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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

AZ CORP COMMISSION
DOCUMENT CONTROL

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

In the matter of:

Docket No. S-20442A-06-0110

Mid America Energy, Inc.,
a Nevada Corporation
129 Haven Street, Unit A
Hendersonville, TN 37075

**MOTION TO AMEND
TEMPORARY ORDER TO CEASE
AND DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING**

Mid America Oil & Gas,
a Tennessee Limited Liability Company,
2023 Earl Pearce Cir.
Mount Juliet TN , 37122-1328

Gary M. Milby a/k/a
Gary Moss Milby a/k/a
Gary M. Milley
and Jane Doe Milby,
husband and wife
129 Haven Street, Unit A
Hendersonville, TN 37075

Jim and Jane Doe Whatcott,
husband and wife
129 Haven Street, Unit A
Hendersonville, TN 37075

John and Jane Doe Blitz
husband and wife
129 Haven Street, Unit A
Hendersonville, TN 37075

Respondents.

Arizona Corporation Commission
DOCKETED

AUG 14 2006

DOCKETED BY *nr*

Pursuant to A.A.C. R14-3-106 and A.A.C. R14-3-216, the Securities Division of the
Arizona Corporation Commission ("Division") hereby moves for leave to amend the original

1 Temporary Order to Cease and Desist and Notice of Opportunity for Hearing ("TC&D") filed in this
2 action. This request to amend the original TC&D is necessary and appropriate in light of additional
3 facts uncovered during investigation. The Division is seeking to add entity names under which the
4 Respondents are also doing business and include additional individuals. This Motion is supported
5 by the following Memorandum of Points and Authorities. A copy of the proposed Amended TC&D
6 is attached as Exhibit "A."

7
8 MEMORANDUM OF POINTS AND AUTHORITIES

9 Amendments to formal documents are authorized in these proceedings pursuant to the rules
10 of practice and procedure before the Commission. A.A.C. R14-3-106(E). Moreover, these rules of
11 practice and procedure "shall be literally construed to secure [a] just and speedy determination of all
12 matters presented to the commission." A.A.C. R14-3-101(B). In this case, the amendment is
13 requested to augment the parties so that they are included in the proceedings before the Commission.
14 This would permit a more comprehensive adjudication and would be more expedient and
15 economical for all parties than the Division bringing a separate action to stop additional offerings by
16 the same parties.

17 Moreover, the TC& D, being a matter of public record, will also put the community at large
18 on notice as to the multiple parties and entities involved in the type of conduct in which the
19 Respondents have allegedly engaged; and serve to bring additional victims forward, if any. In this
20 regard, amending the order will permit the Commission to fulfill its mandate not only to enforce, but
21 also investigate violations of the Arizona Securities Act.

22
23 Finally, the amendment is also requested to conform the names and addresses of the parties
24 with the information provided by the Respondents. For instance, Jim Whatcott. has admitted in his
25 response that his wife's name is Rita Whatcott. Additionally, Respondent John Blitz has admitted in
26

1 his response that his wife's name is Lucille Blitz. The parties addresses have also been updated in the
2 pleading and caption.

3 For the foregoing reasons, the Division requests that the Administrative Law Judge grant
4 this motion and permit filing of the attached First Amended Temporary Order to Cease and Desist
5 and Notice of Opportunity for Hearing.

6 RESPECTFULLY SUBMITTED this 14th day of August, 2006.

7
8 By: 

9 Shoshana O. Epstein
10 Staff Attorney, Securities Division of the
Arizona Corporation Commission

11 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing
12 filed this 14th day of August, 2006, with

13 Docket Control
14 Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

15 COPY of the foregoing hand-delivered this
16 14th day of August, 2006, to:

17 Mr. Marc Stern
18 Administrative Law Judge
Arizona Corporation Commission/Hearing Division
1200 West Washington
19 Phoenix, AZ 85007

20 COPY of the foregoing sent via mail and fax
21 this 14th day of August, 2006, to:

22 Paul L. Stoller, Esq.
23 Snell & Wilmer, LLP
One Arizona Center
Phoenix, AZ 85004-2202
24 Fax: 602 382-6070

25 Michael R. Ross, Esq.
26 Gallagher & Kennedy
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Phoenix, AZ 85016-9225
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EXHIBIT A

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MIKE GLEASON
6 KRISTIN K. MAYES
7 BARRY WONG

