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BEFORE THE ARIZONA CORPORATION COMMISSION

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

AZ CORP COMMISSION  
DOCUMENT CONTROL NEW

In the matter of )  
SAFARI MEDIA, INCORPORATED )  
1580 North Kolb, #200 )  
Tucson, Arizona 85715 )  
MARYANNE CHISHOLM )  
4056 N. West Fernhill Circle )  
Tucson, Arizona 85750 )  
MARK FILLMORE CHISHOLM )  
4056 N. West Fernhill Circle )  
Tucson, Arizona 85750 )  
THUC NGUYEN )  
300 Linda Vista Terrace )  
Freemont, California 94539 )  
Respondents. )

DOCKET NO. S-03242A-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 (the "Division") of the Arizona Corporation Commission (the "Commission") alleges that Respondents, SAFARI MEDIA, INCORPORATED, MARYANNE CHISHOLM, MARK FILLMORE CHISHOLM and THUC NGUYEN engaged in or are about to engage in acts and practices that constitute violations of A.R.S. §§ 44-1841, 44-1842 and 44-1991 of the Securities Act of Arizona (the "Securities Act"), and that the public interest will be harmed by delay in issuing an Order to Cease and Desist.

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**I.**

**JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article XV of the Arizona Constitution and the Securities Act.

**II.**

**RESPONDENTS**

2. SAFARI MEDIA, INCORPORATED ("SAFARI") is a Delaware corporation whose last known business address is 1580 North Kolb, #200, Tucson, Arizona 85715. SAFARI was incorporated on April 23, 1996 in Delaware.

3. MARYANNE CHISHOLM ("CHISHOLM") is an individual whose last known home address is 4056 North West Fernhill Circle, Tucson, Arizona 85750. CHISHOLM represents herself as President, CEO and Director of SAFARI and has participated in the sale of SAFARI stock.

4. MARK FILLMORE CHISHOLM ("M. CHISHOLM") is an individual whose last known home address is 4056 North West Fernhill Circle, Tucson, Arizona 85750. M. CHISHOLM is married to CHISHOLM and represents himself as Secretary, Treasurer and Director of SAFARI.

5. THUC NGUYEN ("NGUYEN") is an individual whose last known home address is 300 Loma Linda Drive, Fremont, California. During all pertinent times NGUYEN was Executive Vice President of Computer Based Training Research and Marketing, which is presented as a division of SAFARI, and assisted in the sale of SAFARI stock.

6. SAFARI, CHISHOLM, M. CHISHOLM, and NGUYEN may be collectively referred to as "RESPONDENTS."

...  
...



1 told that SAFARI received a seven-figure contract from the State of Washington. CHISHOLM  
2 notified the offeree that the contract with the State of Washington would "boost current revenues to  
3 more than 53% above current annual projections."

4 11. SAFARI, through its officers and employees, made various claims in order to market  
5 stock and influence shareholders to retain their stock for as long as three years. CHISHOLM and  
6 NGUYEN both informed an offeree that SAFARI was making progress with an IPO to be offered.  
7 CHISHOLM stated in early 1997 that the SEC ruled that all shares disbursed through a Reg. D, Rule  
8 504 umbrella would be "unrestricted" stock. CHISHOLM also advised the offeree that SAFARI  
9 was exempt from registration under which notification had been provided to the State of  
10 Washington and the federal SEC. CHISHOLM advised shareholders in writing that SAFARI was a  
11 privately held corporation and as such, is "not obligated or required by law to follow federal rules or  
12 regulations that would apply specifically to an existing public corporation." Stockholders were also  
13 advised that SAFARI has a "tax-exempt status" and that investors who hold their shares for at least  
14 3 years will receive additional shares of stock.

15 12. In March 1999, SAFARI shareholders were asked to vote on two different proposals.  
16 The first proposal involved an alleged Fortune 500 <sup>TM</sup> Company, said to be in good standing and  
17 currently trading on the American Stock Exchange. This unnamed sponsoring corporation was to  
18 assume the position as corporate sponsor of SAFARI with a focus on the growth and development  
19 of the music industry and CBT divisions of the company. SAFARI share values were projected at a  
20 minimum of \$9 per share and a maximum of \$11 per share. The total length of the proposed  
21 sponsor "stock lock up" was five years from March 31, 1999.

