

12/14/08



0000090714

COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

BRIAN C. McNEIL
EXECUTIVE DIRECTOR



1200 WEST WASHINGTON
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

MEMORANDUM

ORIGINAL

TO: Mike Gleason, Chairman
William A. Mundell
Jeff Hatch-Miller
Kristin K. Mayes
Gary Pierce

Arizona Corporation Commission
DOCKETED

FROM: Matthew J. Neubert
Director of Securities

myj
DOCKETED BY [Signature]

DATE: November 13, 2008

RE: Proposed Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent to Same by Patrick Allen Roberts, Sheri L. Krouse, Motors De Amigos, Inc. and Rock'N R Car Company Enterprises, Inc. (collectively "Respondents") (S-20622A-08-0476)

CC: Brian C. McNeil, Executive Director

RECEIVED
2008 NOV 20 P 4:01
AZ CORP COMMISSION
DOCKET CONTROL

Attached is a proposed Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent to Same by Respondents. The Order requires the Respondents to cease and desist their activity, repay the funds raised from investors in the amount of \$290,150 and pay an administrative penalty in the amount of \$25,000.

Respondents Roberts and Krouse own and operate Motors De Amigos, Inc. and Rock'N R Car Company Enterprises, Inc. Respondents sought to expand their used car business through the purchase of additional inventory by placing an ad in the *Arizona Republic* seeking investors. The investments offered and sold by Respondents promised 20% returns on promissory notes issued to investors.

The Order finds that Respondents violated A.R.S. §§44-1841, 44-1842 and 44-1991 by selling unregistered securities while being unlicensed and making untrue statements or misleading omissions of material facts. The Division believes that this Consent Order is appropriate to protect the public welfare.

Originator: William W. Black

I. FINDINGS OF FACT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. PATRICK ALLEN ROBERTS ("ROBERTS") is an individual who, at all times relevant hereto, resided in Maricopa County, Arizona.

2. SHERI L. KROUSE ("KROUSE") is an individual who, at all times relevant, resided in Maricopa County, Arizona. ROBERTS and KROUSE are husband and wife. At all times relevant, ROBERTS and KROUSE were acting for their own benefit, and for the benefit of and in furtherance of their marital community.

3. MOTORS DE AMIGOS, INC. ("MOTORS DE AMIGOS") and ROCK'N R CAR COMPANY ENTERPRISES, INC. ("ROCK'N R CAR") are Arizona corporations, each with at least one business location in Phoenix, Arizona.

4. R&R Remarketing is an Arizona registered trade name. ROCK'N R CAR is the agent/owner of the Arizona registered trade name R&R Remarketing ("R&R").

5. KROUSE is identified in documents filed with the Arizona Corporation Commission as statutory agent, president, chief executive officer, director and shareholder of MOTORS DE AMIGOS and as president, director and shareholder of ROCK'N R CAR.

6. ROBERTS, KROUSE, MOTORS DE AMIGOS and ROCK'N CAR may be referred to collectively as "Respondents" as the context requires.

7. Beginning in August 2007 and continuing through August 2008, Respondents solicited \$290,150 from nine investors through the offering of unregistered securities in the form of promissory notes. Respondents have re-paid to investors amounts totaling \$114,387.

8. Respondents solicited Arizona investors through newspaper advertisements. One such newspaper advertisement from the August 19, 2007 edition of the *Arizona Republic* stated:

Looking for Investor for Buy Here,
Pay Here Lot, 25% return on your \$\$
602-380-4892

1 note, between the investor and MOTORS DE AMIGOS and KROUSE; or b) a contract between
2 the investor and MOTORS DE AMIGOS secured by the business assets of MOTORS DE
3 AMIGOS; or c) by placing the investor's name on the title to vehicles sold by MOTORS DE
4 AMIGOS.

5 19. ROBERTS concluded the phone conversation with the PAI by providing the PAI
6 with the location of the MOTORS DE AMIGOS car lot where they could meet, 3707 W. Indian
7 School Rd., Phoenix, Arizona.

