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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY 27 2003

COMMISSIONERS

MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

DOCKETED BY [Signature]

In the matter of:)
AMERICAN AUTOMOTIVE GROUP, INC.)
c/o Douglas Warren)
9044 East Los Gatos Drive)
Scottsdale, Arizona 85255)
DOUGLAS WARREN and JANE DOE)
WARREN, husband and wife)
9044 East Los Gatos Drive)
Scottsdale, Arizona 85255)
MATTHEW W. WARREN and JOAN DOE)
WARREN, husband and wife)
8912 East Pinnacle Peak #446)
Scottsdale, Arizona 85255)
ROBERT D. BJERKEN and JANE DOE)
BJERKEN, husband and wife)
5024 North 78th Street)
Scottsdale, Arizona 85250)
Respondents.)

DOCKET NO. S-03457A-02-0000

ORDER TO CEASE AND DESIST,
ORDER FOR RESTITUTION, FOR
ADMINISTRATIVE PENALTIES, AND
FOR OTHER AFFIRMATIVE ACTION
AND CONSENT TO SAME BY:
RESPONDENT ROBERT R. BJERKEN

DECISION NO. 65955

RESPONDENT ROBERT R. BJERKEN ("BJERKEN" or "RESPONDENT") elects to permanently waive his 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 for Restitution, for Administrative Penalties, and for Other Affirmative Action and Consent to Same by Respondent Robert R. Bjerken ("Order"). RESPONDENT admits the jurisdiction of the Arizona Corporation Commission ("Commission"); admits the Findings of Fact and Conclusions of Law contained in this Order; and consents to the entry of this Order by the

1 Commission.

2 I.

3 FINDINGS OF FACT

4 1. AMERICAN AUTOMOTIVE GROUP, INC. ("AAG") formerly was an Arizona
5 corporation, authorized to do business and doing business in Maricopa County, Arizona. Its last
6 known business address was 3168 East Indian School Road, Phoenix, Arizona. AAG is not currently
7 authorized to do business in Arizona. All assets of AAG have been sold and/or transferred to Future
8 Carz, Inc. ("FCI"), beginning on or about February 23, 2001.

9 2. DOUGLAS WARREN is an individual and a resident of Arizona. At all times
10 material hereto, DOUGLAS WARREN was an officer and/or a director of AAG. At all times
11 material hereto, DOUGLAS WARREN was married to KATHLEEN M. WARREN, who was joined
12 in this action, pursuant to A.R.S. § 44-2031(C), to establish the liability of the marital community of
13 the DOUGLAS WARREN RESPONDENTS for violations of the Securities Act.

14 3. MATTHEW WARREN is an individual and a resident of Arizona. At all times
15 material hereto, MATTHEW W. WARREN was an officer and/or a director of AAG.

16 4. RESPONDENT ROBERT D. BJERKEN ("BJERKEN") is an unmarried man and a
17 resident of Maricopa County, Arizona. On or about October 28, 1998, BJERKEN became trustee of
18 a certain trust established by a trust Indenture agreement dated May 9, 1997 (the "AAG Trust").

19 5. AAG was incorporated as an Arizona corporation on or about April 17, 1997. Its
20 incorporators and its initial officers and directors were MATTHEW WARREN and DOUGLAS
21 WARREN.

22 6. On or about May 9, 1997, RESPONDENT DOUGLAS WARREN and MATTHEW
23 WARREN on behalf of AAG entered into an Indenture (the "AAG Indenture") establishing the AAG
24 Trust. By the terms of the AAG Indenture, the AAG Trust was to hold and administer the funds
25 raised by sales of 18% Secured Promissory Notes of AAG (the "AAG Secured Notes"). The initial
26 Trustee of the AAG Trust was Richard C. Yavitt, C.P.A. ("Yavitt").

1 7. Beginning on or about April 17, 1997, AAG issued, and all Respondents, individually
2 and/or by and through their employees and/or agents, offered and sold the AAG Secured Notes to
3 investors within or from the State of Arizona. The AAG Secured Notes provided for a rate of return
4 of eighteen percent (18%) per year, payable in quarterly installments to the holders thereof. The
5 AAG Secured Notes were issued for a three-year term, and the entire principal amount of each Note
6 was to be payable on the stated maturity date of each AAG Secured Note. The AAG Secured Notes
7 and the funds from the AAG Secured Notes, as well as funds utilized to pay investor interest, were to
8 be held in escrow accounts established at Security Trust Company ("STC") and administered by the
9 Trustee of the AAG Trust. (This arrangement will be referred to as the "AAG Secured Note
10 Program.")

11 8. Beginning in August 1998, AAG issued and Respondents, individually and/or by and
12 through their employees and/or agents, offered and sold unsecured promissory notes of AAG (the
13 "AAG Unsecured Notes") bearing interest at rates from 20% to 30%. In other respects, the terms of
14 the AAG Unsecured Notes were similar to the terms of the AAG Secured Notes.

