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BEFORE THE ARIZONA CORPORAT.

Arizona Corporation Commission

DOCKETED

JUN 06 2001

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WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

In the matter of

CHARLES RAY STEDMAN
3001 East Frontage Road
Amado, AZ 85629

WENDELL T. DECKER, JR.
5249 N. Adobe Circle
Tucson, AZ 85750

OXFORD DEVELOPMENT, L.L.C.
5249 North Adobe Circle
Tucson, AZ 85750

PROFUTURA, L.L.C.
P.O. Box 4252
Tubac, AZ 85646

CNT FAMILY FUN OUTLETS, INC.
One East First Street
Reno, NV 89501

CHARLES W. TESTINO, JR.
3656 E. Windy Point Dr.
Tucson, AZ 85718
CRD#1216651

ARIZONA INVESTMENT ADVISORS, INC.
2920 North Swan Road, Suite 206
Tucson, AZ 85712

KEITH B. "SKIP" DAVIS
6550 North Silversmith Place
Tucson, AZ 85750

SPY GLASS ENTERPRISES L.L.C.
6550 North Silversmith Place
Tucson, AZ 85750

KEITH B. DAVIS, INC.
6550 North Silversmith Place
Tucson, AZ 85750,

Respondents.

DOCKET NO. S-03353A-00-0000

DECISION NO. 63719

**ORDER TO CEASE AND DESIST,
ORDER OF RESTITUTION, ORDER
FOR ADMINISTRATIVE PENALTIES
AND CONSENT TO SAME
BY: RESPONDENTS CHARLES W.
TESTINO, JR. and ARIZONA
INVESTMENT ADVISORS, INC.**

1 2. ARIZONA INVESTMENT ADVISORS, INC. ("AIA") is an Arizona corporation,
2 incorporated on August 30, 1998. Its principal place of business is 2920 North Swan Road, Suite
3 206, Tucson, Arizona, 85712. TESTINO is at all pertinent times the president and owner of AIA.

4 3. In or around July 1996, KEITH B. DAVIS ("DAVIS") recruited RESPONDENTS to
5 assist in soliciting private investor funds for a development project involving an outlet mall to be
6 developed in Dacono, Colorado, the "Dacono Project."

7 4. The principals of the project, WENDELL T. DECKER ("DECKER") and CHARLES
8 RAY STEDMAN ("STEDMAN") authorized DAVIS and RESPONDENTS to use promissory notes
9 (the "Notes") to raise funds from private investors, and agreed to pay commissions of 10% of all
10 money raised, and an additional equity interest in the project.

11 5. Most of the Notes were to be secured by deeds of trust filed in Weld County on the
12 property described as follows (the "Dacono Project property):

13 A tract of land located in the South Half (S1/2) of Section Fourteen (14),
14 Township One (1) North, Range Sixty-eight (68) West of the Sixth (6th)
15 Principal Meridian, County of Weld, State of Colorado, being more
particularly described as follows:

16 Considering the South line of the Southwest Quarter (SW/4) of said Section
17 14 as bearing North 88°57'30" East from a 3 1/4" aluminum cap at the
18 Southwest corner of said Section 14 to a 3 1/4" aluminum cap at the South
Quarter corner of said Section 14 and with all bearings contained herein
relative thereto:

19 Commencing at the Southwest corner of said Section 14; thence along said
20 South line, North 88°57'30" East, 440.10 feet; thence, North 01°02'30"
West, 30.00 feet to the POINT OF BEGINNING, said point being on the
East line of Interstate 25;

21 thence along said East line the following 3 courses, North 79°41'00" West,
22 203.10 feet; thence, North 08°14'30" West, 943.60 feet; thence, North
23 00°17'30" East, 914.78 feet to a point on the South right-of-way line of the
Union Pacific Railroad Company;

24 thence, along said South right-of-way line the following 6 courses, South
25 78°47'56" East, 165.34 feet to a point on a curve concave to the North
26 having a central angle of 11°44'53", a radius of 1886.98 feet and the chord
of which bears South 84°40'23" East, 386.23 feet; thence, along the arc of
said curve 386.91 feet; thence, North 89°27'11" East, 467.86 feet to a point
on a curve concave to the Southwest having a central angle of 54°53'25", a

