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WILLIAM A. M
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

MARK SENDROW
DIRECTOR

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ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCUMENT CONTROL

EMAIL: accsec@ccsd.cc.state.az.us

MEMORANDUM

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer

Arizona Corporation Commission

DOCKETED

FROM: Mark Sendrow *M&L*
Director of Securities

OPEN MEETING ITEM

APR 19 2002

4/25/02

DOCKETED BY

mac

DATE: April 17, 2002

RE: David Nutter and North American Insurance Services, L.L.C., S-03463A-01-0000

CC: Brian C. McNeil, Executive Secretary

The Division filed a Notice of Opportunity for Hearing Regarding a Proposed Order to Cease and Desist on August 14, 2001, against David Nutter ("Nutter") and North American Insurance Services, L.L.C. ("North American") for violations of the Securities Act of Arizona. The Respondents were served by personal service on August 14, 2001. On August 22, 2001, Respondents filed a request for hearing.

Respondents offered and sold unregistered promissory notes to approximately 16 people who invested about \$750,000.00. The promissory notes were from one to three years in duration and paid an interest rate of 10% to 12%. Respondents have repaid approximately \$150,000.00 of principal and interest as scheduled. As of the date of this Order, Respondents owe 12 people approximately \$613,000.00. The due dates on the notes go through 2004.

Nutter is a registered insurance agent. Respondents made the sales to their insurance clients. Respondents borrowed funds from their clients and issued promissory notes with the term of the notes and the interest rate of the notes varying depending upon the client. The notes state that each note was secured by the assets and accounts receivable of North American and Nutter as its managing member. Respondents did not provide any financial information to clients regarding the assets and accounts receivable of North American.

Respondents agreed to pay restitution of \$613,000.00 plus interest as set forth in the promissory notes. Respondents, jointly and severally, agreed to pay an administrative penalty in the amount of \$20,000.00.

Respondents are required to make annual reports to the Division regarding the products sold during the year. This requirement is in place until the restitution and administrative penalty are paid in full. In addition, Respondents have agreed to allow the Division to conduct examinations of their offices at any time the Director of Securities requires. The Division may conduct the examinations until such time as the restitution and administrative penalty are paid in full.

Nutter agreed not to apply for registration as a dealer, salesman or investment advisor until the later of January 1, 2005, or when the restitution and administrative penalty are paid in full.

The Division believes that the attached proposed Order is in the best interests of the state of Arizona and recommends that the Commission accept the proposed Order.

Originator: Wendy Coy

AG: Moira McCarthy

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 WILLIAM A. MUNDELL
4 Chairman
5 JIM IRVIN
6 Commissioner
7 MARC SPITZER
8 Commissioner

9 In the matter of)
10 DAVID NUTTER)
11 CRD #2346911)
12 336 W. Lamar Road)
13 Phoenix, Arizona 85013)
14)
15 NORTH AMERICAN INSURANCE SERVICES,)
16 L.L.C.)
17 8024 N. 24th Avenue, Suite 301)
18 Phoenix, Arizona 85021,)
19 Respondents.)

DOCKET NO. S-03463A-01-0000

DECISION NO. _____

**ORDER TO CEASE AND DESIST,
ORDER OF RESTITUTION, ORDER
FOR ADMINISTRATIVE PENALTIES,
AND CONSENT TO SAME
BY: DAVID NUTTER and NORTH
AMERICAN INSURANCE SERVICES,
L.L.C.**

20 DAVID NUTTER ("NUTTER") and NORTH AMERICAN INSURANCE SERVICES,
21 L.L.C. ("NORTH AMERICAN") (collectively "RESPONDENTS") elect to permanently waive
22 their right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona,
23 A.R.S. § 44-1801, *et seq.* ("Securities Act") with respect to this Order To Cease And Desist, Order
24 Of Restitution, Order For Administrative Penalties And Consent To Same ("Order").
25 RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission ("Commission");
26 admit, only for purposes of this proceeding, the Findings of Fact and Conclusions of Law
contained in this Order; and consent to the entry of this Order by the Commission.

I.

FINDINGS OF FACT

1. Beginning in December of 1997, RESPONDENTS offered and sold promissory notes to at least 16 people who invested at least \$750,000. The promissory notes were from one to

1 three years in duration and paid an annual interest rate of 10% to 12%. RESPONDENTS have
2 repaid approximately \$150,000 of principal and interest as scheduled. As of the date of the
3 Notice in this matter, RESPONDENTS owe 12 people approximately \$613,000. The due dates
4 on the notes go through 2004.