15 9. Beginning in November 1998, Sunset Crater Leasing, Inc. issued and Respondents,
16 individually and/or by and through their employees and/or agents, sold unsecured promissory notes
17 in Sunset Crater Leasing, Inc (the "Sunset Crater Notes"). The terms of the Sunset Crater Notes
18 were similar to the terms of the AAG Secured Notes and the AAG Unsecured Notes.

19 10. In connection with their offer and sale of the AAG Secured Notes, Respondents made
20 available to investors and potential investors a document entitled Limited Offering Memorandum
21 (the "Offering Document").

22 11. The Offering Document represented that the AAG Secured Notes would be sold as a
23 private offering, and that all investors would be required to be accredited and/or sophisticated
24 investors eligible to participate as investors in a private offering.

25 12. AAG filed a Form "D" with the Securities Division on or about July 10, 1997.

26 13. Yavitt resigned as Trustee of the AAG Trust in the spring of 1998. On or about

1 October 28, 1998, BJERKEN entered into an agreement to assume the responsibilities of Trustee of
2 the AAG Trust.

3 14. At the time he assumed responsibility as Trustee of the AAG Trust, BJERKEN had
4 twice previously, in 1991 and in 1996, been ordered to cease and desist from violations of the
5 Securities Act. This fact was not disclosed to investors.

6 15. The Offering Document failed to disclose that funds paid into the AAG Trust by
7 investors who purchased the AAG Secured Notes might be utilized to pay interest to investors who
8 had made earlier purchases of the AAG Secured Notes and/or to purchasers of the AAG Unsecured
9 Notes or the Sunset Crater Notes. In fact, funds paid in by later investors were used to make interest
10 payments to earlier investors.

11 16. AAG stopped making interest payments to investors in the AAG Secured Notes, the
12 AAG Unsecured Notes, and the Sunset Crater Notes (collectively, the "Notes") as of September,
13 2000.

14 17. On or about February 23, 2001, Respondents Douglas Warren and/or Matthew
15 Warren, on behalf of AAG, entered into an agreement with FCI (the "Acquisition Agreement").
16 Pursuant to the Acquisition Agreement, FCI agreed to acquire AAG, and to issue shares in FCI to the
17 holders of the Notes.

18 18. Pursuant to the Acquisition Agreement, Respondents, on behalf of AAG, provided to
19 each of the holders of the Notes a document entitled Exchange Report Dated April 25, 2001 (the
20 "Exchange Report").

21 19. The Exchange Report disclosed that AAG was "technically bankrupt," although it
22 had not yet filed for bankruptcy protection, that AAG had not done any business since October 2000,
23 and that AAG had not made any interest payments on the Notes since September 2000.

24 20. The Exchange Report disclosed that AAG proposed to exchange all the Notes for
25 shares of the common stock of FCI, subject to the approval of the holders of the Notes.

26 21. The Exchange Report also disclosed that AAG had failed to meet many of its

1 obligations under the AAG Indenture.

2 22. The Exchange Report further disclosed that AAG had made interest payments to
3 holders of the Notes "primarily from offering proceeds received from later investors."

4 23. Respondents, including their employees and agents, raised at least \$5,803,297
5 through the sale of the AAG Secured Notes to at least 70 investors. Respondents, including their
6 employees and/or agents, also raised at least \$2,550,847 through sales of the AAG Unsecured Notes
7 to at least 16 investors and sale of the Sunset Crater Notes to at least 14 investors. Respondents,
8 including their employees and/or agents, raised a total of at least \$8,354,144 through sales of the
9 Notes.

10 **II.**

11 **CONCLUSIONS OF LAW**

12 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
13 Arizona Constitution and the Securities Act.

14 2. From on or about April 17, 1997 through September 2000, RESPONDENT offered
15 or sold securities, in the form of promissory notes, within or from Arizona, within the meaning of
16 A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

17 3. RESPONDENT violated A.R.S. § 44-1841 by offering or selling securities that
18 were neither registered nor exempt from registration.

19 4. RESPONDENT violated A.R.S. § 44-1842 by offering or selling securities while
20 neither registered as dealers or salesmen nor exempt from registration.

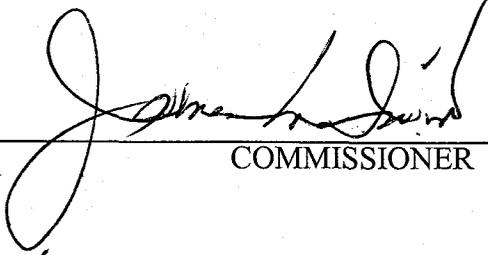
21 5. RESPONDENT violated A.R.S. § 44-1991 by offering or selling securities within
22 or from Arizona by (a) employing a device, scheme or artifice to defraud, (b) making untrue
23 statements or misleading omissions of material facts, and (c) engaging in transactions, practices or
24 courses of business which operate or would operate as a fraud or deceit.

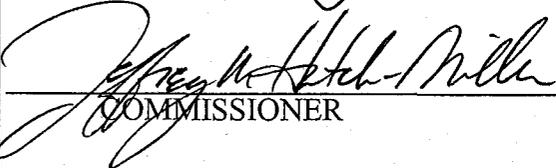
25 6. RESPONDENT'S conduct is grounds for a cease and desist order pursuant to
26 A.R.S. § 44-2032.

1 order for administrative penalties, any outstanding balance may be deemed in default and shall be
2 immediately due and payable.

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

4 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

5
6 
7 CHAIRMAN COMMISSIONER COMMISSIONER

8
9  
10 COMMISSIONER COMMISSIONER

11
12 IN WITNESS WHEREOF, I, JAMES G. JAYNE,
13 Executive Secretary of the Arizona Corporation Commission,
14 have hereunto, set my hand and caused the official seal of this
15 Commission to be affixed at the Capitol, in the City of
16 Phoenix, this 27th day of May, 2003.

17 
18 James G. Jayne
19 Interim Executive Secretary

20 DISSENT: _____

21 DISSENT: _____

22 KCD

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CONSENT TO ENTRY OF ORDER

1
2 1. RESPONDENT (“BJERKEN” or “RESPONDENT”), admits the jurisdiction of the
3 Commission over the subject matter of this proceeding. RESPONDENT acknowledges that he has
4 been fully advised of his right to a hearing to present evidence and call witnesses and
5 RESPONDENT knowingly and voluntarily waives any and all rights to a hearing before the
6 Commission and all other rights otherwise available under Article 11 of the Securities Act and
7 Title 14 of the Arizona Administrative Code. BJERKEN acknowledges that this Order to Cease
8 and Desist, Order for Restitution, for Administrative Penalties, and for Other Affirmative Action
9 and Consent to Same by Respondent Robert D. Bjerken (“Order”) constitutes a valid final order of
10 the Commission.

11 2. BJERKEN knowingly and voluntarily waives any right he may have under Article
12 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary
13 relief resulting from the entry of this Order.

14 3. BJERKEN acknowledges and agrees that this Order is entered into freely and
15 voluntarily and that no promise was made or coercion used to induce such entry.

16 4. BJERKEN acknowledges that he has chosen not to be represented by counsel in this
17 matter, he has reviewed this Order and he understands all terms it contains.

18 5. BJERKEN admits the Findings of Fact and Conclusions of Law contained in this
19 Order.

20 6. By consenting to the entry of this Order, BJERKEN agrees not to take any action or
21 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
22 Fact or Conclusion of Law in this Order or creating the impression that this Order is without
23 factual basis. BJERKEN will undertake steps necessary to assure that all of his agents and
24 employees, if any, understand and comply with this agreement.

25 7. While this Order settles this administrative matter between BJERKEN and the
26 Commission, BJERKEN understands that this Order does not preclude the Commission from

1 instituting other administrative proceedings based on violations that are not addressed by this
2 Order.

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

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

9 10. BJERKEN agrees that he will not apply to the state of Arizona for registration as a
10 securities dealer or salesman or for licensure as an investment adviser or investment adviser
11 representative until such time as all restitution and penalties under this Order are paid in full.

12 11. BJERKEN agrees that he will not exercise any control over any entity that offers or
13 sells securities or provides investment advisory services, within or from Arizona.

14 12. BJERKEN agrees that until restitution and penalties are paid in full, BJERKEN will
15 notify the Director of the Securities Division within 30 days of any change in home address or any
16 change in his ability to pay amounts due under this Order.

17 13. BJERKEN understands that default shall render him liable to the Commission for
18 its costs of collection and interest at the maximum legal rate.

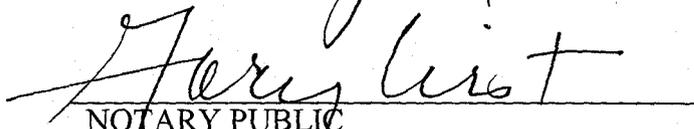
19 14. BJERKEN agrees that he will continue to cooperate with the Securities Division
20 including, but not limited to, providing complete and accurate testimony at any hearing in this
21 matter and cooperating with the state of Arizona in any related investigation or any other matters
22 arising from the activities described in this Order.

23 ...
24 ...
25 ...
26 ...

1 15. BJERKEN consents to the entry of this Order and agrees to be fully bound by its
2 terms and conditions. If BJERKEN breaches any provision of this Order, the Commission may
3 vacate this Order and restore this case to its active docket.

4 
5 ROBERT D. BJERKEN

6 SUBSCRIBED AND SWORN TO BEFORE me this 3rd day of April, 2003.

7 
8 GARY J. KIRST
9 NOTARY PUBLIC

10 My Commission Expires:
Notary Public State of Arizona
Maricopa County
11  Gary J. Kirst
Expires September 10, 2004