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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

Arizona Corporation Commission
DOCKETED

MAR 29 2005

DOCKETED BY NR

In the matter of

THEODORE A. MIETZNER
652 East Ironwood Drive
Chandler, AZ 85225

SOUTHWEST CAPITAL ADVISORS,
LLC
3130 North Arizona Avenue #105
Chandler, AZ 85224

Respondents.

DOCKET NO. S-03571A-05-0000

DECISION NO. 67726

**ORDER TO CEASE AND DESIST, ORDER
OF RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME**

RESPONDENTS THEODORE A. MIETZNER and SOUTHWEST CAPITAL ADVISORS, LLC (collectively "RESPONDENTS") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES ("Order"). RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

I.

FINDINGS OF FACT

1. RESPONDENT THEODORE A. MIETZNER ("MIETZNER"), an individual, is a resident of the State of Arizona, whose address is 652 East Ironwood Drive, Chandler, AZ 85225.

2. At all times material hereto, MIETZNER was not registered as a securities salesman nor licensed as an investment adviser or as an investment adviser representative in Arizona.

1 3. RESPONDENT SOUTHWEST CAPITAL ADVISORS, LLC ("SWCA") is an Arizona
2 limited liability company, with an address of 3130 N. Arizona Avenue #105, Chandler, AZ 85224.

3 4. At all times material hereto, SWCA was not registered as a securities broker/dealer or
4 investment adviser in the State of Arizona.

5 5. At all times material hereto, MIETZNER was the named manager of SWCA.

6 6. Between 1997 and 2002, RESPONDENTS offered for sale and sold securities in the
7 form of promissory notes, within and from the State of Arizona. The securities in question were not
8 registered, nor were they exempt from registration.

9 7. RESPONDENTS began soliciting investments in 1997 by targeting their insurance
10 clients, MIETZNER's family members, and members of his church.

11 8. MIETZNER is licensed in the State of Arizona as an insurance producer.

12 9. RESPONDENTS sold promissory notes which were an investment in American
13 Automotive Group, Inc. ("AAG"), which was in the business of selling secured notes to investors
14 through its employees or agents. The AAG secured notes provided for a rate of return of
15 approximately 18% per annum, payable in installments to the holders of the notes. The AAG
16 secured notes were issued for a three year term, and the entire principal amount of each note was to
17 be payable on the stated maturity date of each AAG secured note.

18 10. On November 18, 2002, the Arizona Corporation Commission filed a Notice of
19 Opportunity for Hearing against AAG, which included a request to permanently cease and desist
20 from violations of the Securities Act of Arizona. On April 22, 2003 and May 27, 2003, the Arizona
21 Corporation Commission entered such Orders against some of the named individuals in the Notice
22 of Opportunity for Hearing, *In the matter of American Automotive Group, Inc., et al.*, Docket No.
23 S-03457A-02-0000/Decision No. 65955.

24 11. At all times material hereto, MIETZNER was an agent of AAG.
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1 12. RESPONDENTS received approximately \$225,833.27 in commissions from AAG for
2 the sale of AAG promissory notes in the aggregate amount of approximately \$2,258,332.75. The
3 securities sales involved approximately sixteen individual investors or investor entities, nine of
4 whom are from Arizona.

5 13. RESPONDENTS also sold promissory notes that were an investment in Independent
6 Funding, Inc. ("IFI") Inc. IFI was in the business of selling notes to investors through its
7 employees or agents.

8 14. IFI, a Utah corporation, conducted an unregistered offering of securities that
9 purportedly were backed by auto loans held by a Utah used car dealership. IFI raised money from
10 investors, then loaned money to the car dealership to fund its inventory. In return, the dealership
11 gave IFI promissory notes purportedly secured by the loans resulting from auto sales.
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13 15. At all times material hereto, MIETZNER was an agent of IFI.

14 16. RESPONDENTS received approximately \$28,724.94 in commissions from IFI for the
15 sale of IFI promissory notes in the aggregate amount of approximately \$574,498.72. The securities
16 sales involved approximately seven individual and entity investors, five of whom are from
17 Arizona.

