



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED
FEB - 5 2004

DOCKETED BY NR

In the matter of:
ROBERT SHAKMAN
10249 E. Celtic Drive
Scottsdale, Arizona 85260
HEALTHCARE PURCHASING ALLIANCE,
INC.,
7150 E. Camelback Road, Suite 300
Scottsdale, Arizona 85251,
Respondents.

DOCKET NO. S-03184A-03-0000
ORDER TO CEASE AND DESIST AND
FOR OTHER RELIEF
DECISION NO. 66767

I.

INTRODUCTION

On October 20, 2003, the Securities Division (the "Division") of the Arizona Corporation Commission (the "Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist (the "Notice") against Robert Shakman ("SHAKMAN") and Healthcare Purchasing Alliance, Inc. ("HPA") alleging violations of the Arizona Securities Act (the "Act"). The Notice specified that SHAKMAN and HPA would be afforded an opportunity for an administrative hearing upon written request filed with the Commission's Docket Control within ten (10) days after receipt of the Notice, in accordance with A.A.C. R14-4-306(B).

On October 20, 2003, the Division personally served a copy of the Notice on SHAKMAN at his place of residence. HPA was personally served by serving SHKAMAN, an officer of HPA on October 20, 2003. In addition, HPA was also personally served by serving Eric W. Kessler, Esq., the last known

Decision No. _____

1 statutory agent of HPA, at his business address. SHAKMAN and HPA failed to request an administrative
2 hearing within ten (10) days after receipt of the Notice.

3 On November 21, 2003, counsel for SHAKMAN filed a "Response of Robert Shakman"
4 ("Response") which contained admissions to some of the paragraphs of the Notice and general denials of
5 certain paragraphs of the Notice. The Response also stated that it was without sufficient information to
6 form a belief as to the accuracy of the remaining allegations contained in the Notice. SHAKMAN
7 claimed that the Notice should be barred under the theories of estoppel, laches and statutes of limitations.
8 Furthermore, SHAKMAN requested that the Notice be "denied and dismissed in its entirety." Neither
9 Respondent filed a request for a hearing.

10 On December 8, 2003, the Division filed its Response to the Respondents' request for a dismissal
11 of the Notice coupled with a Motion for Entry of Default. Respondents filed no reply.

12 On January 6, 2004, the Administrative Law Judge issued a Procedural Order granting the
13 Division's motion and denying SHAKMAN's request to dismiss the Notice. The Division was ordered
14 to prepare a recommended Default Order for submission to the Commission for its approval.

15 II.

16 FINDINGS OF FACT

17 1. Respondent ROBERT SHAKMAN ("SHAKMAN") was at all relevant times a resident
18 of Arizona, and the president, director and principal shareholder of Respondent HEALTHCARE
19 PURCHASING ALLIANCE, INC. Upon information and belief, SHAKMAN now resides in Scottsdale,
20 Arizona.

21 2. Respondent HEALTHCARE PURCHASING ALLIANCE, INC. ("HPA") was at all
22 relevant times an Arizona corporation with its principal place of business at 7150 E. Camelback Road,
23 Suite 300, Scottsdale, Arizona 85251. HPA was administratively dissolved on or about January 10, 1997
24 for failure to file annual reports.

25 3. SHAKMAN incorporated HPA in Arizona on or about November 4, 1993.

26 Decision No. 66767

1 4. SHAKMAN described HPA as a "Group Purchasing Organization" created to provide
2 group buying power to its members. The members were to consist of individual and small group health
3 care practices, including physicians, osteopaths, dentists and veterinarians. HPA was to negotiate, on
4 behalf of its members, contracts with local and national companies for medical supplies and services.

5 5. According to an HPA offering document entitled, "Investment Opportunity for Health
6 Care Purchasing Alliance, Inc.," HPA was offering six percent of its stock for the purpose of raising
7 \$102,000. HPA was to use the capital raised from the sale of its stock to finance expansion and meet its
8 financial obligations.

9 6. The offering document provides that investors would earn returns two ways: (i) increases
10 in the stock's value; and (ii) annual profit distributions.

11 7. HPA's offering document also stated that "investors should receive a 7-12% return during
12 the first year and be earning in the 20% rate at the end of the first year."

13 8. According to a "Share Purchase Agreement," dated January 18, 1994, SHAKMAN
14 owned 510 shares of common series "A" stock in HPA. Two other investors purchased a combined
15 490 shares of common series "B" stock in HPA.

16 9. Beginning in or about January 1994, SHAKMAN began soliciting, in and from
17 Arizona, prospective investors to purchase from him his HPA stock.

18 10. From approximately January 1994 to January 1995, HPA and SHAKMAN sold
19 shares of HPA stock to no less than fourteen investors, raising approximately \$86,830.

