

MICHAEL K. JEANES
Clerk of the Superior Court
By Joan Lewis, Deputy
Date 08/17/2016 Time 13:11:57

Description	Amount
CASE# CV2016-014142	
CIVIL NEW COMPLAINT	319.00 W
TOTAL AMOUNT	0.00
Receipt# 25423746	

1 **ARIZONA CORPORATION COMMISSION**
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8 **STATE OF ARIZONA**

9 **MARICOPA COUNTY SUPERIOR COURT**

10 ARIZONA CORPORATION COMMISSION) No. CV CV 2016-014142
11 Plaintiff) **VERIFIED COMPLAINT**
12 v.)
13 DENSCO INVESTMENT CORPORATION, an)
14 Arizona corporation)
15 Defendant.)

16 For its Complaint against Defendant, Plaintiff, the Arizona Corporation Commission,
17 pleads as follows:

- 18 1. Plaintiff, the Arizona Corporation Commission ("ACC"), is a governmental entity
19 charged with enforcing the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").
- 20 2. Defendant DenSco Investment Corporation ("DenSco"), is incorporated in the state
21 of Arizona since April of 2001.
- 22 3. DenSco resided in and/or conducted business within or from Maricopa County,
23 Arizona at all relevant times.
- 24 4. The ACC brings this action pursuant to A.R.S. § 44-2032.
- 25 5. Venue is proper in this County pursuant to A.R.S. §§ 44-2031(B) and 44-2032(4).
- 26

1 6. Since at least 2009, DenSco "has been . . . engaged primarily in funding the
2 purchase of houses through preforeclosure process, foreclosure sales and funding and purchasing
3 construction loans, all of which will be secured by real estate deeds of trusts." To fund the
4 purchase of the real estate, DenSco raised money from investors.

5 7. Since at least 2009, investors received a Confidential Private Offering
6 Memorandum ("offering document") from DenSco before or at the time of investment.

7 8. DenSco's offering documents gave individuals the opportunity to invest in
8 General Obligation Notes ("Notes") of DenSco. The Notes were to be "secured by a general
9 pledge of all assets owned by or later acquired by the Company." DenSco's largest assets would
10 be in Trust Deeds. DenSco was to maintain a loan-to-value ratio at 70% percent or below in the
11 aggregate for all loans in the loan portfolio. The Notes will receive interest only payments during
12 the term and principal paid at maturity. Interest may be paid monthly, quarterly or at maturity.

13 9. According to the DenSco website, "DenSco will target the funding of Trust Deeds
14 on Real Estate that is highly marketable, has sufficient equity, and the borrower is competent in
15 fulfilling the obligation of the note; while providing investors a constant rate of return on their
16 investment backed by a diversity of these properties with a strong loan-to-value ratio. Most of
17 these loans will be to Residential and Commercial Foreclosure Specialists that will renovate and
18 then flip the properties in a relatively short period of time."

19 10. The Lending Guidelines listed on DenSco's website specifically state "First
20 Position ONLY!" The Lending Guidelines further stated that DenSco would lend up to 60% to
21 70% of the value of the property. DenSco represented to investors that borrowers were required
22 to put at least 20% down on the home purchase and DenSco would have a first position security
23 interest in the real estate. Therefore the investors are protected even if the borrower defaults.

24 11. Although, the offering document specifically states that "Trust Deeds have a loan-
25 to-value ratios, no greater than 70 percent but with an objective goal of 50 percent to 60 percent,"
26 at least one borrower received loans totaling 100 percent of the loan-to-value.

1 12. Upon information and belief, starting in about 2013, Densco started providing
2 investor funds to a borrower without obtaining a first position deed of trust on the real property.
3 This activity involved about 80 loans totaling at least \$28 million. This is contrary to what was
4 explained to investors and contrary to the description in the offering documents and website.
5 Further, the same borrower obtained an unsecured loan of over \$14 million from DenSco.

6 13. Also in about 2013, DenSco stopped accepting new investors and accepting new
7 investments from current investors.

8 14. Upon information and belief, prior to October 2015, DenSco and the borrower
9 described above reached a forbearance agreement. In about October of 2015, the borrower failed
10 to make its payments and then filed for protection under Chapter 7 of the U.S. Bankruptcy Code.

11 15. After October of 2015, upon information and belief, DenSco began accepting
12 investor funds again. Upon information and belief, no disclosure was made to those investors that
13 DenSco entered into a forbearance agreement with a large borrower, a borrower had failed to
14 make payments on previous loans and a borrower was provided a large unsecured loan. Further,
15 DenSco failed to inform investors that it was not in a first position on many deeds of trust.

