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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED

FEB 02 2006

DOCKETED BY [Signature]

In the matter of
LISTO, INC., a Nevada corporation
668 N. 44th St., Suite 233
Phoenix, Arizona 85008
ROBERT SMART and JANE DOE
SMART,
husband and wife
#819 Donato Guerra Rep. Belice Col.
Machi-Lopez
Hermosillo, Senora, Mexico 83127
KEVIN KRAUSE, an unmarried man
23444 N. 21st Way
Phoenix, Arizona 85024
Respondents.

DOCKET NO. S-03585A-05-0000

DECISION NO. 68460

ORDER TO CEASE AND DESIST, ORDER
TO DISGORGE COMMISSIONS AND
ORDER FOR ADMINISTRATIVE
PENALTIES AND CONSENT TO SAME
RE: KEVIN KRAUSE

Respondent KEVIN KRAUSE elects 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 to Disgorge
Commissions, and Order of Administrative Penalties and Consent to Same ("Order"). Respondent
admits the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admits
nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to
the entry of this Order by the Commission.

I.

FINDINGS OF FACT

1. LISTO is a Nevada corporation organized on January 14, 2002 ("LISTO")
subsequently merged with GBO, Inc., a Nevada corporation, with the surviving entity retaining the

1 name of LISTO, effective July 15, 2003, all times relevant, the principal place of business of LISTO  
2 was 668 N. 44<sup>th</sup> Street, Suite 233, Phoenix, Arizona 85008; however, LISTO has never been  
3 authorized to transact business in Arizona.

4 2. ROBERT SMART ("SMART") was at all relevant times a principal of LISTO whose  
5 last known residential address is 36640 N. Sidewinder Rd., Carefree, Arizona 85377 and last known  
6 business address is #819 Donato Guerra Rep. Belice Col. Machi-Lopez, Hermosillo, Sonora, Mexico  
7 83127.

8 3. SMART holds himself out to be the president of LISTO and is the majority stock  
9 holder and control person of LISTO.

10 4. KEVIN H. KRAUSE ("Respondent"), an unmarried man, was at all relevant times an  
11 agent of LISTO whose last known address is 23444 N. 24<sup>th</sup> Way, Phoenix, Arizona 85024.

12 5. From approximately early 2003 through the fall of 2004, Respondent offered  
13 securities in the form of common stock in LISTO.

14 6. Respondent represented to investors that LISTO was seeking capital for the  
15 development of oil and gas wells in the Holbrook area of Northeastern, Arizona (the "Energy  
16 Project"). The Respondent claimed that the Energy Project was to be advanced through the use of  
17 land leases between LISTO and the Arizona Land Department. That claim is false. There are no  
18 land leases between LISTO and the Arizona Land Department.

19 7. Respondent failed to explain to offerees and/or investors the risk and costs involved  
20 in the Energy Project.

21 8. Respondent also represented to investors that LISTO was seeking capital for the  
22 development of a new community located in the Puerto Penasco (i.e., Rocky Point) district of  
23 Mexico, which development plan was to include condominiums, a resort style hotel, medical  
24 facilities, marina, casino, and airport, referred to as "Ciudad de La Blanca Rosa at Los Almejas" (the  
25 "Mexico Project"). The Respondent informed investors that the site of the Mexico Project was to  
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1 be located in an area of Rocky Point known as "Sandy Beach," but later told investors that the site  
2 was to be on a larger parcel of property located further south in the Rocky Point district.

3 9. Respondent told investors that the Mexico Project had commenced as of the time of  
4 the offering; however, its development has not progressed past the initial planning stage.

5 10. Respondent told investors that profits received from the Energy Project would also  
6 be used to fund the Mexico Project.

7 11. Respondent induced the public to invest in LISTO through detailed presentations  
8 about the Mexico Project and/or the Energy Project through local seminars, advertisements in the  
9 *Arizona Republic*, and an internet website located at <http://www.listoinc.com>.

10 12. Respondent failed to disclose to investors that common stock in LISTO was issued  
11 to certain individuals without payment to the corporation or that it was sold at varying purchase  
12 prices per share, thereby diluting the value of the stock.

13 13. Respondent failed to inform investors that funds raised would be used to pay for  
14 the personal expenses of SMART. Upon information and belief, SMART used investor funds  
15 for the payment of personal expenses including, but not limited to, housing, living, and  
16 entertainment expenses.

17 14. Respondent failed to inform investors that he was to receive, and did in fact  
18 receive, a commission for the sale of common stock in LISTO.

19 15. Respondent raised at least \$549,000.00 from the sale of common stock in LISTO for  
20 which Respondent earned at least \$63,950.00 in commissions. The majority of investors are  
21 residents of Arizona.