1 radius of 1839.60 feet and the chord of which bears South 63°06'07" East,
2 1695.74 feet; thence, along the arc of said curve 1762.37 feet; thence, South
3 35°39'24" East, 674.84 feet to a point on a curve concave to the Northeast
4 having a central angle of 11°56'40", a radius of 2902.76 feet and the chord
5 of which bears South 41°37'44" East, 604.04 feet; thence along the arc of
6 said curve 605.14 feet to a point on the North line of County Road 8;

7 thence along said North line, South 88°57'03" West, 788.41 feet; thence
8 continuing along said North line, South 88°57'30" West, 2203.18 feet to the
9 Point of Beginning.

10 6. DECKER and STEDMAN's plan was that STEDMAN would sign all of the Notes as
11 "Maker" and be personally liable to investors; the borrowed funds would be transferred to
12 PROFUTURA, L.L.C. ("PROFUTURA") to loan to OXFORD DEVELOPMENT, L.L.C.
13 ("OXFORD") to cover costs necessary to obtain construction financing for the project; OXFORD
14 would pledge the Dacono Project property as security for the Notes and would pay STEDMAN's
15 obligations to investors, including the interest on the Notes; and DECKER would determine what
16 portions of the Dacono Project property would be used to secure the Notes.

17 7. From approximately July 1996 through December 1999, RESPONDENTS issued,
18 offered, sold, or participated in the sale of approximately 81 Notes to approximately 76 private
19 investors, raising approximately \$3,000,000 from private investors.

20 8. RESPONDENTS told investors that their funds were to be used to pay expenses as
21 interim financing for a project described as the Dacono Factory Outlet Stores or the Dacono Factory
22 Outlet Mall and Sports Arena, and that their Notes would be paid upon the due date or at the close of
23 the construction financing.

24 9. Up until around April 1999, Notes sold to private investors were titled
25 "PROMISSORY NOTE SECURED BY DEED OF TRUST," and stated that the Notes and any
26 renewal or extension of the Notes were secured by a percent undivided interest in a deed of trust on
the Dacono Project property owned by OXFORD. In fact, from the inception of the project to date,
less than ten private investors are beneficiaries of any recorded interests in the Dacono Project
property.

1 10. As part of the paperwork for the Notes, investors were required to sign form letters
2 addressed to STEDMAN, which the promoters called "Big Boy Letters." The letters stated that the
3 investors were accredited investors, defined as investors whose net worth was over \$1,000,000, or
4 whose income was at least \$200,000 for the two years prior to investment.

5 11. The interest rates on most of the Notes varied from 12% to 20% per annum. From
6 1995 through around September 1997, the term of the Notes was one year. In or around September
7 1997, after one or more commitments for construction financing failed to close, the promoters
8 reduced the terms of most of the Notes to 90 days based upon representations that other construction
9 financing would be obtained shortly. Existing Notes, including interest, were rolled over or renewed
10 at the end of their terms.

11 12. DECKER offered DAVIS 10% commissions, and TESTINO was to be paid 5%
12 commissions for their efforts to solicit investors to rollover their Notes. By August 2000, some of the
13 Notes had been rolled over eighteen times.

14 13. In December 1998, one investor protested that the deed of trust that was supposed to
15 secure his Note was never recorded. Within approximately three months, in or around April 1999,
16 RESPONDENTS started to offer and sell "unsecured" Notes to new private investors.

17 14. According to Oxford's accounting records, the total principal amount due on
18 outstanding Notes issued to private investors was approximately \$5,017,000 on or about May 31,
19 2000. At that time, the total due including interest on those notes was approximately \$22,166,000.

