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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED

APR 22 2003

DOCKETED BY

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, FOR**
) **RESTITUTION, FOR ADMINISTRA-**
) **TIVE PENALTIES, AND FOR OTHER**
) **AFFIRMATIVE ACTION AND CONSENT**
) **TO SAME BY: RESPONDENTS**
) **DOUGLAS P. WARREN and KATHLEEN**
) **M. WARREN, husband and wife, and**
) **RESPONDENT MATTHEW W. WARREN**

Decision No. 65841

RESPONDENTS DOUGLAS P. WARREN ("DOUGLAS WARREN") and MATTHEW
W. WARREN ("MATTHEW WARREN") [collectively "CONSENTING RESPONDENTS"], and
DOUGLAS P. WARREN and KATHLEEN M. WARREN, husband and wife (the "DOUGLAS
WARREN RESPONDENTS") elect to permanently waive their 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, for

1 Restitution, for Administrative Penalties, and for Other Affirmative Action and Consent to Same
2 by Respondents Douglas P. Warren and Kathleen M. Warren, husband and wife, and Matthew W.
3 Warren ("Order"). CONSENTING RESPONDENTS admit the jurisdiction of the Arizona
4 Corporation Commission ("Commission"), and the DOUGLAS WARREN RESPONDENTS
5 admit the Commission's jurisdiction over the marital community of DOUGLAS P. WARREN and
6 KATHLEEN M. WARREN; CONSENTING RESPONDENTS neither admit nor deny the
7 Findings of Fact and Conclusions of Law contained in this Order; and CONSENTING
8 RESPONDENTS and the DOUGLAS WARREN RESPONDENTS consent to the entry of this
9 Order by the Commission.
10

11 **I.**

12 **FINDINGS OF FACT**

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

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

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

25 4. The Notice of Opportunity for Hearing in this matter alleges that RESPONDENT
26 ROBERT D. BJERKEN ("BJERKEN") is a married man and a resident of Maricopa County,
Arizona, and that JANE DOE BJERKEN was joined in the action, pursuant to A.R.S.

1 § 44-2031(C), to establish the liability of the marital community of BJERKEN and JANE DOE
2 BJERKEN for the violations alleged herein.

3
4 5. On or about October 28, 1998, BJERKEN became trustee of a certain trust
5 established by a trust Indenture agreement dated May 9, 1997 (the "AAG Trust").

6 6. AAG was incorporated as an Arizona corporation on or about April 17, 1997. Its
7 incorporators and its initial officers and directors were MATTHEW WARREN and DOUGLAS
8 WARREN.

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

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

24 9. Beginning in August 1998, AAG issued and CONSENTING RESPONDENTS,
25 individually and/or by and through their employees and/or agents, offered and sold unsecured
26 promissory notes of AAG (the "AAG Unsecured Notes") bearing interest at rates from 20% to
30%. In other respects, the terms of the AAG Unsecured Notes were similar to the terms of the

1 AAG Secured Notes.

2 10. Beginning in November 1998, Sunset Crater Leasing, Inc. issued and
3 CONSENTING RESPONDENTS, individually and/or by and through their employees and/or
4 agents, sold unsecured promissory notes in Sunset Crater Leasing, Inc (the "Sunset Crater Notes").
5 The terms of the Sunset Crater Notes were similar to the terms of the AAG Secured Notes and the
6 AAG Unsecured Notes.

7 11. In connection with their offer and sale of the AAG Secured Notes, CONSENTING
8 RESPONDENTS made available to investors and potential investors a document entitled Limited
9 Offering Memorandum (the "Offering Document").

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

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

14 14. Yavitt resigned as Trustee of the AAG Trust in the spring of 1998. On or about
15 October 28, 1998, BJERKEN entered into an agreement to assume the responsibilities of Trustee
16 of the AAG Trust.

17 15. At the time he assumed responsibility as Trustee of the AAG Trust, BJERKEN had
18 twice previously, in 1991 and in 1996, been ordered to cease and desist from violations of the
19 Securities Act. CONSENTING RESPONDENTS did not disclose this fact to investors.

20 16. The Offering Document failed to disclose that funds paid into the AAG Trust by
21 investors who purchased the AAG Secured Notes might be utilized to pay interest to investors
22 who had made earlier purchases of the AAG Secured Notes and/or to purchasers of the AAG
23 Unsecured Notes or the Sunset Crater Notes. In fact, funds paid in by later investors were used to
24 make interest payments to earlier investors.

25 17. AAG stopped making interest payments to investors in the AAG Secured Notes,
26 the AAG Unsecured Notes, and the Sunset Crater Notes (collectively, the "Notes") as of

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September, 2000.

18. On or about February 23, 2001, CONSENTING RESPONDENTS, on behalf of AAG, entered into an agreement with FCI (the "Acquisition Agreement"). Pursuant to the Acquisition Agreement, FCI agreed to acquire AAG, and to issue shares in FCI to the holders of the Notes.

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

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

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

22. The Exchange Report also disclosed that AAG had failed to meet many of its obligations under the AAG Indenture.

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

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

25. In response to the Exchange Report, \$5,116,141.78 of a total of \$5,803,297.45 (or 88%) in principal amount of AAG Secured Notes approved the release of the lien of the Indenture on automobiles and lease revenues owned by AAG. As a result, the transaction with FCI closed,

1 and 3,000,000 shares of FCI were issued in the name of AAG. In addition, \$7,546,988.62 out of
2 \$\$8,354,144.00 (or 92%) in principal amount of Notes voted to exchange, and did exchange, their
3 Notes for FCI shares.
4

5 **II.**

6 **CONCLUSIONS OF LAW**

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

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

12 3. CONSENTING RESPONDENTS violated A.R.S. § 44-1841 by offering or selling
13 securities that were neither registered nor exempt from registration.

14 4. CONSENTING RESPONDENTS violated A.R.S. § 44-1842 by offering or selling
15 securities while neither registered as dealers or salesmen nor exempt from registration.

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

20 6. CONSENTING RESPONDENTS' conduct is grounds for a cease and desist order
21 pursuant to A.R.S. § 44-2032.

22 7. CONSENTING RESPONDENTS' conduct is grounds for an order of restitution
23 pursuant to A.R.S. § 44-2032.

24 8. CONSENTING RESPONDENTS' conduct is grounds for administrative penalties
25 under A.R.S. § 44-2036.

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III.**ORDER**

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and the CONSENTING RESPONDENTS' consent to the entry of this Order, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that CONSENTING RESPONDENTS, their agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that CONSENTING RESPONDENTS shall, jointly and severally, pay restitution to investors shown on the records of the Commission in the amount of \$8,234,144.00,¹ plus interest at the rate of 10% per annum from the date of this order until paid in full. Payment shall be made by cashier's check or money order payable to the "State of Arizona" to be placed in an interest-bearing account maintained and controlled by the Arizona Attorney General. The Arizona Attorney General shall disburse the funds on a pro rata basis to investors. If all investors are paid in full, any excess funds shall revert to the state of Arizona.

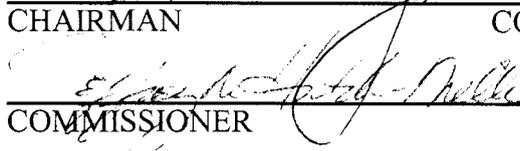
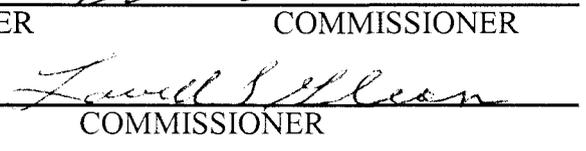
IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that CONSENTING RESPONDENTS shall each pay an administrative penalty in the amount of \$10,000, payable to the "State of Arizona." Payment shall be made in installments by cashier's check or money order, with the first installment of \$5,000.00 due and payable on the date of this Order, and the following installments to be paid pursuant to an agreement between CONSENTING RESPONDENTS and the Commission. If CONSENTING RESPONDENTS do not comply with this order for

¹ The restitution figure reflects a credit of \$120,000 for the potential value of shares in FCI that were to be exchanged for the Notes pursuant to the Exchange Report, at an assumed value of \$0.04 per share based on the most recent market bid price.

1 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 COMMISSIONER COMMISSIONER

10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
11 Executive Secretary of the Arizona Corporation
12 Commission, have hereunto set my hand and caused the
13 official seal of the Commission to be affixed at the
14 Capitol, in the City of Phoenix, this 22nd day of
15 April, 2003.

16 
17 BRIAN C. McNEIL
18 Executive Secretary

19 _____
20 DISSENT

21 This document is available in alternative formats by contacting Shelly M. Hood, Executive
22 Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail
23 shood@cc.state.az.us.