5 2. RESPONDENTS borrowed funds from their clients and issued promissory notes with
6 the term of the notes and the interest rate of the notes varying depending upon the client. The notes
7 state that they were secured by the assets and accounts receivable of NORTH AMERICAN and
8 NUTTER as its managing member. RESPONDENTS did not provide any financial information to
9 clients regarding the assets and accounts receivable of NORTH AMERICAN.

10 3. NUTTER stated that the funds were used to continue the business while he attended
11 educational seminars to expand the options for his clients. Specifically, NUTTER stated that the
12 funds were used to pay for the seminars, traveling to the seminars, and to make up for the lost
13 commissions while he was in training.

14 4. RESPONDENTS did not clearly disclose to investors the true purpose of the loans. At
15 least one investor believed the funds were to be used to purchase businesses that were going out of
16 business and RESPONDENTS borrowed the needed funds from their clients instead of the bank.
17 Most investors do not know how their funds were to be used.

18 II.

19 CONCLUSIONS OF LAW

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

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

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

26

1 necessary by the Director of Securities. The Division will be able to conduct the examinations until
2 the restitution and administrative penalty outlined in this Order are paid in full.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,
4 jointly and severally, pay restitution to investors shown on the records of the Commission in the
5 amount of \$613,000, plus interest in the approximate amount of \$177,300.00 at the rate of the
6 issued promissory notes from the date of each investment until paid in full. Payment shall be made
7 by cashier's check or money order payable to the "State of Arizona" to be placed in an interest-
8 bearing account maintained and controlled by the Arizona Attorney General. The Arizona
9 Attorney General shall disburse the funds on a pro rata basis to investors. If all investors are paid
10 in full, any excess funds shall revert to the state of Arizona. Payment shall be made in full by
11 cashier's check or money order on the date of this Order.

12 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall
13 jointly and severally pay an administrative penalty in the amount of \$20,000.00, payable to the
14 "State of Arizona." Payment shall be made in full by cashier's check or money order on the date
15 of this Order. If RESPONDENTS do not comply with this order for administrative penalties, any
16 outstanding balance may be deemed in default and shall be immediately due and payable.

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

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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5 CHAIRMAN

COMMISSIONER

COMMISSIONER

6 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
7 Executive Secretary of the Arizona Corporation
8 Commission, have hereunto set my hand and caused the
9 official seal of the Commission to be affixed at the
10 Capitol, in the City of Phoenix, this _____ day of
11 _____, 2002.

12 _____
13 BRIAN C. McNEIL
14 Executive Secretary

15
16 _____
17 DISSENT

18 This document is available in alternative formats by contacting Shelly M. Hood, Executive
19 Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail
20 shood@cc.state.az.us.

21 (wc)

CONSENT TO ENTRY OF ORDER

1
2 1. DAVID NUTTER, an individual, admits the jurisdiction of the Commission over the
3 subject matter of this proceeding. DAVID NUTTER acknowledges that he has been fully advised
4 of his right to a hearing to present evidence and call witnesses and DAVID NUTTER knowingly
5 and voluntarily waives any and all rights to a hearing before the Commission and all other rights
6 otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona
7 Administrative Code. DAVID NUTTER acknowledges that this Order To Cease And Desist,
8 Order Of Restitution, Order For Administrative Penalties And Consent To Same ("Order")
9 constitutes a valid final order of the Commission.

10 2. DAVID NUTTER knowingly and voluntarily waives any right he may have under
11 Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or
12 extraordinary relief resulting from the entry of this Order.

13 3. DAVID NUTTER acknowledges and agrees that this Order is entered into freely and
14 voluntarily and that no promise was made or coercion used to induce such entry.

15 4. DAVID NUTTER acknowledges that he has been represented by counsel in this matter,
16 he has reviewed this Order with his attorney and understands all terms it contains.

17 5. DAVID NUTTER admits, only for purposes of this proceeding, the Findings of Fact and
18 Conclusions of Law contained in this Order.

19 6. By consenting to the entry of this Order, DAVID NUTTER agrees not to take any
20 action or to make, or permit to be made, any public statement denying, directly or indirectly, any
21 Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is
22 without factual basis. However, this Order is not intended to collaterally estop, factually bind or
23 preclude DAVID NUTTER from defending himself in any administrative, civil or criminal
24 proceedings to which the Commission is not a party. DAVID NUTTER will undertake steps
25 necessary to assure that all of his agents and employees understand and comply with this
26 agreement.