7 In the matter of:

) Docket No. S-20442A-06-0110

8 Mid America Energy, Inc.,
9 a Nevada Corporation
321 Victor Reiter Parkway
Portland, TN 37148

) **PROPOSED FIRST AMENDED**
) **TEMPORARY ORDER TO CEASE AND**
) **DESIST AND NOTICE OF OPPORTUNITY**
) **FOR HEARING**

10 Mid America Oil & Gas, LLC
11 a Kentucky Limited Liability Company,
493 Pleasant Run Church
12 Campbellsville, KY

13 Gary M. Milby a/k/a
14 Gary Moss Milby a/k/a
15 Gary M. Milley
and Wanda Milby,
16 husband and wife
321 Victor Reiter Parkway
Portland, TN 37148

18 Jim and Rita Whatcott,
19 husband and wife
222 Basin Creek Road
20 Durango, CO 81303-3647

21 John and Lucille Blitz,
22 husband and wife
225 Marneh Avenue
23 Santa Cruz, CA 95062

24 Clinton Goff a/k/a Clint Goff,
25 an un-married man
321 Victor Reiter Parkway
26 Portland, TN 37148

1 Warren Exploration, LLC)
 1 A Nevada Limited Liability Company)
 2 321 Victor-Reiter Parkway)
 2 Portland, TN 37148)
 3)
 3 Energy Marketing, Inc.,)
 4 a Nevada Corporation)
 4 129 Haven Street, Unit A)
 5 Hendersonville, TN 37075)
 5)
 6 Respondents.)

7
 8 **NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**
 9 **EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING**
 10 **EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

11 The Securities Division (the "Division") of the Arizona Corporation Commission (the
 12 "Commission") alleges that Mid America Energy, Inc., Mid America Oil and Gas, LLC, Energy
 13 Marketing Inc., Warren Exploration, LLC, Clint Goff, Gary M. Milby (a/k/a Gary Moss Milby and
 14 Gary M. Milley), Wanda Milby, Jim Whatcott, Rita Whatcott, John Blitz, and Lucille Blitz engaged
 15 in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et*
 16 *seq.*, the Arizona Securities Act ("Securities Act") and that the public welfare requires immediate
 17 action.

18 **I.**
 19 **JURISDICTION**

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

22 **II.**
 23 **RESPONDENTS**

24 2. MID AMERICA ENERGY, INC. ("MAE") is a Nevada corporation, who has been
 25 known to be doing business at 129 Haven Street, Unit A, Hendersonville, TN 37075 and whose
 26 Tennessee address according to the Tennessee Secretary of State's Website is now 321 Victor

1 Reiter Parkway, Portland, TN 37148. Corporation Trust Company of Nevada – 6100 Neil Road,
2 Suite 500, Reno, Nevada, 89511 is the registered agent in Nevada.

3 3. MID AMERICA OIL & GAS, LLC (“MAOG”) is a Kentucky Limited Liability
4 Company, whose last known principal office address as provided by the Kentucky Secretary of
5 State’s website is: 2023 Earl Pearce Cir, Mount Juliet TN 37122-1328. In response to the
6 Temporary Order to Cease and Desist filed on February 28, 2006 (“TC&D”), this entity filed an
7 answer stating that its last known business address is 493 Pleasant Run Church, Campbellsville,
8 KY, the same address listed for the registered agent of this entity.

9 4. Both MAE and MAOG appeared to have a website at [www.mid-](http://www.mid-americaoilandgas.com)
10 [americaoilandgas.com](http://www.mid-americaoilandgas.com) (“MAOG Website”).

11 5. MAE identified itself on the previous Website as a company engaged in
12 developmental drilling in several locations in Kentucky and via the Website introduced investors
13 to a number of investment opportunities. When a page from the website was printed the header
14 read “Mid-America Oil & Gas, LLC- Invest in Oil and Natural Gas Production.”

15 6. MAE’s current website is located at <http://mid-americaenergy.com>. Said website
16 represents that the company’s corporate headquarters are located in Portland, TN and specifically
17 provides the following address: 321 Victor Reiter Parkway, Portland, TN 37148

18 7. GARY M. MILBY A/K/A GARY MOSS MILBY AND GARY M. MILLEY
19 (“MILBY”) is an individual with multiple business addresses as follows: 129 Haven Street, Unit
20 A, Hendersonville, TN 37075; 2343 Alexandria Drive, Suite 140, Lexington, KY 40504; 321
21 Victor Reiter Parkway, Portland, TN 37148.