18 17. On October 31, 2003, the Securities and Exchange Commission filed a complaint
19 against IFI, amongst others, seeking the appointment of a Receiver, a preliminary injunction
20 against committing continued violations of the federal securities laws, a permanent injunction
21 against committing continued violations of the federal securities laws, an accounting of investor
22 funds, disgorgement, and administrative penalties. That matter in the United States District Court,
23 Northern District of Texas, Dallas Division, Civil Action No. 3-03-CV-2661-K, *Securities and*
24 *Exchange Commission v. David B. Henderson, Independent Funding LTD/Nevada, Independent*
25 *Funding, Inc. et al.*, is still pending.
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1 IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry
2 of Order.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,
4 jointly and severally, pay disgorgement of commissions in the form of restitution to investors
5 shown on the records of the Commission in the amount of \$254,558.21, plus interest at the rate of
6 10% per annum from the date of this Order until paid in full. Payment shall be made as follows:

- 7 1. RESPONDENTS shall pay \$10,000.00 immediately on March 24, 2005, and
- 8 2. RESPONDENTS shall pay \$400.00 per month, on the 1st of each month, beginning
9 May 1, 2005, until paid in full.

10 If victim investors in the instant case are made whole by restitution payments made in the
11 Arizona Corporation Commission, *In the matter of American Automotive Group, Inc., et al.*,
12 Docket No. S-03457A-02-0000/Decision No. 65955, thereafter all payments RESPONDENTS
13 make in the instant case will revert to the State of Arizona. When victim investors in the instant
14 case are made whole by any restitution payments made in United States District Court, Northern
15 District of Texas, Dallas Division, Civil Action No. 3-03-CV-2661-K, *Securities and Exchange*
16 *Commission v. David B. Henderson, Independent Funding LTD/Nevada, Independent Funding,*
17 *Inc. et al.*, thereafter all payments RESPONDENTS make in the instant case will revert to the State
18 of Arizona.

19 Payment shall be made by cashier's check or money order payable to the "State of
20 Arizona" to be placed in an interest-bearing account maintained and controlled by the Arizona
21 Attorney General. The Arizona Attorney General shall disburse the funds on a pro rata basis to
22 investors. Any funds that the Attorney General is unable to disburse shall revert to the State of
23 Arizona.

24 If RESPONDENTS do not comply with this order of restitution, any outstanding balance
25 shall be in default and shall be immediately due and payable, without further notice.
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1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall
 2 pay an administrative penalty in the amount of \$10,000.00. Payment shall be made in full by
 3 cashier's check or money order on the date of this Order, payable to the "State of Arizona." The
 4 payment obligations for these administrative penalties shall be subordinate to any restitution
 5 obligations ordered herein and shall become immediately due and payable only after restitution
 6 payments have been paid in full, or if RESPONDENTS have defaulted prior to fulfilling
 7 RESPONDENTS' restitution obligations. For the purposes of this Order, a bankruptcy filing by
 8 either RESPONDENT shall be an act of default on RESPONDENTS' restitution obligations.

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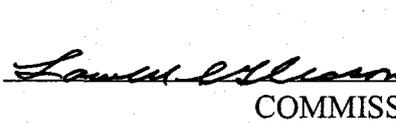
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1 If RESPONDENTS do not comply with this order for administrative penalties, any
2 outstanding balance may be deemed in default and shall be immediately due and payable, without
3 further notice.

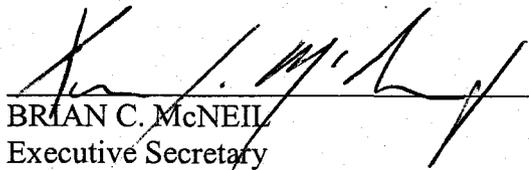
4 IT IS FURTHER ORDERED that this Order shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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8 CHAIRMAN COMMISSIONER COMMISSIONER

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COMMISSIONER COMMISSIONER

11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
12 Executive Secretary of the Arizona Corporation
13 Commission, have hereunto set my hand and caused the
14 official seal of the Commission to be affixed at the
15 Capitol, in the City of Phoenix, this 29th day of
March, 2005.

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17 
BRIAN C. McNEIL
Executive Secretary

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19 _____
20 DISSENT

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22 _____
23 DISSENT

24 This document is available in alternative formats by contacting Linda Hogan, Executive Assistant
25 to the Executive Secretary, voice phone number 602-542-3931, E-mail lhogan@cc.state.az.us.

