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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

1999 NOV 23 A 10:22

AZ CORP COMMISSION
DOCUMENT CONTROL

In the matter of)
)
7 JACK ALLEN GERBER, an individual,)
19619 North 67th Drive)
8 Glendale, AZ 85308)
9 TRUCKVILLE INC., DBA EZ FINANCE AUTO)
SALES,)
10 an Arizona corporation)
2520 East Bell Road)
11 Phoenix, AZ 85032)
12)
Respondents.

DOCKET NO. S-03372A-99-0000
TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER FOR
RELIEF

NOTICE: EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that Respondents, JACK ALLEN GERBER and TRUCKVILLE INC., DBA EZ FINANCE AUTO SALES engaged in or are about to engage in acts and practices that constitute violations of Arizona Revised Statutes ("A.R.S.") §§ 44-1841, 44-1842 and 44-1991 of the Arizona Securities Act ("Securities Act"), and that the public interest will be harmed by delay in issuing an Order to Cease and Desist.

**I.
JURISDICTION**

The Commission has jurisdiction over matters relating to securities pursuant to Article XV of the Arizona Constitution and (the "Securities Act") A.R.S. § 44-1801 *et seq.*

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II.

RESPONDENTS

1. JACK ALLEN GERBER ("GERBER"), whose address is 19619 North 67th Drive, Glendale, Arizona 85308, is the president and principal shareholder of Respondent, TRUCKVILLE INC., ("TRUCKVILLE") DBA EZ FINANCE AUTO SALES. For all relevant times, GERBER has done business as TRUCKVILLE.

2. TRUCKVILLE, whose address is 2520 East Bell Road, Phoenix 85032, is an Arizona corporation.

III.

NATURE OF THE OFFERING

3. Each of the preceding paragraphs is incorporated by reference.

4. GERBER and TRUCKVILLE have engaged in the offer or sale of securities within or from Arizona in the form of promissory notes to the general public.

5. From September of 1999 through the present, GERBER and TRUCKVILLE placed advertisements in the investment section of the Arizona Republic seeking investors to invest \$100,000.00 in a used car lot. GERBER and TRUCKVILLE represented that the investment would produce approximately a \$2,000.00 monthly profit with a rate of return of approximately twenty-four percent. The investor would receive a payment once a month and would be a passive investor. GERBER and TRUCKVILLE would issue a promissory note to the investor in exchange for the \$100,000.00 investment.

6. According to GERBER, the money would be used to purchase an additional thirty to forty vehicles for sale at TRUCKVILLE. GERBER would also use the money to purchase Harley Davidson motorcycle parts, assemble motorcycles and sell them at TRUCKVILLE. GERBER also stated that he would sell the motorcycles for approximately \$15,000.00 and they would not have the Harley Davidson name.

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IV.

VIOLATION OF SECTION 44-1841 OF THE SECURITIES ACT

Offer or Sale of Unregistered Securities

7. Each of the preceding paragraphs is incorporated by reference.

8. From September of 1999 through the present, GERBER and TRUCKVILLE offered to sell securities within or from the State of Arizona in the form of promissory notes.

9. The securities referred to above were not registered under A.R.S. §§ 44-1871 through 44-1875 or 44-1891 through 44-1902; were not securities for which a notice filing has been made under A.R.S. § 44-3321; were not exempt from registration under A.R.S. §§ 44-1843 or 44-1843.01; were not offered or sold in exempt transactions under A.R.S. § 44-1844; and were not securities exempt under any rule or order promulgated by the Commission.

10. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF SECTION 44-1842 OF THE SECURITIES ACT

Transactions by Unregistered Dealers and Salesmen

11. Each of the preceding paragraphs is incorporated by reference.

12. In connection with the offer or sale of securities referred to above, GERBER and TRUCKVILLE acted as dealers or salesmen within Arizona, although not registered pursuant to the provisions of Article 9 of the Securities Act nor exempt therefrom.

13. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF SECTION 44-1991

(Fraud in Connection with the Offer and Sale of Securities)

14. Each of the preceding paragraphs is incorporated by reference.

15. In connection with the offers and sales of securities within and/or from Arizona,

1 GERBER and TRUCKVILLE directly or indirectly: (i) employed a device, scheme or artifice to
2 defraud; (ii) made untrue statements of material fact or omitted to state material facts which were
3 necessary in order to make the statements made not misleading in light of the circumstances
4 under which they were made; and (iii) engaged in transactions, practices or courses of business
5 which operated or would operate as a fraud or deceit upon the investor. GERBER and
6 TRUCKVILLE's conduct includes, but is not limited to, the following:

7 a) GERBER and TRUCKVILLE failed to disclose to the offeree information about
8 the financial condition of GERBER and TRUCKVILLE and the risk involved in investing with
9 GERBER and TRUCKVILLE; and

10 b) GERBER and TRUCKVILLE failed to disclose to the offeree the term of the
11 investment.

12 16. This conduct violates A.R.S. § 44-1991.

13 **VII.**

14 **TEMPORARY ORDER**

15 **Cease and Desist from Violating the Securities Act**

16 THEREFORE, on the basis of the foregoing allegations under Counts I through VI above,
17 because the Division has determined that the public interest will be harmed by delay in issuing an
18 Order to Cease and Desist from violations of the Securities Act,

19 IT IS ORDERED, pursuant to A.R.S. §§ 44-2032 (1), 44-1972 (C) and A.A.C. R14-4-307,
20 that all Respondents, their agents, servants, employees, successors, assigns, and those persons in
21 active concert or participation with them CEASE AND DESIST from the following and any
22 other violations of the Securities Act:

23 1. Offering to sell or selling the offering described in Count III above, or offering to
24 sell or selling any similar type of offering within or from the State of Arizona;

25 2. Receiving funds from purchasers of the offering described in Count III above, or
26 in connection with any similar type of offering within or from the State of Arizona;

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

4 4. Offering to sell or selling securities within or from the State of Arizona unless
5 prior registration as dealers or salesmen is obtained under Article 9 of the Securities Act, or an
6 exemption from registration is applicable;

7 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2032 (1), 44-1972 (C) and A.A.C.
8 R14-4-307, that this Temporary Cease and Desist Order shall remain in effect for one hundred and
9 twenty (120) days unless sooner vacated, modified or made permanent by the Commission. Upon
10 written request to Docket Control, Arizona Corporation Commission, 1200 West Washington,
11 Phoenix, Arizona 85007, any Respondent will be afforded a hearing on this Temporary Order if
12 such request is filed within twenty (20) days of service on the Respondent of this Temporary Order.
13 Upon such request, the Commission shall schedule a hearing no earlier than five (5) days and no
14 later than fifteen (15) days after its filing, with immediate notification to the Respondent, unless
15 otherwise provided by law, stipulated by the parties, or ordered by the Commission. The
16 Commission may, after such hearing by written findings of fact and conclusions of law, vacate,
17 modify (including ordering restitution and assessing administrative penalties or other relief) or make
18 permanent this Temporary Order. If any Respondent fails to request a hearing within the time
19 prescribed, this Temporary Order shall thereafter remain in effect against that Respondent until the
20 expiration of its term, unless sooner vacated, modified (including ordering restitution and assessing
21 administrative penalties or other relief) or made permanent by the Commission with written findings
22 of fact and conclusions of law.

23 Persons with a disability may request a reasonable accommodation such as a sign language
24 interpreter, as well as request this document in an alternative format, by contacting Cynthia
25 Mercurio-Sandoval, ADA Coordinator, voice phone number 602/542-0838, e-mail
26

1 csandoval@cc.state.az.us. Requests should be made as early as possible to allow time to arrange
2 the accommodation.

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4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 23rd day of
5 November, 1999.

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8 MARK SENDROW
9 Director of Securities
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Memorandum

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1999 NOV 23 A 10:22

DATE: 11-23-99
TO: Nancy Cole
Docket Control
FROM: Louis T. Giaquinto
Securities Division
RE: Jack Allen Gerber
Docket No. S-03372A-99-0000
Internal Routing Distribution
CC: Betty Camargo

AZ CORP COMMISSION
DOCUMENT CONTROL

This is to notify you that the following individuals should be copied on all docketed items for the above-mentioned case.

- Mark Sendrow
- LeRoy Johnson
- Matthew Neubert

Louis T. Giaquinto (Staff Attorney)

Richard Prendergast (Staff Investigator)

Wendy Coy Assistant Director

Note: The Assistant Attorney General assigned to this matter is: Jennifer Boucek.

Thank you for your cooperation in this matter.