22 8. MILBY presents himself as the President of MAE and the president and owner of Mid
23 America Oil & Gas, LLC a fact that he admitted in response to the **TEMPORARY ORDER TO**
24 **CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING** issued by the
25 Arizona Corporation Commission on February 28, 2006 (“TC&D”).
26

1 9. WANDA MILBY was at all relevant times the spouse of MILBY and said person is
2 joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of
3 the marital community.

4 10. At all relevant times, MILBY and WANDA MILBY were acting for their own benefit,
5 and for the benefit or in furtherance of the marital community.

6 11. JIM WHATCOTT ("WHATCOTT") is an individual whose last known address is 222
7 Basin Creek Road, Durango, CO 81303-3647. WHATCOTT represented himself as a partner in
8 MAE.

9 12. RITA WHATCOTT was at all relevant times the spouse of WHATCOTT, a fact
10 admitted by Respondent WHATCOTT in the response he filed through counsel on April 20, 2006.
11 RITA WHATCOTT is joined in this action under A.R.S. § 44-2031(C) solely for purposes of
12 determining the liability of the marital community.

13 13. At all relevant times, WHATCOTT and RITA WHATCOTT were acting for their own
14 benefit, and for the benefit or in furtherance of the marital community. This fact was admitted by
15 Respondent WHATCOTT in the response he filed through counsel on April 20, 2006.

16 14. JOHN BLITZ is an individual who has made an appearance in these proceedings
17 through counsel and who in response to subpoena provided the following address: 225 Marneh
18 Avenue, Santa Cruz, CA 95062.

19 15. LUCILLE BLITZ was at all relevant times the spouse of BLITZ a fact admitted by
20 Respondent BLITZ in the response he filed through counsel on April 20, 2006. LUCILLE BLITZ is
21 joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of
22 the marital community.

23 16. At all relevant times, BLITZ and LUCILLE BLITZ were acting for their own benefit,
24 and for the benefit or in furtherance of the marital community. This fact was admitted by
25 Respondent BLITZ in the response he filed through counsel on April 20, 2006.

26

1 17. Energy Marketing Inc., (“EMI”) is a Nevada corporation which on Nevada’s
2 Corporations’ Website has listed the following address: P.O. Box 2259, Minden, NV 89423-2259.
3 EMI also received mail at 129 Haven Street Unit A, Hendersonville, TN 37075 and at 321 Victor-
4 Reiter Parkway, Portland, TN 37148.

5 18. Warren Exploration, LLC (“WELLC”) is a Nevada limited liability company whose
6 website identifies its address as: 321 Victor Reiter Parkway, Portland TN, 37148. The registered
7 agent is listed as Corporation Trust Company of Nevada – 6100 Neil Road, Suite 500, Reno,
8 Nevada, 89511.

9 19. WELLC has a website at www.warrenexploration.com. (“WELLC Website”).

10 20. Clinton Goff a/k/a Clint Goff (“GOFF”) is an un-married man who has multiple business
11 addresses. Specifically he is known to have a business address at 129 Haven Street, Unit A,
12 Hendersonville, TN 37075; 321 Victor Reiter Parkway, Portland TN, 37148; and 6074 Hwy 31-W,
13 Suite B, Portland, TN 37148.

14 21. GOFF is represented as the operations manager for Mid America Energy, Inc. on MAE’s
15 current website. Goff is also represented as the CEO of Warren Exploration, LLC. Goff was also
16 contact person for Energy Marketing, Inc. (“EMI”).

17 22. MAE, MAOG, EMI, WELLC, GOFF, MILBY, WHATCOTT, and BLITZ may be
18 collectively referred to as “RESPONDENTS.” WANDA MILBY, RITA WHATCOTT, and
19 LUCILLE BLITZ may also be collectively referred to as “RESPONDENT SPOUSES.”
20

21 **III.**

22 **FACTS**

23 23. From at least on or about November 23, 2005, RESPONDENTS have been and are
24 directly or indirectly offering securities in the form of investment contracts in oil and gas
25 opportunities.
26

1 24. MILBY, MAOG and MAE have solicited Arizona investors through newspaper ads.
2 One advertisement ran at least eight times, beginning 11/23/05 to 1/03/06 in the Arizona
3 Republic Newspaper or online version, and stated: "Investment Opportunity For a one time
4 \$37,000 investment you can receive a \$1200-\$4800 monthly return for up to 30 years. Call 970-
5 946-8893 for information."

