

BEFORE THE  
DEPARTMENT OF CORPORATIONS  
STATE OF CALIFORNIA

ACCEPTED FOR FILING
Date <u>Jan. 2, 2002</u>
By _____
DEPARTMENT OF CORPORATIONS

In the Matter of the  
DESIST AND REFRAIN ORDERS  
Issued To:

NAULLIE ELIZABETH GYNES  
354 S. Lower Sacramento Road  
Lodi, California 95242

Respondent.

OAH No. N2001090179

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Department of Corporations as its Decision in the above-entitled matter.

This Decision shall become effective on Jan. 2, 2002.

IT IS SO ORDERED Jan. 2, 2002.

Commissioner of Corporations

BY \_\_\_\_\_

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Respondent.

**PROPOSED DECISION**

Administrative Law Judge M. Amanda Behe, State of California, Office of Administrative Hearings, heard this matter in Sacramento, California on October 11, 2001.

Daniel P. O'Donnell, Corporation Counsel, represented the State of California, Department of Corporations.

Respondent Naullie Elizabeth Gynes represented herself.

The record remained open for receipt of written closing argument. The Department's Closing Argument was received on October 25, 2001, as Exhibit 15. No Closing Argument was filed by or on behalf of respondent by the due date of November 16, 2001. No communication was received from respondent regarding the failure to file Closing Argument. The record was closed on November 16, 2001, and the matter was submitted.

**FACTUAL FINDINGS**

1. William Kenefick as Acting Commissioner of Corporations of the State of California, Department of Corporations (hereinafter "the Department") made and filed the DESIST AND REFRAIN ORDERS in his official capacity on April 18, 2000.

2. The Department is the agency of the state responsible for enforcement of the Corporate Securities Law (hereinafter "CSL"), California Corporations Code section 25000 et seq.

3. On April 18, 2000, Naullie Elizabeth Gynes (hereinafter "respondent") was personally served with the DESIST AND REFRAIN ORDERS, a letter advising her of the right to an administrative hearing if she challenged the DESIST AND REFRAIN ORDERS, and copies of relevant statutes.

4. The DESIST AND REFRAIN ORDERS were filed pursuant to the authority of Corporations Code section 25532. The DESIST AND REFRAIN ORDERS demanded that respondent desist and refrain from the offer or sale of promissory notes or of any other security in violation of Corporations Code section 25110 because the sale of such securities is subject to qualification pursuant to the Code and such securities were being or had been offered for sale without first being qualified.

The DESIST AND REFRAIN ORDERS further demanded that respondent desist and refrain from effecting any transaction in, or inducing or attempting to induce the purchase or sale of any security because respondent was or had been acting as a broker-dealer, and was subject to licensing as a broker-dealer pursuant to Corporations Code section 25210, and was not licensed as a broker-dealer in the State of California.

The DESIST AND REFRAIN ORDERS further demanded that respondent desist and refrain from offering or selling or buying or offering to buy any security, including but not limited to promissory notes, by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements not misleading in the circumstances, because respondent was or had been offering or selling such securities in violation of Corporations Code section 25401.

5. Pursuant to Corporations Code section 25532(d) a request for a hearing pursuant to the Administrative Procedures Act, Government Code section 11500 et seq., may be filed within a year of the date of service of such a desist and refrain order.

6. Respondent sent an undated letter to the Department which was received on June 14, 2001. Respondent apparently intended the somewhat confusing letter to be considered a request for a hearing. By its letter of June 21, 2001, the Department sought clarification of her intention and suggested language which she could use to request a hearing, including an extension of time.

Respondent's letter of July 14, 2001, employed the suggested language and was accepted by the Department as a timely request for a hearing pursuant to the Administrative Procedures Act.

7. On September 19, 2001, respondent was properly served with the Notice of Hearing setting the matter for October 11, 2001.



