1 7. While this Order settles this administrative matter between DAVID NUTTER and the
2 Commission, DAVID NUTTER understands that this Order does not preclude the Commission
3 from instituting other administrative proceedings based on violations that are not addressed by this
4 Order.

5 8. DAVID NUTTER understands that this Order does not preclude the Commission from
6 referring this matter to any governmental agency for administrative, civil, or criminal proceedings
7 that may be related to the matters addressed by this Order.

8 9. DAVID NUTTER understands that this Order does not preclude any other agency or
9 officer of the state of Arizona or its subdivisions from instituting administrative, civil or criminal
10 proceedings that may be related to matters addressed by this Order.

11 10. DAVID NUTTER agrees that he will not apply to the state of Arizona for registration
12 as a securities dealer or salesman or for licensure as an investment adviser or investment adviser
13 representative until the later of January 1, 2005 or upon satisfactory completion of the terms of this
14 order and consent.

15 11. DAVID NUTTER agrees to cease all offers and sales of promissory notes. Further,
16 DAVID NUTTER agrees to cease extending or "rolling over" current notes.

17 12. DAVID NUTTER agrees to submit an annual report beginning on one year from the
18 date of this Order and Consent a list of all products sold during the year. The annual reporting
19 requirement will be in place until the restitution and administrative penalty outlined in this Order
20 are paid in full.

21 13. DAVID NUTTER agrees to permit the Division to examine his business affairs as
22 deemed necessary by the Director of Securities. The Division will be allowed to conduct an exam
23 without cause on an unannounced basis. The Division will be able to conduct examinations until
24 the restitution and administrative penalty outlined in this Order are paid in full.

1 14. DAVID NUTTER agrees that he will not exercise any control over any entity that
2 offers or sells securities or provides investment advisory services, within or from Arizona unless
3 properly registered.

4 15. DAVID NUTTER agrees that until restitution and penalties are paid in full, he will
5 notify the Director of the Securities Division within 30 days of any change in home address or any
6 change in his ability to pay amounts due under this Order.

7 16. DAVID NUTTER understands that default shall render him liable to the Commission
8 for its costs of collection and interest at the maximum legal rate.

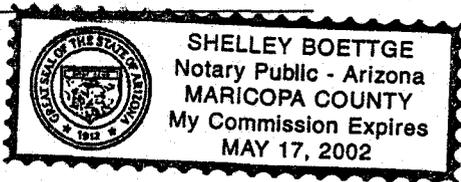
9 17. DAVID NUTTER consents to the entry of this Order and agrees to be fully bound by
10 its terms and conditions. If DAVID NUTTER breaches any provision of this Order, the
11 Commission may vacate this Order and restore this case to its active docket.

12
13 David Nutter
14 DAVID NUTTER

15 SUBSCRIBED AND SWORN TO BEFORE me this 15 day of April, 2002.

16 Shelley Boettge
17 NOTARY PUBLIC

18 My Commission Expires:



CONSENT TO ENTRY OF ORDER

1
2 1. NORTH AMERICAN INSURANCE SERVICES, L.L.C., through DAVID
3 NUTTER, admits the jurisdiction of the Commission over the subject matter of this proceeding.
4 NORTH AMERICAN INSURANCE SERVICES, L.L.C. acknowledges that it has been fully
5 advised of its right to a hearing to present evidence and call witnesses and NORTH AMERICAN
6 INSURANCE SERVICES, L.L.C. knowingly and voluntarily waives any and all rights to a
7 hearing before the Commission and all other rights otherwise available under Article 11 of the
8 Securities Act and Title 14 of the Arizona Administrative Code. NORTH AMERICAN
9 INSURANCE SERVICES, L.L.C. acknowledges that this Order To Cease And Desist, Order Of
10 Restitution, Order For Administrative Penalties And Consent To Same ("Order") constitutes a
11 valid final order of the Commission.

12 2. NORTH AMERICAN INSURANCE SERVICES, L.L.C. knowingly and voluntarily
13 waives any right it may have under Article 12 of the Securities Act to judicial review by any court
14 by way of suit, appeal, or extraordinary relief resulting from the entry of this Order.

15 3. NORTH AMERICAN INSURANCE SERVICES, L.L.C. acknowledges and agrees
16 that this Order is entered into freely and voluntarily and that no promise was made or coercion
17 used to induce such entry.

18 4. NORTH AMERICAN INSURANCE SERVICES, L.L.C. acknowledges that it has
19 been represented by counsel in this matter, it has reviewed this Order with its attorney and
20 understands all terms it contains.

