may be obtained from Docket Control by calling (602)542-3477 or on the Commission's website at www.azcc.gov/divisions/hearings/docket.asp.

Additionally, the answering respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007, addressed to Ryan Millecam.

The Answer shall contain an admission or denial of each allegation in this Temporary Order and Notice and the original signature of the answering respondent or the respondent's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be considered admitted.

When the answering respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

The officer presiding over the hearing may grant relief from the requirement to file an Answer for good cause shown.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 11th day of July, 2017.

Matthew J. Neubert
Director of Securities