24 KCD
25
26

CONSENT TO ENTRY OF ORDER

1
2 1. RESPONDENTS DOUGLAS P. WARREN and KATHLEEN M. WARREN,
3 husband and wife (collectively the "DOUGLAS WARREN RESPONDENTS"), admit the
4 jurisdiction of the Commission over the subject matter of this proceeding, including its jurisdiction
5 over the marital community of DOUGLAS P. WARREN and KATHLEEN M. WARREN. The
6 DOUGLAS WARREN RESPONDENTS acknowledge that they have been fully advised of their
7 right to a hearing to present evidence and call witnesses and the DOUGLAS WARREN
8 RESPONDENTS knowingly and voluntarily waive any and all rights to a hearing before the
9 Commission and all other rights otherwise available under Article 11 of the Securities Act and
10 Title 14 of the Arizona Administrative Code. The DOUGLAS WARREN RESPONDENTS
11 acknowledge that this Order To Cease And Desist, for Restitution, for Administrative Penalties,
12 and for Other Affirmative Action and Consent to Same by Respondents Douglas P. Warren and
13 Kathleen M. Warren, husband and wife, and Matthew W. Warren ("Order") constitutes a valid
14 final order of the Commission.

15 2. The DOUGLAS WARREN RESPONDENTS knowingly and voluntarily waive any
16 right they may have under Article 12 of the Securities Act to judicial review by any court by way of
17 suit, appeal, or extraordinary relief resulting from the entry of this Order.

18 3. The DOUGLAS WARREN RESPONDENTS acknowledge and agree that this
19 Order is entered into freely and voluntarily and that no promise was made or coercion used to
20 induce such entry.

21 4. The DOUGLAS WARREN RESPONDENTS acknowledge that they have been
22 represented by counsel in this matter, they have reviewed this Order with their attorney and they
23 understand all terms it contains.

24 5. The DOUGLAS WARREN RESPONDENTS neither admit nor deny the Findings
25 of Fact and Conclusions of Law contained in this Order.

26 6. By consenting to the entry of this Order, the DOUGLAS WARREN

1 RESPONDENTS agree not to take any action or to make, or permit to be made, any public
2 statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or
3 creating the impression that this Order is without factual basis. The DOUGLAS WARREN
4 RESPONDENTS will undertake steps necessary to assure that all of their agents and employees, if
5 any, understand and comply with this agreement.

6 7. While this Order settles this administrative matter between the DOUGLAS
7 WARREN RESPONDENTS and the Commission, the DOUGLAS WARREN RESPONDENTS
8 understand that this Order does not preclude the Commission from instituting other administrative
9 proceedings based on violations that are not addressed by this Order.

10 8. The DOUGLAS WARREN RESPONDENTS understand that this Order does not
11 preclude the Commission from referring this matter to any governmental agency for administrative,
12 civil, or criminal proceedings that may be related to the matters addressed by this Order.

13 9. The DOUGLAS WARREN RESPONDENTS understand that this Order does not
14 preclude any other agency or officer of the state of Arizona or its subdivisions from instituting
15 administrative, civil or criminal proceedings that may be related to matters addressed by this Order.

16 10. RESPONDENT DOUGLAS P. WARREN agrees that he will not apply to the state
17 of Arizona for registration as a securities dealer or salesman or for licensure as an investment
18 adviser or investment adviser representative until such time as all restitution and penalties under
19 this Order are paid in full.

20 11. RESPONDENT DOUGLAS P. WARREN agrees that he will not exercise any
21 control over any entity that offers or sells securities or provides investment advisory services,
22 within or from Arizona.

23 12. The DOUGLAS WARREN RESPONDENTS agree that until payments under this
24 Order are paid in full, the DOUGLAS WARREN RESPONDENTS will notify the Director of the
25 Securities Division within 30 days of any change in home address or any change in their ability to
26 pay amounts due under this Order.

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13. The DOUGLAS WARREN RESPONDENTS understand that default shall render them liable to the Commission for its costs of collection and interest at the maximum legal rate.

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

15. RESPONDENT DOUGLAS P. WARREN and RESPONDENT KATHLEEN M. WARREN acknowledge that any restitution, rescission or penalties imposed by this Order are obligations of RESPONDENT DOUGLAS P. WARREN as well as the marital community of DOUGLAS P. WARREN and KATHLEEN M. WARREN, and that they are not obligations of any separate property of KATHLEEN M. WARREN.

16. The DOUGLAS WARREN RESPONDENTS consent to the entry of this Order and agree to be fully bound by its terms and conditions. If the DOUGLAS WARREN RESPONDENTS breach any provision of this Order, the Commission may vacate this Order and restore this case to its active docket.