21 5. NORTH AMERICAN INSURANCE SERVICES, L.L.C. admits, only for purposes
22 of this proceeding, the Findings of Fact and Conclusions of Law contained in this Order.

23 6. By consenting to the entry of this Order, NORTH AMERICAN INSURANCE
24 SERVICES, L.L.C. agrees not to take any action or to make, or permit to be made, any public
25 statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order
26 or creating the impression that this Order is without factual basis. However, this Order is not

1 intended to collaterally estop, factually bind or preclude NORTH AMERICAN INSURANCE
2 SERVICES, L.L.C. from defending itself in any administrative, civil or criminal proceedings to
3 which the Commission is not a party. NORTH AMERICAN INSURANCE SERVICES, L.L.C.
4 will undertake steps necessary to assure that all of its agents and employees understand and
5 comply with this agreement.

6 7. While this Order settles this administrative matter between NORTH AMERICAN
7 INSURANCE SERVICES, L.L.C. and the Commission, NORTH AMERICAN INSURANCE
8 SERVICES, L.L.C. understands that this Order does not preclude the Commission from instituting
9 other administrative proceedings based on violations that are not addressed by this Order.

10 8. NORTH AMERICAN INSURANCE SERVICES, L.L.C. understands that this
11 Order does not preclude the Commission from referring this matter to any governmental agency
12 for administrative, civil, or criminal proceedings that may be related to the matters addressed by
13 this Order.

14 9. NORTH AMERICAN INSURANCE SERVICES, L.L.C. understands that this
15 Order does not preclude any other agency or officer of the state of Arizona or its subdivisions from
16 instituting administrative, civil or criminal proceedings that may be related to matters addressed by
17 this Order.

18 10. NORTH AMERICAN INSURANCE SERVICES, L.L.C. agrees that it will not
19 apply to the state of Arizona for registration as a securities dealer or for licensure as an investment
20 adviser until the later of January 1, 2005 or upon satisfactory completion of the terms of this order
21 and consent.

22 11. NORTH AMERICAN INSURANCE SERVICES, L.L.C. agrees to cease all offers
23 and sales of promissory notes. Further, NORTH AMERICAN INSURANCE SERVICES, L.L.C.
24 agrees to cease extending or "rolling over" current notes.

25 12. NORTH AMERICAN INSURANCE SERVICES, L.L.C. agrees to submit an
26 annual report beginning on one year from the date of this Order and Consent a list of all products

1 sold during the year. The annual reporting requirement will be in place until the restitution and
2 administrative penalty outlined in this Order are paid in full.

3 13. NORTH AMERICAN INSURANCE SERVICES, L.L.C. agrees to permit the
4 Division to examine its business affairs as deemed necessary by the Director of Securities. The
5 Division will be allowed to conduct an exam without cause on an unannounced basis. The Division
6 will be able to conduct examinations until the restitution and administrative penalty outlined in this
7 Order are paid in full.

8 14. NORTH AMERICAN INSURANCE SERVICES, L.L.C. agrees that it will not
9 exercise any control over any entity that offers or sells securities or provides investment advisory
10 services, within or from Arizona unless properly registered.

11 15. NORTH AMERICAN INSURANCE SERVICES, L.L.C. agrees that until restitution
12 and penalties are paid in full, NORTH AMERICAN INSURANCE SERVICES, L.L.C. will notify
13 the Director of the Securities Division within 30 days of any change in address or any change in
14 NORTH AMERICAN INSURANCE SERVICES, L.L.C.'s ability to pay amounts due under this
15 Order.

16 16. NORTH AMERICAN INSURANCE SERVICES, L.L.C. understands that default
17 shall render it liable to the Commission for its costs of collection and interest at the maximum legal
18 rate.

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1 17. NORTH AMERICAN INSURANCE SERVICES, L.L.C. consents to the entry of
2 this Order and agrees to be fully bound by its terms and conditions. If NORTH AMERICAN
3 INSURANCE SERVICES, L.L.C. breaches any provision of this Order, the Commission may
4 vacate this Order and restore this case to its active docket.

5 David Nutter
6 DAVID NUTTER as Managing Member of
7 NORTH AMERICAN INSURANCE
8 SERVICES, L.L.C.

9 SUBSCRIBED AND SWORN TO BEFORE me this 15 day of April, 2002.

10 Shelley Boettge
11 NOTARY PUBLIC

12 My Commission Expires:

