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**ORIGINAL**

**NEW APPLICATION**

**BEFORE THE ARIZONA CORPORATION COMMISSION**

**RECEIVED**

COMMISSIONERS

2010 AUG 17 A 10:44

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AZ CORP COMMISSION  
DOCKET CONTROL

In the matter of:  
FIVE STAR CAPITAL MARKETS, LLC, a  
Nevada limited liability company,  
JAMES PICCOLO and MARY ELIZABETH  
PICCOLO, husband and wife,  
CRAIG COTTRELL, CRD# 4552833, and  
ANDREA COTTRELL, husband and wife,  
CHARLEVOIX HOMES, LLC, an Arizona  
limited liability company,  
and  
MICHAEL ROBERTS, an unmarried man,  
Respondents.

DOCKET NO. S-20755A-10-0342

**NOTICE OF OPPORTUNITY FOR HEARING  
REGARDING PROPOSED ORDER TO  
CEASE AND DESIST, ORDER FOR  
RESTITUTION, ORDER FOR REVOCATION,  
ORDER FOR ADMINISTRATIVE  
PENALTIES AND FOR OTHER  
AFFIRMATIVE ACTION**

Arizona Corporation Commission

**DOCKETED**

**AUG 17 2010**

DOCKETED BY nr

**NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**

**EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents FIVE STAR CAPITAL MARKETS, LLC, JAMES PICCOLO, CRAIG COTTRELL, CHARLEVOIX HOMES, LLC and MICHAEL ROBERTS have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division further alleges JAMES PICCOLO controlled FIVE STAR CAPITAL MARKETS, LLC within the meaning of A.R.S. § 44-1999 so that he is jointly and severally liable

1 under A.R.S. § 44-1999 to the same extent as FIVE STAR CAPITAL MARKETS, LLC for violations  
2 of the Securities Act.

3 The Division further alleges MICHAEL ROBERTS controlled CHARLEVOIX HOMES,  
4 LLC within the meaning of A.R.S. § 44-1999 so that he is jointly and severally liable under A.R.S.  
5 § 44-1999 to the same extent as CHARLEVOIX HOMES, LLC for violations of the Securities Act.

6 **I.**

7 **JURISDICTION**

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

10 **II.**

11 **RESPONDENTS**

12 2. FIVE STAR CAPITAL MARKETS, LLC (“FIVE STAR”) is a Nevada limited  
13 liability company organized since March 24, 2005. According to the records of the Nevada Secretary  
14 of State, JAMES PICCOLO is the manager of FIVE STAR. According to the records of the  
15 Commission, FIVE STAR is not authorized to transact business as a foreign limited liability company  
16 in Arizona.

17 3. JAMES PICCOLO (“PICCOLO”) is a resident of Scottsdale, Arizona. During all  
18 relevant times, PICCOLO operated Nouveau Riche Corporation (“Nouveau Riche”) as the president  
19 and CEO. According to the records of the Commission, Nouveau Riche is a Nevada corporation  
20 authorized to transact business as a foreign corporation in Arizona. Nouveau Riche is located in  
21 Scottsdale, Arizona.

22 4. CRAIG COTTRELL (“COTTRELL”), CRD# 4552833, is a resident of Tempe,  
23 Arizona. At all relevant times, COTTRELL represented that he was the president of FIVE STAR.

24 5. COTTRELL was a registered representative with Source Capital Group between  
25 May 12, 2006 and November 2006 while COTTRELL offered and sold the CHARLEVOIX Note  
26 (as defined below). While a registered as a securities salesman with Source Capital Group,

1 COTTRELL effected securities transactions, the CHARLEVOIX Notes, which were not recorded  
2 on the books and records of his dealer at the time of the sales. Since March 17, 2009, COTTRELL has  
3 been registered as a securities salesman with Longview Financial Group, Inc.

4 6. CHARLEVOIX HOMES, LLC ("CHARLEVOIX") was, at all relevant times, an  
5 Arizona limited liability company organized on February 26, 2003. On November 9, 2009, the  
6 Commission administratively dissolved CHARLEVOIX. At all relevant times, MICHAEL  
7 ROBERTS was the sole manager/member of CHARLEVOIX.

8 7. MICHAEL ROBERTS ("ROBERTS"), an unmarried man, is a resident of Scottsdale,  
9 Arizona. At all relevant times, the offering documents provided to offerees and investors stated that  
10 ROBERTS was the president and CEO of CHARLEVOIX.

11 8. FIVE STAR, PICCOLO, COTTRELL, CHARLEVOIX and ROBERTS may be  
12 referred to collectively as "Respondents."

13 9. MARY ELIZABETH PICCOLO ("MARY PICCOLO") was, at all relevant times, the  
14 spouse of Respondent PICCOLO. ANDREA COTTRELL ("ANDREA COTTRELL") was, at all  
15 relevant times, the spouse of Respondent COTTRELL. MARY PICCOLO and ANDREA  
16 COTTRELL may be referred to collectively as "Respondent Spouses." Respondent Spouses are  
17 joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the  
18 marital communities.