22 16. The common stock in LISTO is not registered as securities in Arizona nor is it  
23 exempt from registration.

24 17. Respondent is not registered as a securities dealer or salesman in Arizona, nor is  
25 Respondent exempt from registration.

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II.

CONCLUSIONS OF LAW

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

5 2. Respondent offered or sold securities within or from Arizona, within the meaning of  
6 A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

7 3. Respondent violated A.R.S. § 44-1841 by offering or selling securities that were  
8 neither registered nor exempt from registration.

9 4. Respondent violated A.R.S. § 44-1842 by offering or selling securities while neither  
10 registered as a dealer or salesman nor exempt from registration.

11 5. Respondent violated A.R.S. § 44-1991 by making untrue statements or misleading  
12 omissions of material facts.

13 6. Respondent's conduct is grounds for a cease and desist order pursuant to A.R.S. §  
14 44-2032.

15 7. Respondent's conduct is grounds for an order of disgorgement pursuant to A.R.S. §  
16 44-2032.

17 8. Respondent's conduct is grounds for administrative penalties under A.R.S. § 44-  
18 2036.

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**III.****ORDER**

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3        THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, the Commission  
4 finds that the following relief is appropriate, in the public interest, and necessary for the protection  
5 of investors:

6        IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondent, and any of Respondent's  
7 agents, employees, successors and assigns, permanently cease and desist from violating the  
8 Securities Act. Respondent shall not sell any securities in or from Arizona without being  
9 registered in Arizona as a dealer or salesman, or exempt from such registration. Respondent shall  
10 not sell securities in or from Arizona unless the securities are registered in Arizona or exempt from  
11 registration.

12        IT IS FURTHER ORDERED that Respondent comply with the attached Consent to Entry  
13 of Order.

14        IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondent shall  
15 disgorge all sales commissions earned in connection with Respondent's sales activities in this  
16 matter; as reflected in the records of the Commission, such disgorgement shall be in the amount of  
17 \$63,950.00, plus interest at the rate of 10% per annum from the date of this Order. Payment shall  
18 be made in monthly installments in the amount of \$250.00 per month on or before the 1<sup>st</sup> day of  
19 each and every month, beginning on the first day of the month immediately following the date of  
20 this Order, until paid in full. Any amount outstanding shall accrue interest at the rate of 10% per  
21 annum from the date of this Order until paid in full. All payments required under this Order shall  
22 be made by check or money order payable to the "State of Arizona" and will be placed in an  
23 interest-bearing account maintained and controlled by the Commission. The Commission shall  
24 disburse the funds on a pro rata basis to investors shown on the records of the Commission. Any  
25 funds that the Commission determines it is or cannot feasibly unable to disburse shall be  
26 transferred to the general fund of the state of Arizona. If Respondent does not comply with this

1 order of restitution, any outstanding balance shall be in default and shall be immediately due and  
2 payable.

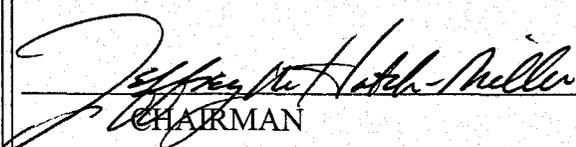
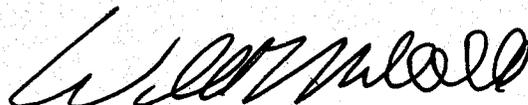
3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondent shall pay  
4 administrative penalties in the amount of \$10,000.00. The payment obligation for the  
5 administrative penalties shall be subordinate to any disgorgement obligations ordered herein and  
6 shall become immediately due and payable only after disgorgement payments have been paid in  
7 full, or if Respondent has defaulted prior to fulfilling Respondent's restitution obligations. For the  
8 purposes of this Order, a bankruptcy filing by Respondent shall be an act of default on  
9 Respondent's disgorgement obligation. If Respondent does not comply with this order for  
10 administrative penalties, any outstanding balance may be deemed in default and shall be  
11 immediately due and payable.

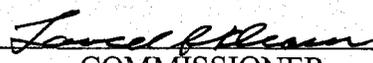
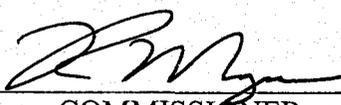
12 IT IS FURTHER ORDERED, that if any Respondent fails to comply with this order, the  
13 Commission may bring further legal proceedings against that Respondent, including application to  
14 the superior court for an order of contempt.

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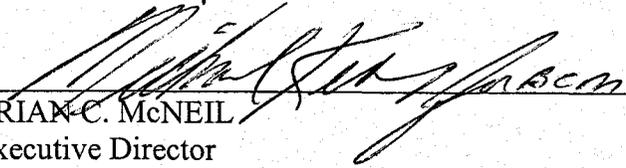
1 IT IS FURTHER ORDERED that this Order shall become effective immediately.