8 20. The PAI traveled to the location on West Indian School Road. Upon arrival, the
9 PAI was met by KROUSE who proceeded to introduce him to ROBERTS. ROBERTS and
10 KROUSE repeated to the PAI the information conveyed to the PAI during the telephone
11 conversation. In addition, ROBERTS provided additional details related to how he conducted the
12 business.

13 21. Together ROBERTS and KROUSE discussed with the PAI various documents
14 provided, by either ROBERTS or KROUSE, to the PAI including a spreadsheet of the monthly
15 disbursements for MOTORS DE AMIGOS and R&R along with a spreadsheet of total assets and
16 liabilities.

17 22. ROBERTS and KROUSE also gave the PAI a copy of a promissory note executed
18 between KROUSE, MOTORS DE AMIGOS and an individual that ROBERTS and KROUSE
19 described as an investor. ROBERTS told the PAI that the investor would provide assurance to the
20 PAI that the investor was receiving the interest payments at a rate of 20% pursuant to the terms
21 contained in the promissory note.

22 23. ROBERTS indicated to the PAI that he could draw up a contract or promissory note
23 immediately upon the PAI deciding that he wanted to invest.

24 24. Respondents failed to adequately disclose to investors the risks associated with the
25 investments including that the return of investors' principal investment and/or promised profits was
26

1 entirely dependent on the ability of Respondents to secure performing loans in connection with the
2 purchase of used cars from the MOTORS DE AMIGOS car lot.

3 25. Respondents failed to fully explain to investors how the investment was being
4 secured and the risks associated with each of the various methods used to secure the investment.

5 **II. CONCLUSIONS OF LAW**

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

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

10 3. Respondents violated A.R.S. § 44-1841 by offering or selling securities that were
11 neither registered nor exempt from registration.

12 4. Respondents violated A.R.S. § 44-1842 by offering or selling securities while
13 neither registered as dealers or salesmen nor exempt from registration.

14 5. Respondents violated A.R.S. § 44-1991 by making untrue statements or misleading
15 omissions of material facts including, but not limited to, the following:

- 16 a. Failing to adequately disclose to investors the risks associated with the
- 17 investments including that the return of investors' principal investment and/or
- 18 promised profits was almost entirely dependent on the ability of Respondents
- 19 to secure performing loans in connection with the purchase of used cars from
- 20 the MOTORS DE AMIGOS car lot;
- 21 b. Failing to fully explain to investors how the investment was being secured and
- 22 the risks associated with each of the various methods used to secure the
- 23 investment;

24 6. Respondents' conduct is grounds for a cease and desist order pursuant to A.R.S.
25 § 44-2032.

26

1 be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the
2 Commission. The Commission shall disburse the funds on a pro-rata basis to investors shown on
3 the records of the Commission. Any restitution funds that the Commission cannot disburse
4 because an investor refuses to accept such payment shall be disbursed on a pro-rata basis to the
5 remaining investors shown on the records of the Commission. Any funds that the Commission
6 determines it is unable to or cannot feasibly disburse shall be transferred to the general fund of the
7 state of Arizona.

8 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondents shall, jointly
9 and severally, pay an administrative penalty in the amount of \$25,000. Payment shall be made to
10 the "State of Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum
11 from the date of this Order until paid in full. The payment obligations for these administrative
12 penalties shall be subordinate to any restitution obligations ordered herein and shall become
13 immediately due and payable only after restitution payments have been paid in full or upon
14 Respondents' default with respect to Respondents' restitution obligations.

15 IT IS FURTHER ORDERED that the marital community of Patrick Allen Roberts and
16 Sheri L. Krouse is subject to this Order of restitution and administrative penalties.

17 For purposes of this Order, a bankruptcy filing by any of the Respondents shall be an act of
18 default. If any Respondent does not comply with this Order, any outstanding balance may be
19 deemed in default and shall be immediately due and payable.

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

23 ...
24 ...
25 ...
26 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2008.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator, voice phone number 602-542-3931, e-mail lhogan@azcc.gov.

(wwb)

CONSENT TO ENTRY OF ORDER

1
2 1. Respondents PATRICK ALLEN ROBERTS, SHERI L. KROUSE, MOTORS DE
3 AMIGOS, INC. and ROCK'N R CAR COMPANY ENTERPRISES, INC ("Respondents") admit
4 the jurisdiction of the Commission over the subject matter of this proceeding. Respondents
5 acknowledge that they have been fully advised of their right to a hearing to present evidence and
6 call witnesses and Respondents knowingly and voluntarily waive any and all rights to a hearing
7 before the Commission and all other rights otherwise available under Article 11 of the Securities
8 Act and Title 14 of the Arizona Administrative Code. Respondents acknowledge that this Order
9 To Cease And Desist, Order of Restitution, Order for Administrative Penalties and Consent to
10 Same ("Order") constitutes a valid final order of the Commission.

11 2. Respondents knowingly and voluntarily waive 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. Respondents acknowledge and agree 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. Respondents understand and acknowledge that they have a right to seek counsel
17 regarding this Order, and that they have had the opportunity to seek counsel prior to signing this
18 Order. Respondents acknowledge and agree that, despite the foregoing, they freely and voluntarily
19 waive any and all right to consult or obtain counsel prior to signing this Order.

20 5. Respondents neither admit nor deny the Findings of Fact and Conclusions of Law
21 contained in this Order. Respondents agree that they shall not contest the validity of the Findings
22 of Fact and Conclusions of Law contained in this Order in any present or future administrative
23 proceeding before the Commission or any other state agency concerning the denial or issuance of
24 any license or registration required by the state to engage in the practice of any business or
25 profession.

26

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

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

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

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

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

19 11. Respondents agree that they will not exercise any control over any entity that offers
20 or sells securities or provides investment advisory services within or from Arizona until such time
21 as all restitution and penalties under this Order are paid in full.

22 12. Respondents agree that they will not sell any securities in or from Arizona without
23 being properly registered in Arizona as a dealer or salesman, or exempt from such registration;
24 Respondent will not sell any securities in or from Arizona unless the securities are registered in
25 Arizona or exempt from registration; and Respondent will not transact business in Arizona as an
26

1 investment adviser or an investment adviser representative unless properly licensed in Arizona or
2 exempt from licensure.

3 13. Respondents agree that they will continue to cooperate with the Securities Division
4 including, but not limited to, providing complete and accurate testimony at any hearing in this
5 matter and cooperating with the state of Arizona in any related investigation or any other matters
6 arising from the activities described in this Order.

7 14. Respondents acknowledge that any restitution or penalties imposed by this Order
8 are obligations of the Respondent as well as the marital community.

9 15. Respondents consent to the entry of this Order and agree to be fully bound by its
10 terms and conditions.

11 16. Respondents acknowledge and understand that if they fail to comply with the
12 provisions of the order and this consent, the Commission may bring further legal proceedings
13 against them, including application to the superior court for an order of contempt.

14 17. Respondents understand that default shall render them liable to the Commission for
15 its costs of collection and interest at the maximum legal rate.

16 18. Respondents agree and understand that if they fail to make any payment as required
17 in the Order, any outstanding balance shall be in default and shall be immediately due and payable
18 without notice or demand. Respondents agree and understand that acceptance of any partial or late
19 payment by the Commission is not a waiver of default by the Commission.

20 19. Respondent Krouse represents that she is the statutory agent, president, chief
21 executive officer, director and shareholder of MOTORS DE AMIGOS and president, director and
22 shareholder of ROCK'N R CAR and has been authorized by MOTORS DE AMIGOS AND
23 ROCK'N CAR to enter into this Order for and on their behalf.

24 ...

25 ...

26 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Rock'N R Car Company Enterprises, Inc., an
Arizona corporation doing business as R&R
Remarketing, an Arizona registered trade
name

By: *[Signature]*
Sheri L. Krouse

Its: President, Director and Shareholder

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO BEFORE me this 12th day of NOVEMBER, 2008.

C. Tulipana
NOTARY PUBLIC

My commission expires:

01-10-2012

