

1 **ARIZONA CORPORATION COMMISSION**

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5 **STATE OF ARIZONA**

6 **MARICOPA COUNTY SUPERIOR COURT**

7
8 ARIZONA CORPORATION COMMISSION)

No. CV _____

9 Plaintiff)

**AFFIDAVIT OF JERRY LOWE IN
SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING
ORDER WITHOUT NOTICE,
ORDER TO SHOW CAUSE AND
APPOINTMENT OF RECEIVER**

10 v.)

11 MATHON MANAGEMENT COMPANY,)
L.L.C., fka an Arizona limited liability company)
now dba a Delaware limited liability company,)
12 SLADE WILLIAMS AND ASSOCIATES,)
L.L.C., an Arizona limited liability company,)
13 MATHON FUND I, L.L.C., an Arizona limited)
liability company, MATHON FUND, L.L.C., fka)
14 an Arizona limited liability company now dba a)
Delaware limited liability company, INTEGRITY)
15 101, L.L.C., an Arizona limited liability company,)
INTEGRITY 201, L.L.C., an Arizona limited)
16 liability company, INTEGRITY 301, L.L.C., an)
Arizona limited liability company, INTEGRITY)
17 401, L.L.C., an Arizona limited liability company,)
INTEGRITY 501, L.L.C., an Arizona limited)
18 liability company, INTEGRITY 601, L.L.C., an)
Arizona limited liability company, INTEGRITY)
19 701, L.L.C., an Arizona limited liability company,)
INTEGRITY 801, L.L.C., an Arizona limited)
20 liability company, INTEGRITY 901, L.L.C., an)
Arizona limited liability company, ROUND)
21 VALLEY CAPITAL, L.L.C., an Arizona limited)
liability company, W.S.F. – WORLD SPORTS)
22 FANS L.L.C., an Arizona limited liability)
company, MILL CREEK L.L.C., an Arizona)
23 limited liability company, BELLEVUE)
HOLDINGS, L.L.C., an Arizona limited liability)
24 company, OAK HARBOR FINANCIAL, L.L.C.,)
an Arizona limited liability company, SW)
25 STRATEGIC WEALTH ADVISORS, L.L.C., an)
Arizona limited liability company, EVERETT)
26 CAPITAL, L.L.C., an Arizona limited liability)

1 company, CRE CAPITAL, L.L.C., an Arizona)
 limited liability company, MEZZANINE)
 2 MANAGEMENT, L.L.C., an Arizona limited)
 liability company, MEZZANINE FUND I,)
 3 L.L.C., an Arizona limited liability company,)
 JONAS FUND I, L.L.C., an Arizona limited)
 4 liability company, TEMPLAR FUND, L.L.C., fka)
 an Arizona limited liability company now dba a)
 5 Delaware limited liability company, MERCER)
 ISLAND, L.L.C., an Arizona limited liability)
 6 company, CONNECTICUT PROPERTIES,)
 L.L.C., an Arizona limited liability company,)
 7 FIRST ATLANTA INVESTMENTS, L.L.C., a)
 Georgia limited liability company, MM)
 8 COLONIAL FUND, L.L.C., a Delaware limited)
 liability company, SLADE CONSTRUCTION,)
 9 L.L.C., an Arizona limited liability company,)
)
 10 DUANE SLADE and JENNIFER SLADE,)
 husband and wife, GUY ANDREW WILLIAMS)
 and LISA WILLIAMS, husband and wife,)
 11)
)
 12 Defendants.)

13 I, Jerry Lowe, being duly sworn, say as follows:

- 14 1. I am a resident of Maricopa County, Arizona, and am over the age of eighteen
 15 (18).
- 16 2. I have personal knowledge of the matters stated in this affidavit and am competent
 17 to testify to them.
- 18 3. I understand that this affidavit may be used in a court of law.
- 19 4. Unless otherwise indicated, all specific terms shall have the same meaning as given
 20 to them in the Verified Complaint.
- 21 5. I am a Special Investigator for the Securities Division (“Securities Division”) of
 22 the Arizona Corporation Commission. I have been employed in that capacity since October of
 23 1997.
- 24 6. I am a 1974 graduate of the University of Nebraska with a Bachelor of Science
 25 Degree in Criminal Justice. I am also a Certified Peace Officer in the State of Arizona.