20 15. In connection with the offer or sale of securities within or from Arizona,
21 RESPONDENTS directly or indirectly made untrue statements of material fact or omitted to state
22 material facts which were necessary in order to make the statements made not misleading in light of
23 the circumstances under which they were made. RESPONDENTS' conduct includes, but is not
24 limited to, the following:

- 25 a) Representing that the investment was a short-term loan because a construction loan for
26 the Dacono Project was imminent and investors would be paid in full at the close of

1 that loan, and failing to disclose that there were a series of purported loan
2 “commitments” and “letters of intent” that had never materialized and that the
3 principals had failed to close on prior construction loans that they had believed to be
4 imminent;

5 b) Representing until at least April 1999 that the Notes, and any extensions, renewals or
6 rollovers of the Notes, were secured by a recorded interest in a deed of trust on a
7 portion of the Dacono Project property located in Weld County, Colorado and owned
8 by OXFORD; and misrepresenting that the total of all loans secured by Lot 6 would
9 not exceed one million dollars. In fact only approximately eight of the original
10 investors in 1996 and early 1997 were identified as beneficiaries on recorded deeds of
11 trust, the total of all loans misrepresented as secured by Lot 6 far exceeded one million
12 dollars, and the property that was supposed to be pledged to private investors was
13 utilized instead as security to obtain financing from institutional “bridge” lenders;

14 c) Failing to disclose that substantial investor funds were used for failed funding
15 attempts, attempts to obtain bonding, tax benefits for the future owners of the project,
16 interest payments on prior investors’ Notes; redeeming prior investors’ defaulted
17 Notes, profits to institutional bridge lenders, DECKER’s living expenses, and
18 DECKER’s and STEDMAN’s travel expenses;

19 d) Failing to disclose the risks involved with this development project, specifically, the
20 uncertainty of getting construction financing, the repeated failed attempts to obtain
21 construction financing and bond funding, the costs of attempts to obtain financing, and
22 STEDMAN’s inability to repay the Notes, if construction financing was not secured;

23 e) Failing to disclose to new investors that similar representations regarding the
24 imminence of funding had been made to prior investors, that prior investors’ notes had
25 rolled over on maturity because there was no money to pay them, and that there was
26

1 an increasing risk that even if the construction loan closed, sufficient funds would not
2 be available to pay the interim financing obligations represented by the notes;

3 f) Failing to disclose the background and financial condition of the principals and the
4 project, including but not limited to the following:

5 (1) That DECKER had previously filed bankruptcy in 1989, and, as a result,
6 private investors in prior factory outlet mall projects had lost their
7 investments;

8 (2) That on January 21, 1994, the NASD censured STEDMAN, barred
9 STEDMAN from associating with any NASD member in any capacity,
10 and fined STEDMAN \$20,000, for conduct "inconsistent with just and
11 equitable principles of trade," because STEDMAN had failed to timely and
12 fully respond to a request for information from the NASD concerning a
13 complaint alleging that he had misappropriated \$175,000 from the
14 customer's account; and

15 (3) That TESTINO was terminated on September 15, 1998, by his former
16 dealer, SunAmerica Securities, Inc. ("SAS"), upon allegations relating to
17 his sale of these Notes, specifically, that "Without SAS knowledge or
18 approval, Testino facilitated the lending of money via promissory notes
19 from a number of individuals to a person who was subsequently
20 determined by the firm to be subject to an industry bar;" and that
21 TESTINO was under investigation by the NASD for violations of NASD
22 Rules as a result of his unauthorized activity;

23 (g) Failing to disclose that the Notes were securities and that RESPONDENTS were
24 selling the Notes to investors who were not accredited investors.

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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 Arizona
4 Constitution and the Securities Act.

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

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

9 4. RESPONDENTS, except TESTINO, violated A.R.S. § 44-1842 by offering or selling
10 securities while neither registered as dealers or salesmen nor exempt from registration.

11 5. RESPONDENTS violated A.R.S. § 44-1991 by offering or selling securities within or
12 from Arizona by making untrue statements or misleading omissions of material facts.

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

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

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

III.

ORDER

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21 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and the
22 RESPONDENTS' consent to the entry of this Order, the Commission finds that the following relief
23 is appropriate, in the public interest, and necessary for the protection of investors:

24 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, their agents,
25 employees, successors and assigns, permanently cease and desist from violating the Securities Act.
26

1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,
 2 jointly and severally, pay restitution to investors shown on the records of the Commission in the
 3 amount of \$3,000,000, plus interest at the rate of 10% per annum from the date of each investment
 4 until paid in full. Payment shall be made by cashier's check or money order payable to the "State of
 5 Arizona" to be placed in an interest-bearing account maintained and controlled by the Arizona
 6 Attorney General. The Arizona Attorney General shall disburse the funds on a pro rata basis to
 7 investors. Any funds that the Attorney General is unable to disburse shall revert to the state of
 8 Arizona.