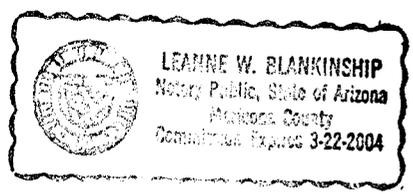
Douglas P. Warren
DOUGLAS P. WARREN

Kathleen M. Warren
KATHLEEN M. WARREN

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

Leanne W. Blankinship
NOTARY PUBLIC

My Commission Expires:
3/22/04



CONSENT TO ENTRY OF ORDER

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2
3 1. RESPONDENT MATTHEW W. WARREN ("MATTHEW WARREN"),
4 an individual, admits the jurisdiction of the Commission over the subject matter of this proceeding.
5 MATTHEW WARREN acknowledges that he has been fully advised of his right to a hearing to
6 present evidence and call witnesses and MATTHEW WARREN knowingly and voluntarily waives
7 any and all rights to a hearing before the Commission and all other rights otherwise available under
8 Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. MATTHEW
9 WARREN acknowledges that this Order To Cease And Desist, for Restitution, for Administrative
10 Penalties, and for Other Affirmative Action and Consent to Same by Respondents Douglas P.
11 Warren and Kathleen M. Warren, husband and wife, and Matthew W. Warren ("Order")
12 constitutes a valid final order of the Commission.

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

16 3. MATTHEW WARREN acknowledges and agrees that this Order is entered
17 into freely and voluntarily and that no promise was made or coercion used to induce such entry.

18 4. MATTHEW WARREN acknowledges that he has been represented by
19 counsel in this matter, he has reviewed this Order with his attorney and he understands all terms it
20 contains.

21 5. MATTHEW WARREN neither admits nor denies the Findings of Fact and
22 Conclusions of Law contained in this Order.

23 6. By consenting to the entry of this Order, MATTHEW WARREN agrees not
24 to take any action or to make, or permit to be made, any public statement denying, directly or
25 indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that
26

1 this Order is without factual basis. MATTHEW WARREN will undertake steps necessary to
2 assure that all of his agents and employees, if any, understand and comply with this agreement.

3
4 7. While this Order settles this administrative matter between MATTHEW
5 WARREN and the Commission, MATTHEW WARREN understands that this Order does not
6 preclude the Commission from instituting other administrative proceedings based on violations
7 that are not addressed by this Order.

8 8. MATTHEW WARREN understands that this Order does not preclude the
9 Commission from referring this matter to any governmental agency for administrative, civil, or
10 criminal proceedings that may be related to the matters addressed by this Order.

11 9. MATTHEW WARREN understands that this Order does not preclude any
12 other agency or officer of the state of Arizona or its subdivisions from instituting administrative,
13 civil or criminal proceedings that may be related to matters addressed by this Order.

14 10. MATTHEW WARREN agrees that he will not apply to the state of Arizona
15 for registration as a securities dealer or salesman or for licensure as an investment adviser or
16 investment adviser representative until such time as all restitution (rescission) and penalties under
17 this Order are paid in full.

18 11. MATTHEW WARREN agrees that he will not exercise any control over any
19 entity that offers or sells securities or provides investment advisory services, within or from
20 Arizona.

21 12. MATTHEW WARREN agrees that until payments under this Order are paid
22 in full, MATTHEW WARREN will notify the Director of the Securities Division within 30 days of
23 any change in home address or any change in his ability to pay amounts due under this Order.

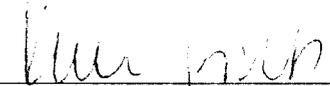
24 13. MATTHEW WARREN understands that default shall render him liable to
25 the Commission for its costs of collection and interest at the maximum legal rate.
26

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2 14. MATTHEW WARREN agrees that he will continue to cooperate with the
3 Securities Division including, but not limited to, providing complete and accurate testimony at any
4 hearing in this matter and cooperating with the state of Arizona in any related investigation or any
5 other matters arising from the activities described in this Order.

6 15. MATTHEW WARREN consents to the entry of this Order and agrees to be
7 fully bound by its terms and conditions. If MATTHEW WARREN breaches any provision of this
8 Order, the Commission may vacate this Order and restore this case to its active docket.

9 
10 _____
11 MATTHEW W. WARREN

12 SUBSCRIBED AND SWORN TO BEFORE me this 31 day of March, 2007

13 
14 _____
15 NOTARY PUBLIC

16 My Commission Expires:
17 3/1/2007