26 MMA

1 Order.

2 8. MIETZNER understands that this Order does not preclude the Commission from
3 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
4 that may be related to the matters addressed by this Order.

5 9. MIETZNER understands that this Order does not preclude any other agency or officer
6 of the State of Arizona or its subdivisions from instituting administrative, civil or criminal
7 proceedings that may be related to matters addressed by this Order.

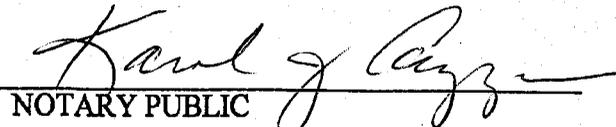
8 10. MIETZNER agrees that until restitution and penalties are paid in full, MIETZNER will
9 notify the Director of the Securities Division within 30 days of any change in home address or any
10 change in MIETZNER's ability to pay amounts due under this Order.

11 11. MIETZNER understands that default shall render him liable to the Commission for its
12 costs of collection and interest at the maximum legal rate.

13 12. MIETZNER consents to the entry of this Order and agrees to be fully bound by its
14 terms and conditions. If MIETZNER breaches any provision of this Order, the Commission may
15 vacate this Order and restore this case to its active docket.

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19 RESPONDENT THEODORE A. MIETZNER

20 SUBSCRIBED AND SWORN TO BEFORE me this 7th day of March, 2005.

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22 
23 NOTARY PUBLIC

24 My Commission Expires:



1 8. SWCA understands that this Order does not preclude the Commission from referring
2 this matter to any governmental agency for administrative, civil, or criminal proceedings that
3 may be related to the matters addressed by this Order.

4 9. SWCA understands that this Order does not preclude any other agency or officer of the
5 state of Arizona or its subdivisions from instituting administrative, civil or criminal proceedings
6 that may be related to matters addressed by this Order.

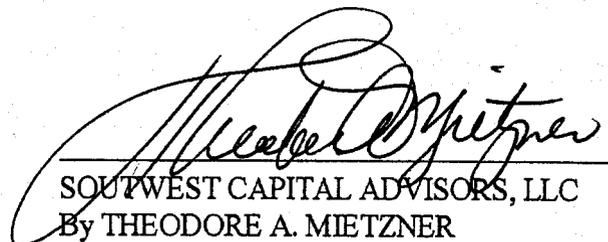
7 10. SWCA agrees that until restitution and penalties are paid in full, SWCA will notify the
8 Director of the Securities Division within 30 days of any change in address or any change in
9 SWCA's ability to pay amounts due under this Order.

10 11. SWCA understands that default shall render it liable to the Commission for its costs of
11 collection and interest at the maximum legal rate.

12 12. SWCA consents to the entry of this Order and agrees to be fully bound by its terms and
13 conditions. If SWCA breaches any provision of this Order, the Commission may vacate this
14 Order and restore this case to its active docket.

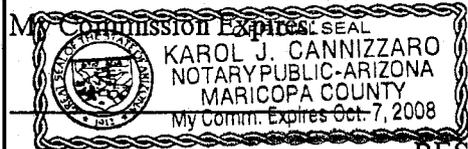
15 13. Respondent THEODORE A. MIETZNER represents that he is the Manager of
16 SOUTHWEST CAPITAL ADVISORS, LLC and has been authorized by SOUTHWEST
17 CAPITAL ADVISORS, LLC to enter into this Order for and on behalf of it. Respondent
18 THEODORE A. MIETZNER represents that he is authorized by law to enter into this Order for
19 and on behalf of SOUTHWEST CAPITAL ADVISORS, LLC.

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SOUTHWEST CAPITAL ADVISORS, LLC
By THEODORE A. MIETZNER
Its Manager

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2 SUBSCRIBED AND SWORN TO BEFORE me this 7th day of March, 2005.

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4 Karol J Cannizzaro
NOTARY PUBLIC



7 RESPONDENT SOUTHWEST CAPITAL ADVISORS, LLC

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10 By THEODORE A. MIETZNER,
11 Its Manager

12 SUBSCRIBED AND SWORN TO BEFORE me this _____ day of March, 2005.

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14 _____
15 NOTARY PUBLIC

16 My Commission Expires:
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