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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

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IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Securities Act of Washington by:
FREDERICK (“ROCKY”) WEATHERBEE,
WILLIAM LOYD HERRON, PAUL VOSE, BRIAN
DENIKE, JEFF WORDELL and ENERPHAZE
CORPORATION
Respondents

SDO-034-02

**SUMMARY ORDER TO CEASE AND DESIST
AND NOTICE OF INTENT TO IMPOSE FINE**

Case No. 02-01-027

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THE STATE OF WASHINGTON TO: Frederick Weatherbee, William Loyd Herron, Paul Vose, Brian
DeNike, Jeff Wordell and Enerphaze Corporation

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, Frederick Weatherbee, William Loyd Herron, Paul Vose, Brian DeNike, Jeff Wordell and Enerphaze Corporation, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be hazardous to the investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I. Respondents

A. Enerphaze Corporation

Enerphaze Corporation (“Enerphaze”) is an Oregon corporation with its principal place of business in Spokane, Washington. Enerphaze purportedly owns and is in the business of producing and

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1 marketing a chemically enhanced shot peening process that reduces friction and wear on metal parts,
2 such as ball bearings.

3 **B. Individual Respondents**

4 Paul Vose is the Chief Executive Officer of Enerphaze. Brian DeNike is the President of Enerphaze.
5 William Loyd Herron is the Vice President of Corporate Finance and Investor Relations for Enerphaze. Jeff
6 Wordell holds himself out as Vice President of Operations for Enerphaze. Frederick (“Rocky”) Weatherbee
7 holds himself out as Vice President of Investor Relations for Enerphaze.

8 **II. Offering of Stock and Stock Warrants**

9 During 2001 and 2002, Respondents have offered and sold more than \$3.7 million worth of
10 Enerphaze stock and stock warrants to more than 500 investors, many of whom are Washington
11 residents. Respondents have offered and sold Enerphaze stock at \$1 per share and have offered and sold
12 warrants to purchase Enerphaze stock at \$5 per share.

13 **III. Misrepresentations and Omissions**

14 When offering and selling Enerphaze stock and stock warrants to investors, Frederick Weatherbee
15 (“Weatherbee”) has falsely represented that Enerphaze has as many as 17 patents, when it actually has no
16 patents. Weatherbee has misleadingly assured investors that Enerphaze stock can be sold at a price in
17 excess of its original purchase price.

18 When offering and selling Enerphaze stock and stock warrants to investors, each of the
19 Respondents has distributed or aided in the distribution of a business plan that contains misleading
20 information. The business plan projects sales of “more than \$52 million in 2003 and more than \$146
21 million in 2004,” without identifying any reasonable basis for those projections. The business plan states
22

1 that net profits “are expected to reach more than \$10 million for fiscal year 2003,” without identifying
2 any reasonable basis for that projection.

3 When offering and selling Enerphaze stock and stock warrants, Respondents have each failed to
4 disclose material information about the investments. Respondents have failed to give investors financial
5 statements for Enerphaze Corporation. They have failed to disclose the intended use of investor funds.
6 They have failed to disclose how much money is required to complete product testing, product
7 development and product marketing. They have failed to disclose how much money is required to
8 continue operating the company. They have failed to disclose whether the company has made any actual
9 sales or signed any sales contracts. They have failed to disclose whether there have been any
10 commissions paid for the sale of Enerphaze stock. They have failed to disclose what compensation is
11 being paid to Enerphaze officers and directors.

12 When offering and selling Enerphaze stock and stock warrants, Respondents have each failed to
13 disclose general and specific risks associated with the investments, including inadequate capitalization,
14 inadequate protection of intellectual property rights, incomplete product testing, dependence on a few
15 key personnel, environmental risks associated with the product, a description of the industry in which the
16 company belongs, a description of the company’s key competitors, any litigation involving the company
17 and whether any of the corporate officers are subject to prior legal or administrative actions.

18 **IV. Frederick Weatherbee is Subject to Two Prior Administrative Orders**

19 Frederick Weatherbee has been the subject of two prior administrative orders from the
20 Washington Securities Division: one involving a viatical settlement provider doing business as
21 Beneficial Assistance and one involving a pay telephone vendor named Alpha Telcom, Inc. Both of the
22 orders are being contested by Weatherbee and are not yet final orders.
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1 In December 2001, in connection with Beneficial Assistance, Weatherbee was served with a
2 summary order to cease and desist from offering and selling unregistered securities and from violating
3 the securities salesperson registration and the anti-fraud provisions of the Securities Act of Washington.
4 In February 2002, in connection with Alpha Telcom, Inc., Weatherbee was served with a statement of
5 charges notifying him of the Securities Division's intention to order him to cease and desist from offering
6 and selling unregistered securities and from violating the securities salesperson registration and the anti-
7 fraud provisions of the Securities Act of Washington.