19 10. At all times relevant, Respondents PICCOLO and COTTRELL were acting for their  
20 own benefit and for the benefit or in furtherance of their and Respondent Spouses' marital  
21 communities.

22 **III.**

23 **FACTS**

24 11. Between October 2005 and November 2006, Nouveau Riche operated as "an  
25 educational company that educates people on real estate -- residential real estate investing."  
26 Nouveau Riche conducted a series of classes on "dealing with residential real estate." Nouveau

1 Riche sold home study programs and held seminars known as "Intensives" throughout the United  
2 States. Intensives were usually two-day seminars held throughout the United States to promote  
3 Nouveau Riche educational programs. COTTRELL, an instructor at Nouveau Riche, conducted  
4 some of the Intensives.

5 12. FIVE STAR was created to be an advisory service to assist Nouveau Riche students.  
6 FIVE STAR was to provide assistance to the students of Nouveau Riche in their real estate  
7 investing.

8 13. COTTRELL stated to offerees and investors that he was the president of FIVE  
9 STAR. However, according to COTTRELL, PICCOLO actually controlled FIVE STAR by making  
10 all decisions related to FIVE STAR. COTTRELL stated that he had to get permission from  
11 PICCOLO or other Nouveau Riche management personnel on all decisions related to FIVE STAR.

12 14. CHARLEVOIX was an Arizona homebuilder that built several real estate  
13 developments in Arizona. The funds raised from investors were to be used to fund the  
14 development costs for one of the CHARLEVOIX developments.

15 15. PICCOLO introduced ROBERTS to COTTRELL. PICCOLO told COTTRELL that  
16 ROBERTS had a "passive investment opportunity." Further, PICCOLO told COTTRELL that  
17 ROBERTS had been raising money from investors for a while and thought the investment might be  
18 a good product for FIVE STAR to introduce to Nouveau Riche students.

19 16. PICCOLO negotiated with ROBERTS to allow FIVE STAR to offer the  
20 CHARLEVOIX Note (as defined below) including negotiating the commissions that FIVE STAR  
21 would receive.

22 17. In the fall of 2005, as a benefit to the Nouveau Riche students, FIVE STAR and  
23 COTTRELL offered the Nouveau Riche students who attended some of the Intensives, an  
24 investment opportunity to purchase notes in the CHARLEVOIX real estate development. Those  
25 Nouveau Riche students interested in making an investment received a document titled "Loan  
26

1 Agreement” (“CHARLEVOIX Note”). The CHARLEVOIX Note set forth the terms of the  
2 investment including the expected return, the collateral and the maturity date.

3 18. On October 1, 2005, after an Intensive, FIVE STAR and COTTRELL sent the  
4 attendees an email offering the attendees the opportunity to invest in the CHARLEVOIX Note  
5 ahead of other Nouveau Riche students. The email stated that “Jim [PICCOLO], Mike  
6 [ROBERTS] and I [COTTRELL] are very excited to share this fantastic offer with our community”  
7 and “the Phoenix Nouveau Riche community is the first to get the chance to act on the incredible  
8 ‘Charlevoix Homes’ opportunity before next Tuesday’s nationwide conference call with Jim  
9 Piccolo, Mike Roberts (CEO of Charlevoix Homes) and myself.”

10 19. The October 1, 2005, email also included a link to a power point presentation that  
11 further explained the CHARLEVOIX Note.

12 20. Furthermore, the October 1, 2005, the email requested that people interested in  
13 making the investment in the CHARLEVOIX Note should “make [their] payments out to  
14 ‘Charlevoix Homes’ and mail or deliver (remember this is first come/first serve) them to  
15 [COTTRELL] at” the FIVE STAR Scottsdale, Arizona, address. In the October 1, 2005 email,  
16 COTTRELL represented that once the payment was received, the investor would receive an  
17 agreement from CHARLEVOIX.

18 21. On October 11, 2005, COTTRELL sent another email to prospective investors and  
19 provided another link for a “presentation that explains this exciting opportunity in detail including  
20 financials.” The email also provided a website link to obtain a copy of a CHARLEVOIX Note.

21 22. Once the Nouveau Riche students sent their funds to FIVE STAR and COTTRELL,  
22 COTTRELL would notify CHARLEVOIX. CHARLEVOIX would then mail the CHARLEVOIX  
23 Note to investors. The term of the CHARLEVOIX Notes included “eighteen percent annum  
24 interest on the maximum note principal amount, and continue with an interest amount of eighteen  
25 percent (18%) per annum on principal amounts not paid on or before the closing of the final  
26 home.” ROBERTS, on behalf of CHARLEVOIX, signed the CHARLEVOIX Notes.

1           23. Respondents told the investors that the CHARLEVOIX Notes were secure.  
2 Respondents said the CHARLEVOIX Notes were to be secured either by a “2<sup>nd</sup> Deed of Trust held  
3 on behalf of all investors by Five Star Capital Markets” or by a “lien on lots.” Respondents did not  
4 record a second deed of trust or lien for the benefit of the investors, either individually or for the  
5 benefit of FIVE STAR.