6 25. Upon dialing the published number, a potential Arizona investor spoke with
7 WHATCOTT who explained that they were raising money for the Fort Knox #15 program. He
8 explained that this is an oil program for the drilling and completion of three oil wells in Adair
9 County, Kentucky. WHATCOTT also referred the potential investor to the Website and
10 arranged to mail him a brochure and other materials concerning FORT KNOX #15.

11 26. WHATCOTT explained that they "could guarantee everyone gets a good return"
12 because each investor in FORT KNOX #15 has an interest in all three wells that will be drilled.
13 He also said that a \$37,000 investment provides the investor with a 2% net revenue interest in the
14 three oil wells.

15 27. WHATCOTT also informed the potential Arizona investor that they were seeing a
16 return of \$3,000.00 to \$6,000.00 a month on a single investment. WHATCOTT represented that
17 the investor would receive a return on his investment within 60-90 days of sending in his money
18 and agreement.

19 28. WHATCOTT explained that the investment is in developmental drilling, which he
20 explained is done on "*proven reserves*." He further explained that the wells are drilled next to
21 existing, producing wells. WHATCOTT said they already have 90 wells up and running and that
22 they intended to sell about 200 on this particular lease.

23 29. REPONDENTS' brochure references MAOG, MAE and MILBY, and it was received
24 by at least one potential Arizona investor. The brochure contains a guarantee on the oil wells that
25 was also explained by WHATCOTT. RESPONDENTS promise that if any of the three wells
26 comes up dry a new one will be drilled at company expense.

1 30. Under the alleged "Private Placement Memorandum" for FORT KNOX #15 ("PPM"),
2 mailed to at least one potential Arizona investor, the plan is to raise \$925,000 from the sale of 25
3 units at \$37,000 each. The money is to be raised from a group of investors who pool their money
4 to obtain the required amount. According to the PPM, in the aggregate the 25 units will have a
5 total of 50% net revenue interest and a 61.5385% working interest in the three new wells.

6 31. In the PPM, MAE represents that FORT KNOX #15 is a Tennessee limited liability
7 partnership. However there is no record of the existence of such entity in Tennessee.

8 32. Again according to the PPM, once funded by MAE, FORT KNOX #15 is to drill,
9 complete, and operate up to three wells. Distributions are to be made to the partners from the
10 revenues of the wells minus expenses and reserves.

11 33. Terms of the FORT KNOX #15 investment are also set forth in RESPONDENTS'
12 brochure which identifies both MAOG and MAE in the materials.

13 34. Prospective investors are encouraged "to visit the field operations" by MILBY in the
14 FORT KNOX #15 brochure; however, it is clear from the PPM that investors must rely upon
15 management who has the sole discretion over everything including the drill sites and whether to
16 substitute them. In fact, RESPONDENTS acknowledge in the PPM that, "[t]he Managing
17 Partner will have exclusive and complete discretion in and responsibility for the management of
18 the Partnership affairs, including certain decisions with respect to the drilling, completion,
19 development and operation of the properties in which the Partnership invest. The Managing
20 Partner will exercise complete control over all of the Partnership's activities. Accordingly, the
21 investors must rely entirely upon the Managing Partner and its management and personnel in the
22 conduct of the Partnership's business." (Italics added). There is no avenue for investors to
23 participate in the management of the venture.

24 35. The PPM identifies MAE as its Managing Partner and Program Manager. The written
25 documents advanced by WHATCOTT also identify MILBY as the Managing Partner for FORT
26 KNOX.

1 36. RESPONDENTS also directly solicited Arizona investors in gas and oil investments
2 through the use of the MAOG Website which was known to be online on January 30, 2006.

3 37. For example, RESPONDENTS' MAOG website stated, "*We are currently drilling in*
4 *several locations in Kentucky, all of which are located in highly productive oil fields. For*
5 *clarification on the two most common types of drilling, exploratory drilling involves drilling on a*
6 *site with the hopes of finding oil, whereas, developmental drilling involves drilling in a field*
7 *where there is known to be oil. We are not engaging in exploratory drilling, **these wells will***
8 *yield oil and natural gas! Our wells are surrounded by oil fields that have been pumping oil for*
9 *over 50 years, and we have no reason to think ours will not do the same.*" (Italics and bold
10 added).