8 **V. William Loyd Herron is Subject to Two Prior Administrative Orders**

9 William Loyd Herron ("Herron") is subject to two prior administrative orders. In 1992, Herron
10 was censured by the Idaho Department of Finance for offering and selling "blind pool/blank check"
11 securities to Idaho residents. In 1991, Herron was censured by the National Association of Securities
12 Dealers for mailing sales literature containing exaggerated and misleading statements about a publicly
13 traded company and for failing to disclose the risks of the investment.
14

15 **VI. Unregistered Securities**

16 Enerphaze Corporation is not currently registered to sell its securities in the State of Washington
17 and has not previously been so registered.

18 **VII. Unregistered Broker-Dealer or Securities Salespersons**

19 Frederick Weatherbee, Paul Vose, Brian DeNike, Jeff Wordell and Enerphaze Corporation are not
20 currently registered as securities salespersons or broker-dealers in the State of Washington and have
21 not previously been so registered. William Loyd Herron was a registered securities salesperson in the
22 State of Washington from 1987 until December 2002, but is no longer registered.
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VIII. Threat to the Investing Public

The Securities Administrator finds that the continued offering of Enerphaze stock and stock warrants in the manner described above presents a threat to the investing public.

Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

CONCLUSIONS OF LAW

I.

The offer and sale of stock and stock warrants as described above constitutes the offer and sale of a security, as defined in RCW 21.20.005(10) and (12).

II.

The offer and sale of said securities is in violation of RCW 21.20.140 because no registration for the offering is on file with the Washington Securities Administrator.

III.

Frederick Weatherbee, Paul Vose, Brian DeNike, William Loyd Herron, Jeff Wordell and Enerphaze Corporation have each violated RCW 21.20.040 by offering and selling said securities while not being registered as a securities salesperson or securities broker-dealer in the State of Washington.

IV.

The offer and sale of said securities was made in violation of RCW 21.20.010 and, in connection with the offer and sale of said securities, the Respondents have each made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made not misleading.

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EMERGENCY

The Securities Administrator finds that an emergency exists, that the continued violations of RCW 21.20.010, RCW 21.20.040, and RCW 21.20.140 constitute a threat to the investing public, and that a summary order to cease and desist from those violations is in the public interest and necessary for the protection of the investing public.

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SUMMARY ORDER

Based upon the foregoing, NOW, THEREFORE, IT IS HEREBY SUMMARILY ORDERED that Frederick Weatherbee, William Loyd Herron, Paul Vose, Brian DeNike, Jeff Wordell, Enerphaze Corporation and their agents and employees shall each cease and desist from offering or selling securities in any manner in violation of RCW 21.20.140, the securities registration section of the Securities Act of Washington.

It is further SUMMARILY ORDERED that Frederick Weatherbee, William Loyd Herron, Paul Vose, Brian DeNike, Jeff Wordell, Enerphaze Corporation and their agents and employees shall each cease and desist from offering or selling securities in any manner in violation of RCW 21.20.040, the broker-dealer and securities salesperson registration section of the Securities Act of Washington.

It is further SUMMARILY ORDERED that Frederick Weatherbee, William Loyd Herron, Paul Vose, Brian DeNike, Jeff Wordell, Enerphaze Corporation and their agents and employees shall each cease and desist from violating RCW 21.20.010, the anti-fraud section of the Securities Act of Washington.

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NOTICE OF INTENT TO IMPOSE FINES

Based upon repeated offers and sales of unregistered securities by unregistered salespersons and based upon the misrepresentations or omissions contained in those offers and sales as described in the

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1 Tentative Findings of Fact and Conclusions of Law, the Securities Administrator finds that there have
2 been knowing or reckless violations of the Securities Act of Washington that justify the imposition of
3 fines pursuant to RCW 21.20.395. Therefore, the Securities Administrator intends to order Paul Vose,
4 Brian DeNike, Jeff Wordell and Enerphaze Corporation to pay a fine of \$10,000 each. Furthermore,
5 the Securities Administrator intends to order William Loyd Herron to pay a fine of \$20,000. Finally,
6 the Securities Administrator intends to order Frederick Weatherbee to pay a fine of \$100,000.

7 **AUTHORITY AND PROCEDURE**

8 This Order is entered pursuant to the provisions of RCW 21.20.390 and RCW 21.20.395 and is
9 subject to the provisions of the Administrative Procedures Act, Chapter 34.05 RCW. The respondents
10 may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
11 DEFEND AND OPPORTUNITY FOR HEARING accompanying this order.

12 If a respondent does not request a hearing, the Securities Administrator intends to adopt the above
13 Tentative Findings of Fact and Conclusions of Law as final and make the summary order to cease and
14 desist permanent as to that respondent and impose the fines sought in this order.

15 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

16 DATED this 25th day of April, 2002

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18 DEBORAH R. BORTNER
19 Securities Administrator

20 Approved by:

21 Presented by:

22 _____
23 Michael E. Stevenson
24 Chief of Enforcement

25 _____
26 Janet So
27 Financial Legal Examiner

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