6           24. The CHARLEVOIX Note offering documents provided to the investors by FIVE  
7 STAR stated that the investment was guaranteed by a “Charlevoix Home Corporate guarantee.”  
8 However, there was no CHARLEVOIX guarantee.

9           25. Between October of 2005 through November of 2006, Respondents offered and sold  
10 the CHARLEVOIX Notes to over 100 investors who invested over \$5.5 million. Almost all of the  
11 investors were Nouveau Riche students.

12           26. FIVE STAR received over \$200,000 in referral fees/commissions from  
13 CHARLEVOIX for the Nouveau Riche students who invested in the CHARLEVOIX Notes.

14           27. At all times relevant, FIVE STAR, PICCOLO, CHARLEVOIX and ROBERTS were  
15 neither registered as dealers nor as salesmen with the Commission.

16           28. From October of 2005 through May 11, 2006, COTTRELL was not registered as a  
17 securities salesman with the Commission. COTTRELL was a registered representative with Source  
18 Capital Group between May 12, 2006 and November 2006 while COTTRELL offered and sold the  
19 CHARLEVOIX Note. While a registered as a securities salesman with Source Capital Group,  
20 COTTRELL effected securities transactions, the CHARLEVOIX Notes, which were not recorded on  
21 the books and records of his dealer at the time of the sales.

22           29. The CHARLEVOIX Note was not registered with the Commission.

23 ...

24 ...

25 ...

26 ...

1 **IV.**

2 **VIOLATION OF A.R.S. § 44-1841**

3 **(Offer or Sale of Unregistered Securities)**

4 30. From on or about October of 2005 through November of 2006, Respondents offered  
5 or sold securities, in the form of notes, within or from Arizona.

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

8 32. This conduct violates A.R.S. § 44-1841.

9 **V.**

10 **VIOLATION OF A.R.S. § 44-1842**

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

12 33. Respondents FIVE STAR, PICCOLO, CHARLEVOIX and ROBERTS offered or  
13 sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article  
14 9 of the Securities Act.

15 34. From October 2005 through May 11, 2006, Respondent COTTRELL offered or sold  
16 securities within or from Arizona while not registered as a salesman pursuant to Article 9 of the  
17 Securities Act.

18 35. This conduct violates A.R.S. § 44-1842.

19 **VI.**

20 **VIOLATION OF A.R.S. § 44-1991**

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

22 36. In connection with the offer or sale of securities within or from Arizona, Respondents  
23 directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue  
24 statements of material fact or omitted to state material facts that were necessary in order to make the  
25 statements made not misleading in light of the circumstances under which they were made; or (iii)  
26 engaged in transactions, practices, or courses of business that operated or would operate as a fraud or

1 deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the  
2 following:

3 a) FIVE STAR, PICCOLO and COTTRELL, misrepresented to offerees and  
4 investors that the investments in CHARLEVOIX was guaranteed by a corporate guarantee in  
5 CHARLEVOIX when, in fact, there was no corporate guarantee.

6 b) FIVE STAR, PICCOLO, COTTRELL, CHARLEVOIX and ROBERTS  
7 misrepresented to offerees and investors that the note was secured by a second deed of trust held on  
8 behalf of the investors by FIVE STAR or a lien on the lots. There was no second deed of trust filed  
9 for the benefit of FIVE STAR investors. Nor were any liens filed on the lots to benefit the investors.

10 37. This conduct violates A.R.S. § 44-1991.

11 38. PICCOLO directly or indirectly controlled persons or entities within the meaning of  
12 A.R.S. § 44-1999, including but not limited to FIVE STAR. Therefore, PICCOLO is jointly and  
13 severally liable under A.R.S. § 44-1999 to the same extent as FIVE STAR for any violations of  
14 A.R.S. § 44-1991.

15 39. ROBERTS directly or indirectly controlled persons or entities within the meaning of  
16 A.R.S. § 44-1999, including but not limited to CHARLEVOIX. Therefore, ROBERTS is jointly and  
17 severally liable under A.R.S. § 44-1999 to the same extent as CHARLEVIOX for any violations of  
18 A.R.S. § 44-1991.

19 **VII.**

20 **REMEDIES PURSUANT TO A.R.S. § 44-1962**

21 **(Denial, Revocation, or Suspension of Registration of Salesman; Restitution, Penalties, or other**  
22 **Affirmative Action)**

23 40. Respondent COTTRELL's conduct, from May 12, 2006 through November 2006, is  
24 grounds to revoke his registration as securities salesman with the Commission pursuant to A.R.S. §  
25 44-1962. Specifically, COTTRELL has:

26 a) violated the Arizona Securities Act; and





X.

**ANSWER REQUIREMENT**

Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

Additionally, the answering respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, Arizona, 85007, addressed to Wendy Coy, Senior Counsel.

The Answer shall contain an admission or denial of each allegation in this Notice and the original signature of the answering respondent or respondent's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be considered admitted.

When the answering respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

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

Dated this 17 day of August, 2010.

  
Matthew J. Neubert  
Director of Securities