20 11. SHAKMAN, on behalf of HPA, also executed promissory notes (the "notes") in
21 favor of at least two investors in exchange for a collective investment in HPA from the two
22 investors of \$42,500. In addition, SHAKMAN and HPA received loans from one investor totaling
23 \$1,780.

24 12. In connection with the offer and sale of HPA stock and the notes:
25
26

- 1 a) SHAKMAN and HPA represented to investors that the investments could be
2 refunded at any time with "no questions asked," when in fact, SHAKMAN
3 and HPA denied certain investors' requests for refunds, while other investors
4 have been unable to contact SHAKMAN and HPA to request a refund.
- 5 b) SHAKMAN and HPA represented to investors that HPA stockholders would
6 begin receiving quarterly dividend checks in January 1995, when in fact,
7 HPA never paid dividends to the investors.
- 8 c) SHAKMAN guaranteed investors a twenty percent annual return on their
9 investment twenty-four months after making the investment, when in fact,
10 the investors have never received a return on their investments.
- 11 d) SHAKMAN and HPA overstated and otherwise misrepresented to investors
12 the number of members who enrolled in HPA's program.
- 13 e) SHAKMAN and HPA overstated and otherwise misrepresented to investors
14 the number and/or nature of HPA's contractual agreements with health care
15 suppliers and service providers.
- 16 f) SHAKMAN represented to investors that he was a doctor and licensed
17 dentist, when in fact, SHAKMAN was neither a doctor nor a licensed
18 dentist.
- 19 g) SHAKMAN and HPA failed to provide to investors a balance sheet and/or
20 profit and loss statement reflecting HPA's financial condition and results of
21 operations.
- 22 h) SHAKMAN and HPA represented to investors that HPA was offering its
23 shares in compliance with state and federal securities laws, when in fact, the
24 offerings were not in compliance with applicable securities laws.
- 25
26

1 were made. SHAKMAN and HPA also engaged in transactions, practices or courses of business
2 which operated or would operate as a fraud or deceit upon offerees and investors within the
3 meaning of A.R.S. § 44-1991.

4 **IV.**

5 **ORDER**

6 THEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, the
7 following Order is appropriate, in the public interest, and necessary for the protection of
8 investors:

9 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that SHAKMAN and HPA, their agents,
10 servants, employees, successors, assigns and those persons in active concert or participation with
11 them CEASE AND DESIST from the following and any other violations of the Act:

12 1. Offering to sell or selling securities within or from Arizona unless the securities
13 are registered with the Commission pursuant to Articles 6 and 7 of the Act, or an exemption from
14 registration is applicable;

15 2. Offering to sell or selling securities within or from Arizona unless prior
16 registration as a dealer or salesman is obtained under Article 9 of the Act, or an exemption from
17 registration is applicable;

18 3. Offering to sell or selling securities within or from Arizona in violation of the
19 antifraud provisions of A.R.S. § 44-1991.

20 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that SHAKMAN and HPA,
21 jointly and severally, shall make monetary restitution according to this Order in the amount of
22 \$131,110 to those investors shown on the records of the Division as purchasers of HPA stock and
23 the notes. In addition, SHKAMAN and HPA shall pay \$125,823 as interest, in the amount 10%
24 per annum, from the date of the investment to the date of this Order. One investor received a
25
26

1 partial payment of \$3,000. SHAKMAN and HPA owe restitution, plus interest, to investors in the
2 amount of \$253,933.

3 IT IS FURTHER ORDERED that SHAKMAN and HPA shall pay interest at the legal rate
4 on all unpaid restitution accruing from the date of this Order, at the statutory rate of ten percent
5 per annum pursuant to A.A.C. R14-4-308, until the investors to whom they sold HPA stock and
6 the notes are paid in full. Restitution funds shall be paid to the Arizona Attorney General and
7 shall be deposited in a trust account with a federally insured financial institution.

8 The Arizona Attorney General shall disburse the available funds on a pro rata basis to
9 those investors to whom SHAKMAN and HPA sold HPA stock and the notes, as reflected in the
10 records of the Division. If any disbursement check issued by the Arizona Attorney General for
11 restitution either is not deliverable or has not cleared the trust account within ninety days of the
12 date of issuance, the funds related to such check shall be disbursed on a pro rata basis to the
13 remaining investors. Once full restitution, including principal and interest, has been made to the
14 investors, any remaining or additional funds shall revert to the State of Arizona payable to the
15 Treasurer and credited toward the penalty amount of this Order, as set forth below.

16 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that SHAKMAN and HPA,
17 jointly and severally, shall pay an administrative penalty in the amount of \$20,000 by cash or
18 check payable to the Treasurer of the State of Arizona for deposit into its general fund. The
19 foregoing restitution and administrative penalty shall be paid immediately upon entry of this
20 Order.

21 ...

22 ...

23 ...

24 ...

25 ...

26

66767