16 16. According to company records, as of about July 28, 2016, DenSco had 138 loans
17 outstanding. DenSco's assets are as follows¹:

- 18 • 50 of the loans appear to be secured with first position deeds of trust and will be
19 liquidated within 60 days. The value is about \$4.9 million.
- 20 • 5 of the loans appear to be secured with first position deeds of trust but will
21 require foreclosure or collection. The value is about \$1.9 million.
- 22 • 83 of the loans appear to be unsecured and to one borrower. The value of these
23 loans is about \$28 million.
- 24 • There is a loan of over \$14 million that is unsecured from the same borrower.

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¹ The above figures are based upon company records and have not been independently verified.

- The bank account of DenSco contains approximately \$1.0 million.
- As of June 2016, the investor balance was over \$51 million.

17. Since at least 2009, DenSco, directly or indirectly, raised at least \$50 million through at least 103 investors.

18. The notes offered and sold by DenSco are securities as defined under A.R.S. §44-1801(26).

COUNT ONE

VIOLATION OF A.R.S. § 44-1991

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

19. The ACC incorporates by reference all allegations set forth in paragraphs 1 through 18 of the Complaint.

20. In connection with the offer or sale of securities within or from Arizona, DenSco directly or indirectly, made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. DenSco's conduct includes, but is not limited to, the following:

- a. Upon information and belief, since at least 2009, misrepresenting to investors that DenSco would provide loans up to 70% of the value of the property, when in fact, with at least one borrower DenSco made \$28 million in loans at 100 percent of the value of the property.
- b. Upon information and belief, since at least 2009, failing to disclose to investors that many loans were not secured with a first position deed of trust.

- 1 c. Failing to disclose to investors after October 2015, that at least one
2 borrower had failed to make payments on over \$28 million in loans.
3 d. Upon information and belief, failing to disclose to investors that
4 DenSco provided a borrower an unsecured loan valued at over a \$14
5 million.

6 21. This conduct violates A.R.S. § 44-1991.

7 COUNT TWO

8 (Appointment of Receiver and/or Conservator)

9 22. The ACC incorporates by reference all allegations set forth in paragraphs 1 through
10 21 of the Complaint.

11 23. Pursuant to A.R.S. §§ 44-2032(4) and 44-2011 *et seq.*, the ACC requests this Court
12 appoint a Receiver on an interim basis to take control of the assets of DenSco and to marshal and
13 preserve its assets for the benefit of its defrauded investors.

14 COUNT THREE
15 (Injunctive Relief)

16 24. The ACC incorporates by reference all allegations set forth in paragraphs 1 through
17 23 of the Complaint.

18 25. Pursuant to A.R.S. §§ 44-2032(2) and 44-2013(A), the ACC requests this Court to
19 issue a preliminary injunction restraining DenSco, and its officers, agents, servants, employees,
20 attorneys, and all persons in active concert or participation with it, from removing, encumbering or
21 otherwise disposing of its assets located within this State.

22 WHEREFORE, the ACC prays for judgment as follows:

23 1. Appoint a Receiver on an interim basis to take control of the assets of the DenSco,
24 and to marshal and preserve its assets for the benefit of DenSco's defrauded investors;

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2. Issue a preliminary injunction restraining the DenSco, and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it from removing, encumbering or otherwise disposing of its assets located within this State.

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

4. Order DenSco to pay the state of Arizona civil penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, as the court considers to be just and proper, pursuant to A.R.S. § 44-2037; and

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

Dated this 17th day of August, 2016.

ARIZONA CORPORATION COMMISSION

By Wendy Coy
Wendy Coy
Attorney for the Arizona Corporation Commission

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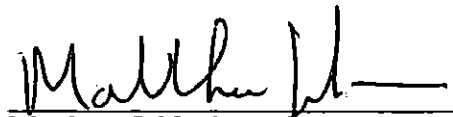
VERIFICATION

Matthew J. Neubert, being first duly sworn, does depose and say:

1. I am the Director of Securities. I make this Verification based upon behalf of the Arizona Corporation Commission


2. I have read the Complaint and to the best of my knowledge, and based upon the records and information gathered by the Securities Division, believe the allegations contained therein to be true and correct.

FURTHER AFFIANT SAITH NOT


Matthew J. Neubert
Director of Securities

STATE OF ARIZONA)
)
County of Maricopa)
)

SUBSCRIBED AND SWORN to before me on this 17 day of August, 2016.



My Commission Expires:

10-06-19

