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BEFORE THE ARIZONA CORPORATION COMMISSION

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2 WILLIAM A. MUNDELL
Chairman
3 JIM IRVIN
Commissioner
4 MARC SPITZER
Commissioner
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AZ CORP COMMISSION
DOCUMENT CONTROL

NEW

6 In the matter of:
7 AEROMAX, INC.
9520 East Lorna Lane
8 Prescott Valley, Arizona 86314
Foreign Address:
9 1704 Westland Rd.
Cheyenne, Wyoming 82001

) Docket No. S-03455A-01-0000
)
) **TEMPORARY ORDER TO CEASE AND**
) **DESIST AND NOTICE OF**
) **OPPORTUNITY FOR HEARING**

10 AEROMAG CORPORATION
9520 East Lorna Lane, #A
11 Prescott Valley, Arizona 86314

12 LEXINGTON BARTLETT
7500 East Cocopah Drive
13 Prescott Valley, Arizona 86314

14 DAVID L. SEARS
9560 East Whipsaw Lane
15 Prescott Valley, Arizona 86314

16
17 Respondents.

18
19 **NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**

20 **EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING**

21 The Securities Division ("Division") of the Arizona Corporation Commission ("Commission")
22 alleges that AEROMAX, INC., AEROMAG CORPORATION, LEXINGTON BARTLETT,
23 and DAVID L. SEARS engaged in or are engaging in acts and practices that constitute violations
24 of A.R.S. § 44-1801 *et seq.*, the Securities Act of Arizona ("Securities Act"), and that the public
25 welfare requires immediate action.
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I.

JURISDICTION

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

5 II.

6 RESPONDENTS

7 2. AEROMAX, INC. ("AEROMAX") is a Wyoming corporation, incorporated in
8 November 1994, and authorized to do business in Arizona in May 1995. AEROMAX'S last known
9 business address is 9520 East Lorna Lane, Prescott Valley, Arizona 86314. AEROMAX purportedly
10 holds the exclusive license for AEROMAG products.

11 3. AEROMAG CORPORATION ("AEROMAG") is an Arizona corporation,
12 incorporated in March 1994. AEROMAG'S last known business address is 9520 East Lorna Lane,
13 #A, Prescott Valley, Arizona 86314. During all relevant times, AEROMAG is purportedly in the
14 manufacturing business, including the research and development of renewable energy systems.

15 4. LEXINGTON BARTLETT ("BARTLETT") whose last known address is 7500 E.
16 Cocopah Drive, Prescott Valley, Arizona 86314, was at all times relevant and believed to currently
17 be, the President, CEO and Statutory Agent of AEROMAX and the President, CEO, Director and
18 Statutory Agent of AEROMAG. BARTLETT also acts as a securities salesman on behalf of
19 AEROMAX. During all relevant times, BARTLETT is conducting business involving the offer and
20 sale of securities within or from the state of Arizona.

21 5. DAVID L. SEARS ("SEARS") whose last known address is 9560 East Whipsaw
22 Lane, Prescott Valley, Arizona 86314, is the Vice President of AEROMAX and a member of the
23 "Management Team" for both AEROMAX and AEROMAG, since fall 1997. SEARS also acts as a
24 securities salesman on behalf of AEROMAX. SEARS is conducting business involving the offer
25 and sale of securities within or from the state of Arizona.

26 6. The respondents may be collectively referred to as "RESPONDENTS."

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III.**FACTS**

7. From approximately November 13, 1994, RESPONDENTS offered and sold shares of stock in AEROMAX. RESPONDENTS were not registered securities dealers and/or salesmen in the state of Arizona. The stock shares in AEROMAX were not registered for sale in the state of Arizona.

8. RESPONDENTS provided information to at least one offeree stating that AEROMAX holds an exclusive license for AEROMAG products and is responsible for marketing, wholesale distribution, and retailing of renewable energy systems and ancillary products. AEROMAX is said to be responsible for market intelligence gathering and revenue streams. The information provided was entitled the AEROMAG & AEROMAX Folio ("Folio").

9. AEROMAG is described in the Folio as the sister company to AEROMAX. AEROMAG reportedly developed its own technology for several products. All of the products listed in the folio are products of AEROMAG. The company's current emphasis is represented as the engineering and manufacturing of small wind turbine generators and energy system components.

10. The Folio states that "[c]orporate accomplishments to date have been funded by the small investor and through tax-exempt sales of renewable energy systems and components." It did not detail which corporation was funded in this manner. The Folio identifies AEROMAX as having almost 300 small investors that make up approximately 16% equity in the business. The Folio states that 70% of the business is held by the management team, directors, "angel investors" and "the corporations themselves." The Folio states that a 14% reserve has been set-aside for an institutional investor, or an investor group. Despite this claim, a review of the stockholder list provided by the companies disclosed that none of the RESPONDENTS are listed as shareholders.

11. RESPONDENTS failed to provide offerees with a disclosure document that provided essential information regarding the offering. Information withheld included, but was not

1 limited to, risk factors, capitalization, plan of distribution, actual use of proceeds, federal tax
2 aspects, and redemptions.

3 12. The offering materials did not disclose information about the backgrounds of
4 officers and key personnel of either AEROMAG or AEROMAX, directors of either company, or
5 principal stockholders.

6 13. RESPONDENTS sold stock to at least 332 individuals from November 1994,
7 through February 2001. The sale of at least 634,236 shares of stock varied from \$1.00 per share to
8 \$5.00 per share. Stockholders reside throughout the United States, Canada and Germany. At least
9 164 investors reside in Arizona.

10 14. Upon information and belief, RESPONDENTS are currently raising capital through
11 the sale of stock and debentures.

12 IV.

13 VIOLATION OF A.R.S. § 44-1841

14 (Offer and Sale of Unregistered Securities)

15 15. From on or about November 1994, RESPONDENTS offered or sold securities in the
16 form of stock in AEROMAX within or from Arizona.

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

19 17. This conduct violates A.R.S. § 44-1841.

20 V.

21 VIOLATION OF A.R.S. § 44-1842

22 (Transactions by Unregistered Dealers or Salesmen)

23 18. RESPONDENTS offered or sold securities within or from Arizona while not
24 registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

25 19. This conduct violates A.R.S. § 44-1842.

26 ...

VI.

VIOLATION OF A.R.S. § 44-1991

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

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

- a) RESPONDENTS fail to provide offerees with a prospectus or equivalent offering document containing material financial information about AEROMAX or AEROMAG, including but not limited to any balance sheets, income statements, or any information on the financial relationship between AEROMAX and AEROMAG, and how the use of AEROMAX investors' proceeds would specifically benefit AEROMAG.
- b) RESPONDENTS fail to provide offerees with information on an "exclusive license" purportedly held by AEROMAX for AEROMAG products.
- c) RESPONDENTS fail to provide offerees with information on how the price of AEROMAX stock was determined. In some instances, RESPONDENTS sold shares to different individuals for varying prices, on the same day.
- d) RESPONDENTS fail to notify offerees and shareholders that some investors had received "bonus" stock shares and "goodwill" stock shares at no cost, thereby diluting the value of all of the shares. Other individuals received stock shares at the rate of "2 for 1" with no explanation.

- 1 e) RESPONDENTS provide offerees and shareholders with information that 70% of
2 the business is held by the management team, directors, "angel investors" and the
3 corporations themselves. RESPONDENTS fail to disclose the names and
4 respective ownership of the above parties. Upon information and belief, none of
5 the RESPONDENTS are shareholders.
- 6 f) RESPONDENTS misrepresent the amount of profit shareholders could anticipate by
7 proclaiming a corporate plan to provide a 900% return to investors after an IPO.
8 There was no basis in fact for such a claim. RESPONDENTS do not provide
9 information showing either company is in the process of an IPO, and do not disclose
10 the use of any funds to initiate an IPO.
- 11 g) RESPONDENTS fail to offer detailed information on the background of the
12 principals involved in the companies, including the business backgrounds and
13 experience of the officers and directors in setting up and operating renewable energy
14 systems.
- 15 h) RESPONDENTS fail to advise offerees and shareholders that the stock was not
16 registered for sale and that they are not registered dealers or salesmen.
- 17 21. This conduct violates A.R.S. § 44-1991.

18 **VII.**

19 **TEMPORARY ORDER**

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

21 THEREFORE, based on the above allegations, and because the Division has determined that
22 the public welfare requires immediate action,

23 IT IS ORDERED, pursuant to A.R.S. §§ 44-2032, 44-1972 and A.A.C. R14-4-307, that the
24 RESPONDENTS, their agents, servants, employees, successors, assigns, and those persons in active
25 concert or participation with them CEASE AND DESIST from any violations of the Securities Act.
26

1 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
2 effect for 120 days unless sooner vacated, modified or made permanent by the Commission.

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

4 **VIII.**

5 **REQUESTED RELIEF**

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

8 1. Order RESPONDENTS to permanently cease and desist from violating the
9 Securities Act, pursuant to A.R.S. § 44-2032;

10 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting
11 from their acts, practices or transactions, including a requirement to make restitution pursuant to
12 A.R.S. § 44-2032;

13 3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to
14 five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

15 4. Order any other relief that the Commission deems appropriate.

16 **IX.**

17 **HEARING OPPORTUNITY**

18 RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-
19 307. A request for hearing must be in writing and received by the Commission within 20 days after
20 service of this Temporary Order to Cease and Desist. Each RESPONDENT must deliver or mail
21 the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West
22 Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must also be filed with the
23 request for hearing. A cover sheet form and instructions may be obtained from Docket Control at
24 (602) 542-3477 or on the Commission's Internet web site at
25 www.cc.state.az.us/utility/forms/index.htm.

1 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 5
2 to 15 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,
3 or ordered by the Commission. After a hearing, the Commission may vacate, modify or make
4 permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent
5 Order may include ordering restitution, assessing administrative penalties or other action.

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

9 Persons with a disability may request a reasonable accommodation such as a sign language
10 interpreter, as well as request this document in an alternative format, by contacting Shelly M.
11 Hood, ADA Coordinator, voice phone number 602/542-3931, e-mail shood@cc.state.az.us.
12 Requests should be made as early as possible to allow time to arrange the accommodation.

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 20th day of
14 June, 2001.

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16 Mark Sendrow
17 Director of Securities