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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4    
5 CHAIRMAN COMMISSIONER

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8 COMMISSIONER COMMISSIONER COMMISSIONER

9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,  
10 Executive Director of the Arizona Corporation  
11 Commission, have hereunto set my hand and caused the  
12 official seal of the Commission to be affixed at the  
13 Capitol, in the City of Phoenix, this 2<sup>nd</sup> day of  
14 February, 2006.

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17 BRIAN C. McNEIL  
18 Executive Director

19 \_\_\_\_\_  
20 DISSENT

21 \_\_\_\_\_  
22 DISSENT

23 This document is available in alternative formats by contacting Linda Hogan, Executive Assistant  
24 to the Executive Director, phone number (602) 542-3931, E-mail [LHogan@cc.state.az.us](mailto:LHogan@cc.state.az.us).

25 (JC)

**CONSENT TO ENTRY OF ORDER**

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2           1.     Respondent Kevin Krause (“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 its right to a hearing to present evidence and call witnesses and Respondent  
5 knowingly and voluntarily waives any and all rights to a hearing before the Commission and all  
6 other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona  
7 Administrative Code. Respondent acknowledges that this ORDER TO CEASE AND DESIST,  
8 ORDER TO DISGORGE COMMISSIONS, AND ORDER FOR ADMINISTRATIVE  
9 PENALTIES AND CONSENT TO SAME (“Order”) constitutes a valid final order of the  
10 Commission.

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

14           3.     Respondent 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.     Respondent acknowledges that he has been represented by an attorney in this  
17 matter, he has reviewed this Order with his attorney and understands all terms it contains.

18           5.     Respondent neither admits nor denies the Findings of Fact and Conclusions of Law  
19 contained in this Order. Respondent agrees that he shall not contest their validity in any present or  
20 future administrative proceeding before the Commission or any other state agency concerning the  
21 denial or issuance of any license or registration required by the State to engage in the practice of  
22 any business or profession.

23           6.     By consenting to the entry of this Order, Respondent agrees not to take any action  
24 or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding  
25 of Fact or Conclusion of Law in this Order or creating the impression that this Order is without  
26 factual basis.

1           7.       Respondent will undertake steps necessary to assure that all of its agents and  
2 employees understand and comply with this agreement.

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

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

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

13          11.       Respondent agrees that he will not apply to the state of Arizona for registration as a  
14 securities dealer or salesman or for licensure as an investment adviser or investment adviser  
15 representative until such time as all disgorgement, interest and penalties under this Order are paid  
16 in full.

17          12.       Respondent agrees that he will not exercise any control over any entity that offers  
18 or sells securities or provides investment advisory services within or from Arizona until such time  
19 as all disgorgement, interest, penalties under this Order are paid in full.

20          14.       Respondent agrees that he will not sell any securities in or from Arizona without  
21 being properly registered in Arizona as a dealer or salesman, or exempt from such registration; he  
22 will not sell any securities in or from Arizona unless the securities are registered in Arizona or  
23 exempt from registration; and he will not transact business in Arizona as an investment adviser or  
24 an investment adviser representative unless properly licensed in Arizona or exempt from licensure.

1           15. Respondent acknowledges and understands that if he fails to comply with the  
2 provisions of the order and this consent, the Commission may bring further legal proceedings  
3 against him, including application to the superior court for an order of contempt.

4           16. Respondent agrees that until disgorgement, interest and penalties are paid in full,  
5 Respondent shall notify the Director of the Securities Division within 30 days of any change in  
6 business address and any change in Respondent's ability to pay amounts due under this Order.  
7 Respondent agrees that he shall provide the Commission with an updated financial statement every  
8 year from entry of this Order or when any change in its ability to pay amounts due under this  
9 Order occurs. Respondent agrees that failure to perform any action in this paragraph shall result in  
10 him being in default with any outstanding balance being immediately due and payable without  
11 notice or demand.

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

14           18. Respondent agrees and understands that if he fails to make any payment as required  
15 in the Order, any outstanding balance shall be in default and shall be immediately due and payable  
16 without notice or demand. Respondent agrees and understands that acceptance of any partial or  
17 late payment by the Commission is not a waiver of default by the Commission.

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

22           21. Respondent consents to the entry of this Order and agrees to be fully bound by its  
23 terms and conditions.

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Kevin Krause  
Kevin Krause

SUBSCRIBED AND SWORN TO BEFORE me this 5<sup>th</sup> day of January,  
2006.

Cristina McDonald  
NOTARY PUBLIC

My Commission Expires:  
May 14, 2009