22 13. The second proposal was from an unidentified Japanese technology company  
23 ("JTC") described to stockholders as a current Fortune 500 <sup>TM</sup> Company, with multiple affiliates or  
24 subsidiaries currently trading on and remaining in good standing with NASDAQ. This proposal  
25 purportedly involved the offer of a "spin-off merger" with SAFARI that was supposed to take place  
26 by July 30, 1999. Offerees and shareholders were told that the investment in SAFARI stock was

1 “guaranteed” and promised that those individuals paying \$5.00 per share for SAFARI stock would  
2 receive a minimum return of \$33 per share after the July 31, 1999 merger date also referred to as the  
3 “spin-off” date.<sup>2</sup> Shareholders were also promised two additional shares of stock for every share  
4 currently owned. The proposed contract length was three years dating from March 31, 1999.  
5 Offerees and shareholders were told that if the corporate merger did not take place, the unnamed  
6 JTC would pay a penalty of \$10,000,000 to SAFARI. The money would purportedly be used to  
7 compensate shareholders. Any shareholder wishing to liquidate their holdings could do so as early  
8 as July 30, 1999, and would receive the initial face value of no less than \$33 per share, guaranteed  
9 by the JTC. A number of shareholders requesting to sell their shares after July 30, 1999 are still  
10 awaiting payment.

11 14. When the July 1999 merger did not take place, shareholders were given the option of  
12 receiving a loan against their investment. Although money received from SAFARI was termed a  
13 loan, shareholders were not required to sign any paperwork nor did they receive any document or  
14 contract detailing the conditions of the loan.

15 15. Further, shareholders were told that the merger was postponed, because SAFARI and  
16 the JTC were in the process of completing a new joint filing “for additional documents requested by  
17 the SEC and the Corporation Commission.” Shareholders were given one of three options.

18 a. First, shareholders that invested prior to July 28, 1999, could choose to  
19 receive one “compensation” share of SAFARI “parent” stock for every  
20 two shares currently held. The additional shares of stock purportedly have  
21 a fair market value of \$33 per share.

22 b. Second, shareholders could waive additional “compensation” shares and  
23 receive monetary damage compensation of \$0.66 per share of SAFARI  
24

25  
26 <sup>2</sup> The “guarantee” was that a shareholder could liquidate their holdings as early as July 31, 1999  
and receive an initial face value of not less than \$33.00 per share.

1 stock held as of July 28, 1999. The money would be payable no later than  
2 August 15, 1999.

- 3 c. The final option was that on September 15, 1999, shareholders who wish  
4 to liquidate all their shares would receive the return of their original  
5 investment plus \$2 per share for each SAFARI "compensation" share that  
6 they received by selecting the first option detailed above.

7 16. Shareholders were advised that the merger between SAFARI and the JTC would  
8 take place in January 2000. NGUYEN wrote to stockholders in July 1999, and advised them that  
9 if the JTC delays the merger again, the JTC will pay SAFARI a \$20,000,000 penalty fee. If the  
10 JTC chooses to merge with another American company instead of SAFARI, the JTC will pay  
11 SAFARI a \$100,000,000 "penalty fee."

12 17. CHISHOLM wrote to shareholders on July 27, 1999, describing SAFARI as a  
13 privately held company that is being merged into the JTC. She informed the shareholders that  
14 SAFARI stock would begin to trade publicly after the merger is complete. The core business of  
15 SAFARI would then be divided into three separate "affiliates" or "subsidiaries" and shareholders  
16 would receive stock in each of the affiliates. CHISHOLM reported that SAFARI would make an  
17 announcement September 15, 1999 advising shareholders when stock in the three affiliates would  
18 begin trading publicly. Stock shares in the affiliates were restricted from trading until March 30,  
19 2002.

20 18. The offering memorandum for the SAFARI stock failed to provide information  
21 sufficient to give investors full disclosure regarding the company's proposed expenditure of funds.  
22 The offering memorandum did not address Offering Price Factors, Redemption, Management  
23 Relationships or Transactions and Remuneration. The offering memorandum available on the  
24 Internet included financial information in a "Consolidated Financial Balance Sheet" and a "Revenue  
25 and Expense Chart" as an addendum. The balance sheet was not audited. Neither document  
26 contained information that would allow investors to reach reasonable conclusions regarding the

1 viability of the offering nor did either document support the representations made by  
2 RESPONDENTS.

3 19. The SAFARI offering memorandum stated “[t]he Company shall act as its own  
4 Escrow Agent in connection with this offering.” The money was to be deposited into a separate  
5 account entitled “Safari Media Escrow Account.” No depository institution is named in which  
6 investor funds would be held in escrow. No reference is made to a date, at which time funds would  
7 be returned to investors if minimum proceeds were not raised. The offering document does state  
8 “proceeds of the sale of the units offered hereby will not be returned to subscribers if at least 10,000  
9 units are sold.” Later, in correspondence regarding the alleged merger with the JTC, stockholders  
10 were told that funds were to be held in escrow in an account to be overseen by the JTC. No escrow  
11 account has been identified.

12 20. CHISHOLM testified, under oath, that there was no actual sale of any shares of  
13 SAFARI stock. This statement was made during an Examination Under Oath on July 10, 1998. In  
14 fact, individuals purchasing SAFARI stock have been identified. At least twenty-four (24)  
15 individuals have purchased stock in SAFARI. Their combined investment is in excess of \$407,000.  
16 The sale of SAFARI stock is currently taking place. Upon information and belief SAFARI has  
17 raised several million dollars in past and current stock sales.

#### 18 19 IV.

#### 20 VIOLATION OF A.R.S. § 44-1841

#### 21 (Offer and Sale of Unregistered / Unauthorized Securities)

22 21. Each of the preceding paragraphs is incorporated by reference.

23 22. From on or about February 1, 1997, to date, RESPONDENTS offered and/or sold  
24 securities in the form of stock, within and/or from Arizona.

25 23. The securities referred to above were not registered under A.R.S. §§ 44-1871  
26 through 44-1875, or 44-1891 through 44-1902; were not securities for which a notice filing has been

1 made under A.R.S. § 44-3321; were not exempt under A.R.S. §§ 44-1843 or 44-1843.01; were not  
2 offered or sold in exempt transactions under A.R.S. § 44-1844; and were not exempt under any rule  
3 or order promulgated by the Commission.

4 24. This conduct violates A.R.S. § 44-1841.

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6 **V.**

7 **VIOLATION OF A.R.S. § 44-1842**

8 **(Transactions by Unregistered Dealers and Salesmen)**

9 25. Each of the preceding paragraphs is incorporated by reference.

10 26. In connection with the offers to sell and the sale of securities, RESPONDENTS  
11 acted as dealers and/or salesmen within and/or from Arizona, although not registered pursuant to the  
12 provisions of Article 9 of the Securities Act.

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

14  
15 **VI.**

16 **VIOLATION OF A.R.S. § 44-1991**

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

18 28. Each of the preceding paragraphs is incorporated by reference.

19 29. In connection with the offers and sales of securities within and/or from Arizona,  
20 RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii)  
21 made untrue statements of material fact or omitted to state material facts which were necessary in  
22 order to make the statements made not misleading in light of the circumstances under which they  
23 were made; and (iii) engaged in transactions, practices or courses of business which operated or  
24 would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes,  
25 but is not limited to, the following:  
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- 1 a) RESPONDENTS stated that the stock was being sold in reliance on the private  
2 offering exemption, when in fact, no Form D was filed with the Division and  
3 investors were being publicly solicited through the Internet. The offering was  
4 available on the Internet even after CHISHOLM testified that it had been removed.  
5 CHISHOLM later misinformed stockholders, telling them that SAFARI was  
6 operating under a federal exemption from registration and that notification regarding  
7 the exemption was provided to the State of Arizona and federal SEC, when there was  
8 no basis in fact for such a statement;
- 9 b) RESPONDENTS failed to disclose that in at least one instance SAFARI stock was  
10 given in exchange for an interest payment on a loan provided to the parent company,  
11 Jaemar International, Inc. ("Jaemar"), thereby diluting the value of SAFARI stock.  
12 Further, RESPONDENTS failed to disclose information regarding SAFARI'S  
13 financial relationship to Jaemar Apparel, Inc. and Jaemar International, Inc;
- 14 c) RESPONDENTS told investors that SAFARI would act as its own Escrow Agent in  
15 connection with the offering and that proceeds from the sale of stock would be  
16 deposited into a separate account entitled "SAFARI Media Escrow Account."  
17 CHISHOLM testified that the account was never used and had been closed. In  
18 correspondence regarding the alleged merger with the JTC, stockholders were told  
19 that funds were to be held in escrow in an account to be overseen by the JTC. No  
20 escrow account has been identified;
- 21 d) RESPONDENTS failed to provide any information to identify the JTC. No details  
22 of the alleged merger were provided to offerees or shareholders;
- 23 e) RESPONDENTS failed to tell investors that the State of Washington issued a  
24 summary Order to Cease and Desist on July 31, 1997, for the sale of unregistered  
25 securities by unregistered salespersons. The Respondents included SAFARI,  
26

1 CHISHOLM and NGUYEN. The final Order was served on SAFARI October 1,  
2 1997;

3 f) RESPONDENTS failed to disclose material information about the stock offering and  
4 management of SAFARI including the price factors, redemption rights, accurate  
5 information regarding the respective officers and directors including the business  
6 backgrounds and experience of those officers and directors in the investment of  
7 stocks, or any audited financial statements;

8 g) NGUYEN and CHISHOLM told at least one offeree that SAFARI received a 7-  
9 figure contract from the State of Washington to bid on the state's Internet and web  
10 projects. They estimated that the contract would boost SAFARI revenues to more  
11 than 53% above current annual projections. In fact, the Sate of Washington did not  
12 give a contract of any kind to SAFARI;

13 h) NGUYEN and CHISHOLM said the stock would be listed on the NASDAQ,  
14 "CISE" or both and talked about future corporate mergers, when in fact CISE does  
15 not exist and investors were never provided with information that any application  
16 had been made to NASDAQ;

17 i) NGUYEN and CHISHOLM described "spin-off mergers" with a sponsoring  
18 corporation, but failed to provide the name of the corporation;

19 j) NGUYEN and CHISHOLM said SAFARI would receive \$10,000,000 as a penalty  
20 from an unnamed JTC if a merger with SAFARI did not occur on or before July 31,  
21 1999, but failed to provide any details about the unnamed JTC;

22 k) NGUYEN and CHISHOLM described the purchase of stock in SAFARI as a  
23 "guaranteed" investment and said the value of the stock would increase to \$33 per  
24 share after the merger with a JTC, when in fact there was no basis for such a  
25 prediction;

26



1 Commission may, after such hearing by written findings of fact and conclusions of law, vacate,  
2 modify (including ordering restitution and assessing administrative penalties or other relief) or make  
3 permanent this Temporary Order. If any Respondent fails to request a hearing within the time  
4 prescribed, this Temporary Order shall thereafter remain in effect against that Respondent until the  
5 expiration of its term, unless sooner vacated, modified (including ordering restitution and assessing  
6 administrative penalties or other relief) or made permanent by the Commission with written findings  
7 of fact and conclusions of law.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 9<sup>th</sup> day of  
9 November, 1999.

10   
11 Mark Sendrow  
12 Director of Securities  
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22 Persons with a disability may request a reasonable accommodation such as a sign language  
23 interpreter, as well as request this document in an alternative format, by contacting Cynthia  
24 Mercurio-Sandoval, ADA Coordinator, voice phone number 602-542-0838, e-mail  
25 [csandoval@cc.state.az.us](mailto:csandoval@cc.state.az.us). Requests should be made as early as possible to allow time to arrange  
26 the accommodation.

# Memorandum

**DATE:** November 9, 1999  
**TO:** Nancy Cole  
Docket Control  
**FROM:** Kathryn E. McCormick  
Securities Division  
**RE:** Safari Media, Incorporated  
Docket No. S-03242A-99-0000  
Internal Routing Distribution  
**CC:** Betty Camargo

NEW

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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

Kathryn E. McCormick (Staff Attorney)

Stan Tadlock (Staff Investigator)

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**Note:** The Assistant Attorney General assigned to this matter is: Moira McCarthy.

Thank you for your cooperation in this matter.