9 IT IS FURTHER ORDERED that, until full restitution is made to all Note investors
 10 identified on the records of the Division, RESPONDENTS shall subordinate all rights and interests
 11 in the Dacono Project property, described in paragraph 5 above, and any contractual rights and
 12 interests to income or payment from the development and/or sale of the Dacono Project property or
 13 the Dacono Project.

14 IT IS FURTHER ORDERED that RESPONDENTS shall not, individually or on behalf of
 15 other entities, direct or give consent to any transfer of development rights associated with the
 16 Dacono Project property, including, but not limited to, tax credits or municipal bond financing,
 17 unless the agreement for such transfer of rights provides that funds equal to full restitution as set
 18 forth in this Order shall be placed in escrow for the benefit of all Note investors.

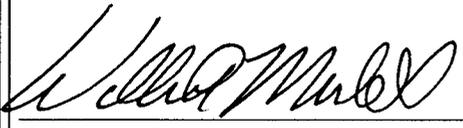
19 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS, jointly
 20 and severally, shall pay administrative penalties in the amount of \$50,000. Payment shall be made

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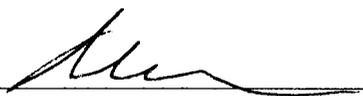
1 in full by cashier's check or money order on the date of this Order, payable to the "State of
2 Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum from the date
3 of this Order until paid in full.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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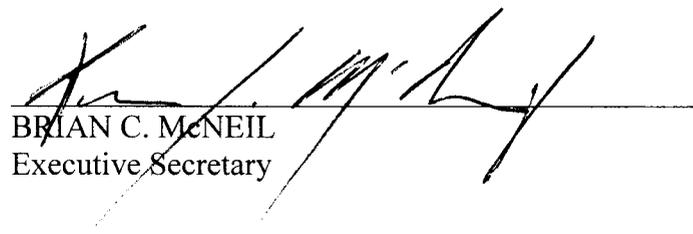
8 CHAIRMAN



COMMISSIONER

COMMISSIONER

9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
10 Executive Secretary 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 Capitol,
13 in the City of Phoenix, this 6th day of June, 2001.

14 
15 BRIAN C. McNEIL
16 Executive Secretary

17 DISSENT

18 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,
19 voice phone number 602-542-3931, E-mail shood@cc.state.az.us.

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CONSENT TO ENTRY OF ORDER

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2 1. RESPONDENTS CHARLES W. TESTINO, JR. (TESTINO) and ARIZONA
3 INVESTMENT ADVISERS, INC. (AIA) (RESPONDENTS) admit the jurisdiction of the
4 Commission over the subject matter of this proceeding. RESPONDENTS acknowledge that they
5 have been fully advised of their rights to a hearing to present evidence and call witnesses and
6 RESPONDENTS knowingly and voluntarily waive any and all rights to a hearing before the
7 Commission and all other rights otherwise available under Article 11 of the Securities Act and Title
8 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order To Cease
9 And Desist, Order of Restitution, Order for Administrative Penalties and Consent to Same ("Order")
10 constitutes a valid final order of the Commission.

11 2. RESPONDENTS knowingly and voluntarily waive any right they may have under
12 Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or
13 extraordinary relief 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 acknowledge that they have been represented by counsel in this matter,
17 they have reviewed this Order with their attorney and understand all terms it contains.

18 5. RESPONDENTS admit only for purposes of this proceeding and any other
19 administrative proceeding before the Commission or any other agency of the State of Arizona the
20 Findings of Fact and Conclusions of Law contained in this Order.

21 6. By consenting to the entry of this Order, RESPONDENTS agree not to take any action or
22 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of
23 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual
24 basis. RESPONDENTS will undertake steps necessary to assure that all of his agents and
25 employees understand and comply with this agreement. Nothing in this provision affects
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1 RESPONDENTS' testimonial obligations or right to take legal positions in litigation in which an
2 administrative agency of the State of Arizona is not a party.