11 38. The top of the MAOG Website stated: "Request a free brochure and Prospectus.... E-
12 mail us your name and full mailing address and we'll send you our full color brochure and
13 prospectus."

14 39. Under the "current opportunities" button on the MAOG Website a number of oil
15 drilling programs were listed. The current offers listed were: Big Creek Oil #1, LLP; Black Gold
16 Oil #1, LLP; Black Gold Oil #2, LLP; Black Gold Oil #3, LLP; Black Gold Oil #4, LLP; Black
17 Gold Oil #5, LLP, Black Gold Oil #6, LLP. The MAOG Website permitted visitors to view
18 details on all the programs and identified whether an offering was available for any particular
19 program. On January 4, 2006 the MAOG Website indicated that the current opportunities are
20 closed out with only the Black Oil #6, LLP available.

21 40. MILBY's "Expanded Professional History," provided to at least one prospective
22 Arizona investor in January of 2006, represents that MILBY is the President/Owner of Mid-
23 America Oil & Gas, LLC, and that such entity is a registered Operator with the Railroad
24 Commission of Texas in good standing with all regulating bodies in the state. MILBY further
25 claims that this company has drilled and or participated in the drilling of 100+ sites and "is
26 currently experiencing significant growth with current oil prices exceeding \$55 per barrel."

1 Notwithstanding MILBY's assertions, MID AMERICA OIL & GAS, LLC is inactive with the
2 Railroad Commission of Texas and has been inactive since August 31, 2005.

3 41. MILBY filed for Chapter 7 bankruptcy on November 5, 2003 and was discharged
4 from the same on March 17, 2004. MILBY did not disclose this information to at least one
5 potential Arizona investor in January of 2006.

6 42. Another ad was published in the Arizona Republic on Sunday February 5, 2006. This
7 ad stated, "Make up to \$4800/mo on a \$49K oil investment. 615-537-0261."

8 43. A call to the published number by at least one potential Arizona investor resulted in a
9 return phone call from "John" who represented himself as a representative of Mid America
10 Energy ("MAE") located in Hendersonville, Tennessee. On February 22, 2006, "John"
11 represented that MAE was operated by GARY MILBY and offered a 2% net revenue interest in
12 three oil wells for \$49,000 in an area called the "Knox Formation." "John" represented that
13 payments to investors would begin one year after the investment was made and continue for
14 approximately twenty plus years. Subsequent correspondence from "John" identifies him as
15 JOHN BLITZ ("BLITZ").

16 44. On January 22, 2006, "John" also represented that the opportunity with MAE is a
17 private placement "registered with the SEC."

18 45. A correspondence dated February 8, 2006 was received from the Securities and
19 Exchange Commission revealing that MAE has not filed any documents with said agency.

20 46. On or about February 27, 2006, a "Private Placement Memorandum" for a program
21 known as EAGLE OIL #6 was received by at least one potential Arizona investor from MAE and
22 BLITZ. The materials also identify MILBY as President of MAE and as the Managing Partner
23 for the EAGLE OIL #6 program. A review of the materials reveals that except for the offering
24 price, and amount of money sought to be raised, the EAGLE OIL #6 LLP "Private Placement
25 Memorandum" and Eagle Oil brochure is almost identical to the PPM and brochure referenced
26 above in connection with FORT KNOX #15 LLP. See ¶¶ 23 -28 supra.

1 47. The documents received by at least one potential Arizona investor on February 27,
2 2006 also contained a cover letter from JOHN BLITZ ("BLITZ"). The cover letter sets forth
3 highlights of the oil drilling investment including the following representations: "*3 Guaranteed*
4 *Producing Oil Wells,*" "*[m]onthly income checks for as much as \$3,600 + per unit,*" and
5 "*Monthly checks lasting for as long as 30--50 years.*" (Italics added).

6 48. On or prior to December 6, 2005, the Pennsylvania Securities Commission issued a
7 Summary Order to Cease and Desist against MAE, MILBY and Tom McKenna. Said order was
8 entered to halt the offer and sale of unregistered securities, namely units representing a working
9 interest in an operation to drill and operate oil wells in Kentucky – Black Gold Oil #4, LLP. The
10 summary order was not disclosed to at least two potential Arizona investors.