1 MATHON FUND I

2 12. The Division became aware of the offer and sale of promissory notes issued by
3 Mathon Fund I and sold by various Defendants. Based upon my investigation it appeared that
4 Defendants were issuing promissory notes to investors with promises of high returns. Defendants
5 represented to investors that the investment funds would be used to fund loans to Borrowers who
6 needed short-term cash and were willing to pay high rates of interest. To protect the investors,
7 Defendants represented that the Borrowers were to provide collateral two to three times the value
8 of the loans.

9 13. Defendants represented to offerees and investors that Round Valley, established in
10 2001, was a “corporate financing and advisory organization.” Defendants further represented to
11 investors that MMC, established in early 2002, was “a financing entity that helps its corporate
12 clients by developing creative solutions to short-term cash flow needs.” Offering documents on
13 Round Valley letterhead describe Duane Slade (“Slade”) as Managing Director and Guy Williams
14 (Williams”) as Managing Member.

15 14. Defendants represented to offerees and investors the Mathon Fund I “has been
16 established for the sole purpose of short-term bridge financing.” Mathon Fund I was “focusing on
17 small-to-midsize companies” with an “urgent need for capital.” It is further represented that
18 “[u]nder these conditions, Mathon’s due diligence process uncovers all possible exposures Mathon
19 may encounter and prepares a strategy for repayment of the bridge loan.”

20 15. Defendants represented to offerees and investors that they had established lending
21 criteria with Borrowers including but not limited to:

- 22 a. bridge loans of nine months or less;
- 23 b. the value of the security is a minimum of three times the amount of the principal;
- 24 c. personal guarantees of the principals;

- 1 d. a three percent per month minimum interest rate on the principal amount borrowed
2 with a minimum of three months interest; and
3 e. a loan payback strategy must be in place.

4 16. Defendants represented to offerees and investors that in 2002, Mathon Fund I had
5 an average annual rate of return of 75%.

6 17. Defendants represented to offerees and investors that their investment funds would
7 be used for short term bridge loans (two to nine months) with high returns. Defendants represented
8 that the loans would be provided to businesses that had hard assets to secure the loans. In most
9 instances, Defendants did not identify the Borrowers to the investors.

10 18. Defendants represented to offerees and investors that investors could receive
11 returns from about 40% to about 80% annual percentage rate (“APR”) on their investments.

12 19. Defendants represented to offerees and investors that their investments would be
13 secured in an amount two to three times the value of their investments. The collateral could
14 include personal guarantees, real property, personal assets of the principals, corporate assets, and
15 cash flow attachments.

16 20. Defendants represented to offerees and investors that there were some risks
17 involved with the investment including that a Borrower could default and the investor would lose
18 their investment. However, since the investments were secured by two to three times the value of
19 the investment the risk was limited. The Defendants would collect on any defaulted loan. (See
20 Exhibit C).

21 21. A number of Mathon Fund I investors paid fees up to \$25,000 annually. A number
22 of investors paid pro-rated amounts on the \$25,000 annual fee, based on what time of the year the
23 investment was made.

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1 objective was to earn above average returns for investors through loans to and investments in
2 companies identified by the Manager (MMC) as offering potential for significant interest and fee
3 income. Short term bridge loan financing was an essential component of the Mathon Fund.

4 29. According to the PPMs, the offering was limited to accredited investors. The
5 minimum investment was \$500,000 in a twelve month period. The PPMs indicated that investors
6 were required to pay a \$25,000 annual fee.

7 30. According to the PPMs, Mathon Fund investors would be passive. Investor funds
8 were to be pooled to make short-loans similar to the Mathon Fund I investment program.
9 Defendants represented to offerees and investors that by pooling investor's funds the investment
10 would be more secure due to spreading the risk among a group of Borrowers instead of one
11 Borrower.