3 7. RESPONDENTS agree to take all steps necessary to subordinate all of their rights and
4 interests, both currently existing or existing in the future, in the Dacono Project property, described
5 in paragraph 5 of the Order, to the investors identified on the records of the Division.
6 RESPONDENTS further agree to take all steps necessary to subordinate all of their contractual
7 rights and interests, both currently existing or existing in the future, related to the development
8 project known as the Dacono Factory Stores and located near Dacono, Weld County, Colorado, to
9 the investors identified on the records of the Division.

10 8. RESPONDENTS understand that nothing in this Order relieves them of any obligation of
11 responsibility that they have to their investors or clients outside of this Order.

12 9. While this Order settles this administrative matter between RESPONDENTS and the
13 Commission, RESPONDENTS understand that this Order does not preclude the Commission from
14 instituting other administrative proceedings based on violations that are not addressed by this Order.

15 10. RESPONDENTS understand that this Order does not preclude the Commission from
16 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
17 that may be related to the matters addressed by this Order.

18 11. RESPONDENTS understand that this Order does not preclude any other agency or
19 officer of the state of Arizona or its subdivisions from instituting administrative, civil or criminal
20 proceedings that may be related to matters addressed by this Order.

21 12. RESPONDENTS agree that they will not apply to the state of Arizona for registration as
22 a securities dealer or salesman or for licensure as an investment adviser or investment adviser
23 representative at any time in the future.

24 13. RESPONDENTS agree that they will not exercise any control over any entity that offers
25 or sells securities or provides investment advisory services, within or from Arizona.

26 14. RESPONDENTS agree that until restitution and penalties are paid in full,

1 RESPONDENTS will notify the Director of the Securities Division within 30 days of any change in
2 home address or any change in RESPONDENTS' ability to pay amounts due under this Order.

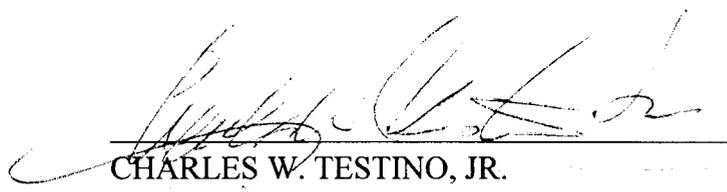
3 15. RESPONDENTS understand that default shall render them liable to the Commission for
4 its costs of collection and interest at the maximum legal rate.

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

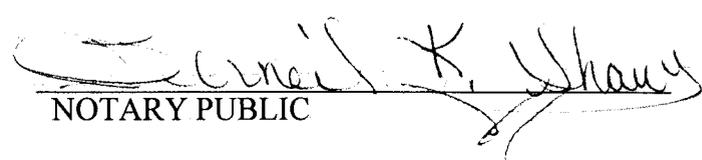
9 17. RESPONDENTS consent to the entry of this Order and agree to be fully bound by its
10 terms and conditions. If RESPONDENTS breach any provision of this Order, the Commission may
11 vacate this Order and restore this case to its active docket.

12 18. This agreement and Order shall be binding upon RESPONDENTS' agents, heirs,
13 employees, assigns, representatives, beneficiaries or other successors in interest of any kind.

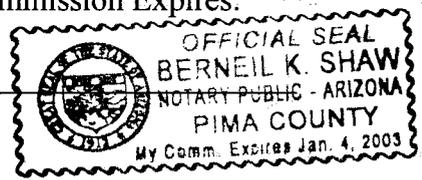
14 19. CHARLES W. TESTINO, JR. represents that he is President of AIA and has been
15 authorized by AIA to enter into this Order for and on behalf of it.

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18 
19 CHARLES W. TESTINO, JR.

20 SUBSCRIBED AND SWORN TO BEFORE me this 24th day of May, 2001.

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23 NOTARY PUBLIC

24 My Commission Expires:



ARIZONA INVESTMENT ADVISERS, INC.

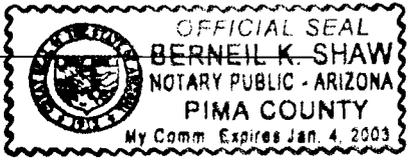
[Handwritten Signature]

By: Charles W. Testino, President

SUBSCRIBED AND SWORN TO BEFORE me this 24th day of May, 2001.

[Handwritten Signature]
NOTARY PUBLIC

My Commission Expires:



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