11 49. On February 28, 2006 a TEMPORARY ORDER TO CEASE AND DESIST AND
12 NOTICE OF OPPORTUNITY FOR HEARING ("TC&D") was entered by the Arizona
13 Corporation Commission.

14 50. On multiple occasions the ACC attempted to secure compliance with the TC&D order
15 through Respondents' counsel. At one point Respondents conspicuously placed on their website
16 a statement that advised investors that opportunities were not available in Arizona. However,
17 this language only remained on the website for about one week. Respondents continued to
18 publicly solicit investors through their website after the entry of the TC&D.

19 51. The TC&D specifically ORDERED as follows:

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

24 52. Since entry of the order, Respondents have continued to offer unregistered securities
25 to Arizona residents through advertisements they have broadcast on XM Satellite Radio ("XM").

26 53. XM radio is a company which delivers its signal by satellite nationally. XM radio's
programming reaches Arizona residents who are subscribers via the internet and XM receivers.

1 Arizona residents who are not subscribers also can receive a free trial subscription to XM via the
2 internet.

3 54. From at least January 18, 2006 to April 10, 2006, over 1300 ads have aired on XM
4 promoting EMI. Goff, a principal of MAE and WELLC was identified by XM radio as a contact
5 person for EMI in connection with these satellite radio ads.

6 55. The XM ads promote investments in oil wells in a "proven lease that's been
7 producing oil for over 40 years."

8 56. Similar to the newspaper ads placed by MAOG and MAE described in paragraph 24
9 above, the XM ads tout that investments of \$24,000 to \$49,000 can provide up to \$4,800 in
10 monthly income.

11 57. The XM ads and EMI are a vehicle for MILBY and GOFF to solicit Arizona investors
12 and other investors nationally. The XM ads are public offers of the same unregistered securities
13 described supra in paragraphs 24 to 47.

14 58. The XM advertisements directly violate the TC&D entered by the Arizona
15 Corporation Commission on February 28, 2006.

16 59. From March 7, 2006 to March 26, 2006 at least 380 ads aired in violation of the
17 TC&D.

18 60. Respondents contracted with XM radio to air over 3800 ads from January 18, 2006 to
19 July 2, 2006.

20 **IV.**

21 **VIOLATION OF A.R.S. § 44-1841**

22 **(Offer and Sale of Unregistered Securities)**

23 61. From at least on or about November 23, 2005, RESPONDENTS offered or sold
24 securities in the form of investment contracts, within or from Arizona.

25 62. The securities referred to above were not registered pursuant to Articles 6 or 7 of the
26 Securities Act.

1 63. This conduct violates A.R.S. § 44-1841.

2
3 **V.**

4 **VIOLATION OF A.R.S. § 44-1842**

5 **(Transactions by Unregistered Dealers or Salesmen)**

6 64. RESPONDENTS offered or sold securities within or from Arizona while not
7 registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

8 65. This conduct violates A.R.S. § 44-1842.

9
10 **VI.**

11 **VIOLATION OF A.R.S. § 44-1991**

12 **(Fraud in Connection with the Offer or Sale of Securities)**

13 66. In connection with the offer or sale of securities within or from Arizona,
14 RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii)
15 made untrue statements of material fact or omitted to state material facts which were necessary in
16 order to make the statements made not misleading in light of the circumstances under which they
17 were made; or (iii) engaged in transactions, practices or courses of business which operated or
18 would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct
19 includes, but is not limited to, the following:

- 20 a) Representing that MAOG, is active and in good standing with the Railroad
21 Commission of Texas when, in fact, it is inactive and has been so since August 31,
22 2005.
- 23 b) Also, by failing to inform prospective investors that MILBY filed for Chapter 7
24 bankruptcy on November 5, 2003.
- 25 c) Falsely representing that MAE's oil drilling program is registered with the
26 Securities and Exchange Commission.

- 1 d) In January of 2006 and subsequently, failing to disclose to prospective investors
2 that MAE and MILBY had a Summary Order to Cease and Desist entered against
3 them by the Pennsylvania Securities Commission.
- 4 e) After March 6, 2006, the time the TEMPORARY ORDER TO CEASE AND
5 DESIST AND NOTICE OF OPPORTUNITY FOR HEARING ("TC&D")
6 entered on February 28, 2006 was served, by failing to disclose to prospective
7 investors Respondents solicited through XM radio ads and otherwise that the
8 TC&D was entered against them by the Arizona Corporation Commission.
- 9 f) After March 6, 2006, the time the TEMPORARY ORDER TO CEASE AND
10 DESIST AND NOTICE OF OPPORTUNITY FOR HEARING ("TC&D")
11 entered on February 28, 2006 was served, by failing to consistently place on their
12 website at <http://mid-americaenergy.com>, that the oil and gas opportunities were
13 not available to Arizona residents or to adequately password protect the website.

14 67. This conduct violates A.R.S. § 44-1991.

15
16 **VII.**

17 **TEMPORARY ORDER**

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

19 THEREFORE, based on the above allegations, and because the Commission has determined
20 that the public welfare requires immediate action,

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

24 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
25 effect for 180 days unless sooner vacated, modified or made permanent by the Commission.

26 IT IS FURTHER ORDERED that this Order shall be effective immediately.

VIII.

REQUESTED RELIEF

The Division will request that the Commission grant the following relief against
RESPONDENTS:

- A. Order RESPONDENTS to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. §44-2032 ;
- B. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. §44-2032;
- C. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
- D. Order that the marital communities of Gary M. Milby (a/k/a Gary Moss Milby and Gary Milley) and Wanda Milby, Jim and Rita Whatcott, and John and Lucille Blitz be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
- E. Order any other relief that the Commission deems appropriate.

IX.

HEARING OPPORTUNITY

RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If any respondent or respondent spouse requests a hearing, the respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order to Cease and Desist. Each RESPONDENT must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must also be filed with the request for hearing. A cover sheet form and instructions may

1 be obtained from Docket Control at (602) 542-3477 or on the Commission's Internet web site at
2 www.cc.state.az.us/utility/forms/index.htm.

3 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10
4 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,
5 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary**
6 **Order shall remain effective from the date a hearing is requested until a decision is entered.**
7 After a hearing, the Commission may vacate, modify or make permanent this Temporary Order,
8 with written findings of fact and conclusions of law. A permanent Order may include ordering
9 restitution, assessing administrative penalties or other action.

10 If a request for hearing is not timely made, the Division will request that the Commission
11 make permanent this Temporary Order, with written findings of fact and conclusions of law, which
12 may include ordering restitution, assessing administrative penalties or other relief.

13 Persons with a disability may request a reasonable accommodation such as a sign language
14 interpreter, as well as request this document in an alternative format, by contacting Linda Hogan,
15 Executive Assistant to the Executive Director, voice phone number 602/542-3931, e-mail
16 lhogan@azcc.gov. Requests should be made as early as possible to allow time to arrange the
17 accommodation.

18 **X.**

19 **ANSWER REQUIREMENT**

20 Pursuant to A.A.C. R14-4-305, if any RESPONDENT or RESPONDENT SPOUSE
21 requests a hearing, the RESPONDENT or RESPONDENT SPOUSE must deliver or mail an
22 Answer to this Temporary Order and Notice to Docket Control, Arizona Corporation Commission,
23 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of
24 this Temporary Order to Cease and Desist and Notice of Opportunity for Hearing. A Docket
25 Control cover sheet must accompany the Answer. A cover sheet form and instructions may be
26

1 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site
2 at www.cc.state.az.us/utility/forms/index.htm.

3 Additionally, the RESPONDENT OR RESPONDENT SPOUSE, must serve the Answer
4 upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by
5 mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd
6 Floor, Phoenix, Arizona, addressed to Shoshana O. Epstein, Enforcement Counsel.

7 The Answer shall contain an admission or denial of each allegation in this Temporary
8 Order and Notice and the original signature of each RESPONDENT, RESPONDENT SPOUSE or
9 the RESPONDENT's attorney. A statement of a lack of sufficient knowledge or information shall
10 be considered a denial of an allegation. An allegation not denied shall be considered admitted.

11 When a RESPONDENT or RESPONDENT SPOUSE intends in good faith to deny only a
12 part or a qualification of an allegation, the RESPONDENT or RESPONDENT SPOUSE shall
13 specify that part or qualification of the allegation and shall admit the remainder. The
14 RESPONDENT or RESPONDENT SPOUSE waives any affirmative defense not raised in the
15 answer.

16 The officer presiding over the hearing may grant relief from the requirement to file an
17 Answer for good cause shown.

18 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this _____ day
19 of _____, 2006.

21 _____
22 Matthew J. Neubert
23 Director of Securities

24 (soe)
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