12 31. According to the PPMs, the term of the loan would be 60 to 270 days. The interest
13 would be pre-earned at an annualized rate of between 48% and 120% APR (8% and 120% in the
14 2004 PPM). Collateral was to equal or exceed at least two times the loan amount, and may
15 include personal guarantees and personal collateral from borrower principals. Loan costs were to
16 be the responsibility of the Borrower. An origination fee of about ten percent was to be assessed,
17 withheld from the loan proceeds.

18 32. Both PPMs addressed the maintenance of a "Fund Reserve" for "bad credit risks"
19 (2003 PPM) and "bad debts" (2004 PPM). Identical language in both states: "The Fund Manager
20 will set aside, designate, and allocate certain Fund assets as a reserve for the protection of the
21 principal investment of its members."

22 33. Both PPMs contain additional Fund Reserve language. Both specify reserves
23 (defined by a minimum dollar amount or a minimum per cent of fund capital) are to be funded and
24 held in a separate account.

1 34. The 2003 PPM includes language linking the Fund Reserve to fund insurance,
2 specifically: “[w]ithin 90 days of the Initial Closing Date the Manager shall obtain Fund Insurance
3 with a policy limit of \$20 million. The policy will have a \$5 million deductible.” The 2004 PPM
4 contains no provision regarding insurance.

5 35. Defendants represented to offerees and investors that Mathon Fund was a safer
6 investment due to the Reserve Fund and the Fund Insurance. A number of Mathon Fund investors
7 believed the reserve fund and fund insurance existed. Knowing that if either the Fund Reserve or
8 the fund insurance did not exist, some investors would not have invested in the Mathon Fund.

9 36. Based upon the investigation, Defendants did not obtain fund insurance.

10 37. Both PPMs contain the following passage: “[n]either the Fund nor the manager is
11 party to any litigation with respect to the [Mathon] Fund, Mathon Fund I, LLC, or any other claim
12 arising out of its activities in connection with the placement of loans or securities violations.” This
13 statement is not accurate.

14 a. On August 27, 2003 the Utah Division of Securities filed a public action regarding
15 alleged violations of the Utah Uniform Securities Act. Defendants Slade, Mathon
16 Fund I, MMC, Round Valley, and Slade Williams were named. The allegations
17 included the solicitation of a Utah resident to invest in short-term collateralized
18 bridge loans offered by the Mathon Fund I and the Mathon Fund. On September
19 24, 2004 Defendants Slade, Mathon Fund I, RVC, and Slade Williams agreed to a
20 Stipulation and an Order that was entered by the Utah Securities Division.

21 b. In addition to the Utah Securities Division action, Defendants are plaintiffs and/or
22 defendants in numerous actions involving Borrowers and loans. Numerous
23 Borrowers have filed for protection under the United States Bankruptcy Courts.

24 38. Based upon the investigation, Defendants, on several occasions, rolled Mathon
25 Fund I defaulted loans into the Mathon Fund. Defendants gave Mathon Fund I investors credit for
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1 their principal and expected return when they rolled into Mathon Fund even though the Borrowers
2 were in default.

3 39. Based upon the investigation, Defendants used new Mathon Fund investor funds to
4 pay previous Mathon Fund investors. (See attached Exhibit B, page 90 line 12 and page 91 line
5 13-22).

6 40. Based upon the investigation, MMC and Slade personally guaranteed an investors'
7 principal investments.

8 41. A number of Mathon Fund investors would not have invested had they known
9 Mathon Fund I defaulted loans may be rolled into the Mathon Fund.

10 42. A number of Mathon Fund investors would not have invested had they known their
11 investment funds may be used to pay previous investors.

12 43. Based upon the investigation, Defendants failed to file the appropriate paperwork
13 to secure some the loans as represented to investors.

14 44. Defendants have admitted to continuing to raise funds from investors and extend
15 loans to Borrowers. (See Exhibit B page 91 line 2-8). Based upon the investigation, Defendants
16 have accepted funds as recent as March 24, 2005. In addition, Defendants created a new fund in
17 February of 2005 entitled MM Colonial Fund L.L.C.

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20 _____
(Signature)

21 SUBSCRIBED AND SWORN TO BEFORE me this ____ day of
22 _____, 2005.

23
24 _____
25 NOTARY PUBLIC

26 My Commission Expires: