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JIM IRVIN
COMMISSIONER

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COMMISSIONER

JEFF HATCH-MILLER
COMMISSIONER

MIKE GLEASON
COMMISSIONER



ORIGINA



0000116840

1300 West Washington, Third Floor
Phoenix, AZ 85007-2996
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: accsec@ccsd.cc.state.az.us

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer
Commissioner Jeff Hatch-Miller
Commissioner Mike Gleason

Arizona Corporation Commission

DOCKETED

JAN 09 2003

FROM: Mark Sendrow
Director of Securities

DOCKETED BY CAR

DATE: January 8, 2003

RE: Wallace Butterworth & Senior Advisory Services, LLC, Docket No. S-03472A-02-0000 (Scottsdale Financial Funding Group, LLC, et al.)

CC: Brian C. McNeil, Executive Secretary

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AZ CORP COMMISSION
DOCUMENT CONTROL

Attached is a proposed Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties, and Consent to Same (Order), fully executed by Wallace Butterworth for himself and for his limited liability company, Senior Advisory Services, LLC. The proposed order finds violations of the Securities Act, including the sale of unregistered securities and misrepresentations and omissions in the sale of securities.

On March 29, 2002, the Division filed a Notice against Mr. Butterworth and others, alleging that Respondents were involved in the offer and sale of investment contracts, i.e., securities, within and from Arizona, from around 1997 through 2001. The investment contracts included membership interests in limited liability companies and factoring programs, involving the purchase of uncollected corporate accounts receivable and consumer debt, at a discount, with the promise of profits from the collection of the receivables and debt.

In the proposed Order, these Respondents have consented to make full restitution to the 17 investors who they solicited into these investments, which totals \$820,757, plus interest from the date of the investments. They are also agreeing to pay administrative penalties in the amount of \$25,000.

Memo to Commissioners re:
Wallace Butterworth
January 8, 2003
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Mr. Butterworth's securities salesman registration was revoked by the Commission in October 2001, as a result of a prior action brought by the Division, involving the sale of other investment programs during the same time period as the ones that are addressed in this action. Mr. Butterworth has been making monthly payments pursuant to that order. In that prior order, Mr. Butterworth also agreed that he will not offer or sell, directly or indirectly, securities or provide investment advisory services, within or from Arizona, and that he will not apply for registration as a securities salesman or dealer, or licensure as an investment adviser or investment adviser representative in Arizona. The Division has no evidence of any violation of that order.

MS: ptj
W/ attachments
Originator: Pamela T. Johnson
Assistant Attorney General Assigned: Moira McCarthy

1 from August to December 1999. At all pertinent times, BUTTERWORTH was a sales agent for
2 MARTIN & GRIFFIN, LLC ("M&G") and/or SCOTTSDALE FINANCIAL FUNDING GROUP,
3 LLC ("SFF"). BUTTERWORTH is a licensed insurance salesman in Arizona.

4 **III.**

5 **FACTS**

6 3. Beginning in or around 1997, BUTTERWORTH RESPONDENTS solicited
7 investors in two investment programs in which investors were told that they would receive profits
8 from the management efforts of others: The "Credit Investors, LLC Non-Performing or Consumer
9 Debt Program" and the "M&G Factoring or Accounts Receivable Management Program."
10 Approximately 32 investors invested approximately \$4,300,397 in the Credit Investors, LLC
11 program, of which BUTTERWORTH RESPONDENTS solicited at least \$617,855 from 10
12 investors, mostly Arizona residents. Approximately 58 investors invested approximately \$6,186,560
13 in M&G program, of which BUTTERWORTH RESPONDENTS solicited at least \$310,902 from 7
14 investors, mostly Arizona investors. BUTTERWORTH asserts that he himself invested \$122,000 in
15 Credit Investors LLCs and \$50,000 in M&G.

16 4. BUTTERWORTH was solicited to sell Credit Investors, LLC and M&G
17 investments by GREGORY B. GILL ("GILL"), who represented himself as the managing member
18 of M&G and a purported principal, owner, officer, director, or shareholder of Credit Investors, LLCs
19 and of SFF.

20 5. GILL is an individual whose last known address is 4015 N. 78th St. #141,
21 Scottsdale, Arizona 85251. On July 20, 1988, a federal grand jury indicted GILL and another co-
22 founder of a company in Newport Beach, California called First Capital Corporation, alleging
23 various instances of mail and wire fraud. A jury convicted GILL on one count of conspiracy and
24 two counts of wire fraud relating to charges of preparing a phony financial statement and guaranty
25 used to defraud investors. GILL was sentenced to five years imprisonment, five years probation,
26 and an order to pay \$89,300 in restitution. GILL appealed the conviction, and the judgment was

1 affirmed by the United States Court of Appeals for the Seventh Circuit in Opinion No. 89-1372,
2 *United States of America v. Gregory B. Gill*, decided on August 3, 1990. BUTTERWORTH asserts
3 that he was not aware of GILL's criminal history until approximately December 2001.

4 6. BUTTERWORTH RESPONDENTS sold investments in these programs to private
5 investors who first met BUTTERWORTH as a result of his advertised investment seminars,
6 primarily targeted to retired persons and senior citizens, within or from Arizona.

7 7. Since around 1998, BUTTERWORTH RESPONDENTS placed ads in the Arizona
8 Republic newspaper offering "free information workshops" for seniors; BUTTERWORTH
9 RESPONDENTS held an average of one to two workshops per month in churches, clubs and
10 various retirement communities in Arizona, including Sun City, Sun Lakes, Coyote Lakes, and
11 Mesa. After obtaining leads from these publicly advertised workshops, BUTTERWORTH
12 RESPONDENTS scheduled meetings with individual investors in the investors' homes, and offered
13 them insurance products and annuities, and "alternative investments" including the Credit Investors
14 and M&G programs.

15 8. BUTTERWORTH RESPONDENTS distributed written materials, provided by
16 GILL, to investors representing that "SFF is a finance company that specializes in analyzing and
17 acquiring select investment alternatives for the discriminating investor demanding better than
18 average returns without taking undue risk." SFF promised to provide investors with alternatives to
19 the traditional market place, with returns that were competitive with stocks and bonds, and that
20 would allow them to diversify their portfolio so that they were not dependent on the volatility that
21 usually accompanies the traditional market place. Investors were assured that only quality
22 investments would be made available for their benefit, and that SFF was committed to provide them
23 profitable investment alternatives, minimize risk, and provide high growth yield.

24 9. Some offerees and investors in the Credit Investors and M&G investment programs
25 were unsophisticated and inexperienced in investments.
26

1 10. Some investors were given only promotional materials and receipts or IRA custodial
2 applications prior to their investments.

3 *Credit Investors - "Purchase of Non-Performing and Consumer Debt Program"*

4 11. Beginning around December 1997, BUTTERWORTH RESPONDENTS solicited
5 passive investments in membership interests in a series of limited liability companies called "Credit
6 Investors, LLCs." BUTTERWORTH RESPONDENTS distributed marketing materials, provided
7 by GILL, to investors describing this investment program as a "Purchase of Non-Performing and
8 Consumer Debt," with management services to be provided by SFF.

9 12. Investor contracts for the Credit Investors program included an "Operating
10 Agreement" whereby the investor is to become a member of a limited liability company, and a
11 "Member Representation Agreement." The Operating Agreement represents that the nature of the
12 business and of the purposes to be conducted and promoted by the Company shall be to engage the
13 acquisition, collection and disposition of non-performing receivables. Salesmen describe the
14 investment as involving "non-collected consumer credit card-type paper."

15 13. BUTTERWORTH RESPONDENTS represented to investors in written promotional
16 materials provided by GILL that their investments in the "Purchase of Non-Performing and
17 Consumer Debt" program involve certain risks but that SFF has taken steps to reduce the risks to
18 investors. SFF represented that those steps include a strategic partnership between SFF and
19 Intervention & Recovery Specialist Corp. (IRSC), a collections company that purportedly engages
20 in the management and collection of consumer and commercial paper for profit. SFF represented
21 that IRSC has been successfully collecting on non-performing commercial and consumer debt for
22 over 38 years. SFF further represented that "because IRSC scrutinizes the debt first hand, we know
23 exactly what we are purchasing, thereby minimizing the risk to our investors." BUTTERWORTH
24 RESPONDENTS did not disclose the address or telephone number for IRSC or the identity of any
25 of its principals, or its financial condition. IRSC made no filing with the Arizona Corporation
26 Commission for authorization to operate in Arizona as a domestic or foreign corporation.

1 14. Credit Investors, LLCs made no filings with the Arizona Corporation Commission
2 for authorization to operate in Arizona as limited liability companies.

3 15. Distributions have not been paid to most investors since around October 2001.

4 *“Factoring and Accounts Receivable Management Program”*

5 16. Beginning around June 1998, BUTTERWORTH RESPONDENTS solicited passive
6 investments in another program involving factored receivables allegedly purchased from a Phoenix-
7 based company, American Business Funding Group, Inc. (“ABF”). BUTTERWORTH
8 RESPONDENTS distributed marketing materials, provided by GILL, which represented that ABF’s
9 professional credit management team with over 20 years of experience would “perform all credit,
10 accounting and other technical and servicing functions,” and that ABF proposed to expand its
11 business “by selling commercial accounts receivable to various independent third-party buyers. For
12 this servicing and marketing function, ABF will receive a fee comprised of a portion of the gross
13 fees earned by the buyer.” Marketing materials referred to this program as “Factoring and Accounts
14 Receivable Management” (the “M&G factoring program”). M&G was to purchase the accounts
15 receivable, and the investors were to share in the profits of those investments.

16 17. The “Commercial Factoring” investment program was promoted as a “business
17 opportunity” in which a “participant” “can project returns of 10%+ per annum – in a fully secured
18 AND INSURED environment” and “Returns with safety – a promise from Scottsdale Financial
19 Funding Group, LLC.”

20 18. BUTTERWORTH RESPONDENTS told some investors that ABF and third parties
21 manage and monitor the investment and do everything to service the investors; that SFF and M&G
22 and their principals have a procuring agreement with ABF and perhaps other suppliers of factored
23 paper, under which SFF and/or M&G own the receivables and that investors will share the profits
24 from administration of the factored paper; that investors can get a distribution quarterly or reinvest
25 the dividends, accrued quarterly, for a one-year, two-year, or three-year term; that at the end of the
26

1 investment term, investors will get a return of their investment capital plus interest if any has
2 accrued, or they have an opportunity to reinvest if they choose.

3 19. BUTTERWORTH RESPONDENTS gave investors promotional materials provided
4 by GILL that described the commercial factoring program as a "Factoring and Accounts Receivable
5 Management" program. Investor contracts included an "Accounts Receivable Purchase Agreement"
6 and a "Purchaser Representation Agreement."

7 20. The Purchaser Representation Agreement represents that M&G is in the business of
8 acquiring the receivables from "Clients," and describes a sharing of interests in the receivables as
9 follows: M&G "agrees to sell and assign to Purchaser all of its rights, title, and interest in and to
10 each Receivable or pro rata portion thereof that Purchaser agrees to purchase. M&G shall not be
11 obligated to sell any specific Receivables to Purchaser and nothing provided herein shall be
12 construed to obligate M&G to provide any minimum or maximum amount of Receivables for sale to
13 Purchaser."

14 21. The Purchaser Representation Agreement represents that the profits to be obtained
15 by the investor are dependent on the efforts and expertise of third parties: "Since one of the most
16 critical aspects of the Factoring business is proper due diligence with respect to the Clients, the
17 Account Debtors, and monitoring of payments, the role of the servicers of these activities will be
18 important in determining whether Purchasers receive a return of, or any return on, their investment.
19 ... [T]hird parties will provide these services."

20 22. The Purchaser Representation Agreement provides that profits to investors
21 ("Purchasers") will be paid from fees paid to M&G and other third parties: "Clients will receive a
22 discounted purchase price for Receivables they sell directly or indirectly to M&G. Upon payment
23 of the Receivables by the Account Debtor, the Client will receive its remaining funds. Until such
24 repayment, these Clients will pay monthly fees to M&G and the servicers of the Receivables,
25 Purchasers will receive a portion of those fees. ... This compensation may vary depending upon the
26 amount invested by Purchasers and the terms of their investment."

1 23. Investors were given no disclosure documents relating to the financial condition of
2 SFF or M&G, or their principals.

3 24. Investors were provided no background or financial information concerning any of
4 the third parties or principals of these third parties who will purportedly provide the services that
5 would produce a profit for investors.

6 25. Investors were provided no background or financial information concerning any
7 companies whose receivables SFF and/or M&G were allegedly buying or selling.

8 26. The contracts included statements that the investors are all "accredited," as that term
9 is defined under securities laws, although some investors were not accredited.

10 27. BUTTERWORTH RESPONDENTS gave investors promotional materials provided
11 by GILL that represented that SFF receivables, in most cases, are insured to their full-face amount
12 by insurance provided by nationally-known insurance companies and that debtors are financially
13 sound. However, contrary to the representations contained in the promotional materials, the
14 Purchaser Representation Agreements state: "Certain of the Receivables purchased from M&G are
15 or will be insured to a limited extent by certain insurance policies. However, not all of the
16 Receivables will be covered by insurance, and thus no Purchaser should acquire Receivables in
17 reliance on insurance."

18 28. Investors were given no specific information concerning the alleged insurance.

19 29. Investors were given no background or financial information concerning the debtors
20 who were allegedly obligated to pay the receivables.

21 30. BUTTERWORTH RESPONDENTS gave investors promotional materials provided
22 by GILL that represented that "You are secured by an assignment of our security to you plus we
23 pass title to the purchased invoices to your entity. SFF manages the entire process on your behalf
24" However, contrary to these representations, there is no provision in the investor contracts for
25 assigning security or passing title to purchased invoices to the investor, or for providing any security
26 for the investments.

1 31. Investors' funds were paid to M&G. Although the records of ABF reflect some
2 investment by M&G, there is no record on the books of ABF reflecting any investment by or on
3 behalf of any of M&G's investors.

4 32. On February 24, 2000, ABF filed a petition in the United States Bankruptcy Court
5 for the District of Arizona, for protection under Chapter 11 of the United States Bankruptcy Code.

6 33. Sometime prior to December 1999, according to ABF's bankruptcy filings, ABF
7 allegedly discovered that its controlling principal, Angelo Tullo, had been engaging in fraudulent
8 activities including forging signatures to create phony receivables and companies; destroying
9 documents and altering bank statements, client statements, buyer accounts, and other records; and
10 misappropriating ABF investor funds "to support his lavish lifestyle and to further his ponzi
11 scheme." As a result of the alleged fraudulent activities of former management, ABF estimated that
12 investors lost about \$8 million.

13 34. After ABF filed for bankruptcy protection, BUTTERWORTH RESPONDENTS
14 continued to offer and sell the M&G factoring program to investors without disclosing any of the
15 background or financial information about ABF, or its bankruptcy.

16 35. Individual private investors solicited by BUTTERWORTH RESPONDENTS,
17 whose funds were used to invest in ABF, were not identified as creditors in the ABF bankruptcy.

18 36. After February 2000, ABF was reorganized under new management and continued
19 operations as New Horizon Capital, Inc. ("New Horizon"). New Horizon solicited no new private
20 investors.

21 37. Although BUTTERWORTH RESPONDENTS continued to solicit new investors
22 and new funds after ABF's bankruptcy, SFF and M&G invested no new funds in New Horizon and
23 purchased no receivable paper from New Horizon or ABF since February 2000.

24 38. Distributions have not been paid to most investors since around October 2001.

25 39. In connection with the offer or sale of securities within or from Arizona,
26 BUTTERWORTH RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice

1 to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were
2 necessary in order to make the statements made not misleading in light of the circumstances under
3 which they were made; and/or (iii) engaged in transactions, practices or courses of business which
4 operated or would operate as a fraud or deceit upon offerees and investors. BUTTERWORTH
5 RESPONDENTS' conduct includes, but is not limited to, the following:

- 6 a) Failing to disclose the nature of the investment;
- 7 b) Failing to fully disclose the risks;
- 8 c) Failing to provide investors with disclosure statements, prospectuses or
9 financial statements including but not limited to past operations, balance sheets,
10 statements of income, retained earnings, cash flows and uses of proceeds that
11 would reflect the financial position of these entities;
- 12 d) Failing to disclose financial and background information about third
13 parties that are supposed to provide management services and technical expertise
14 necessary to produce profits for the investors;
- 15 e) Failing to disclose the identities, the principals, or the financial condition
16 of the "clients" from whom the receivables were purchased or the debtors that are
17 obligated to pay the receivables;
- 18 f) Failing to disclose that IRSC, the company responsible for providing
19 management services and producing a profit for investors in the Credit Investors,
20 LLCs, is not authorized to conduct business as a domestic or foreign corporation in
21 Arizona.
- 22 g) Failing to disclose, after February 24, 2000, that ABF filed a petition for
23 bankruptcy protection under Chapter 11 of the United States Bankruptcy Code;
- 24 h) Failing to disclose, after February 2000, the alleged fraudulent conduct of the
25 former controlling principal of ABF that resulted in the alleged loss of approximately
26 \$8 million of investor funds;

III.

ORDER

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

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that BUTTERWORTH RESPONDENTS shall pay restitution to investors shown on the records of the Commission in the amount of \$820,757 plus interest at the rate of 10% per annum from the date of the investment, pursuant to A.A.C. R14-4-308(C), subject to any legal set-offs by any other Respondents and verified by the Director of Securities. Payment shall be made by cashier's check or money order payable to the "State of Arizona" to be placed in an interest-bearing account maintained and controlled by the Arizona Attorney General. The Arizona Attorney General shall disburse the funds on a pro rata basis to investors. Any funds that the Attorney General is unable to disburse shall revert to the state of Arizona.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that BUTTERWORTH RESPONDENTS shall, jointly and severally, pay an administrative penalty in the amount of

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1 \$25,000. Payment shall be made in full by cashier's check or money order on the date of this
2 Order, payable to the "State of Arizona." Any amount outstanding shall accrue interest at the rate
3 of 10% per annum from the date 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

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10 COMMISSIONER

COMMISSIONER

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12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
13 Executive Secretary of the Arizona Corporation
14 Commission, have hereunto set my hand and caused the
15 official seal of the Commission to be affixed at the
16 Capitol, in the City of Phoenix, this _____ day of
17 _____, 2003.

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19 _____
20 BRIAN C. McNEIL
21 Executive Secretary

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20 This document is available in alternative formats by contacting Shelly M. Hood, Executive
21 Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail
22 shood@cc.state.az.us.
23 (PTJ)
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26

CONSENT TO ENTRY OF ORDER

1
2 1. WALLACE BUTTERWORTH and SENIOR ADVISORY SERVICES, INC.
3 (collectively "BUTTERWORTH RESPONDENTS"), admit the jurisdiction of the Commission
4 over the subject matter of this proceeding. BUTTERWORTH RESPONDENTS acknowledge that
5 they have been fully advised of their right to a hearing to present evidence and call witnesses and
6 BUTTERWORTH RESPONDENTS knowingly and voluntarily waive 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. BUTTERWORTH
9 RESPONDENTS acknowledge that this Order to Cease and Desist, Order of Restitution, Order for
10 Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the
11 Commission.

12 2. BUTTERWORTH RESPONDENTS knowingly and voluntarily waive any right under
13 Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or
14 extraordinary relief resulting from the entry of this Order.

15 3. BUTTERWORTH RESPONDENTS acknowledge and agree that this Order is entered
16 into freely and voluntarily and that no promise was made or coercion used to induce such entry.

17 4. BUTTERWORTH RESPONDENTS acknowledge that they have been represented by
18 counsel in this matter, they have reviewed this Order with their attorney and understand all terms it
19 contains.

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

23 6. By consenting to the entry of this Order, BUTTERWORTH RESPONDENTS agree not
24 to take any action or to make, or permit to be made, any public statement denying, directly or
25 indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that
26 this Order is without factual basis. BUTTERWORTH RESPONDENTS will undertake steps

1 necessary to assure that all of his agents and employees understand and comply with this
2 agreement.

3 7. While this Order settles this administrative matter between BUTTERWORTH
4 RESPONDENTS and the Commission, BUTTERWORTH RESPONDENTS understand that this
5 Order does not preclude the Commission from instituting other administrative proceedings based
6 on violations that are not addressed by this Order.

7 8. BUTTERWORTH RESPONDENTS understand that this Order does not preclude the
8 Commission from referring this matter to any governmental agency for administrative, civil, or
9 criminal proceedings that may be related to the matters addressed by this Order.

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

13 10. BUTTERWORTH RESPONDENTS agree that they will not apply to the state of
14 Arizona for registration as a securities dealer or salesman or for licensure as an investment adviser
15 or investment adviser representative at any time in the future.

16 11. BUTTERWORTH RESPONDENTS agree that they will not exercise any control over
17 any entity that offers or sells securities or provides investment advisory services, within or from
18 Arizona.

19 12. BUTTERWORTH RESPONDENTS agree that until restitution and penalties are paid
20 in full, BUTTERWORTH RESPONDENTS will notify the Director of the Securities Division
21 within 30 days of any change in home address or any change in BUTTERWORTH
22 RESPONDENTS' ability to pay amounts due under this Order.

23 13. BUTTERWORTH RESPONDENTS understand that default shall render them liable to
24 the Commission for its costs of collection and interest at the maximum legal rate.

25 14. BUTTERWORTH RESPONDENTS agree that they will continue to cooperate with the
26 Securities Division including, but not limited to, providing complete and accurate testimony at any

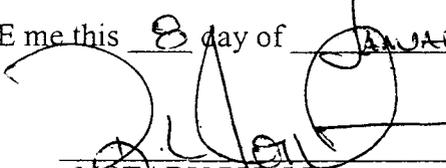
1 hearing in this matter and cooperating with the state of Arizona in any related investigation or any
2 other matters arising from the activities described in this Order.

3 15. BUTTERWORTH RESPONDENTS consent to the entry of this Order and agree to be
4 fully bound by its terms and conditions. If BUTTERWORTH RESPONDENTS breach any
5 provision of this Order, the Commission may vacate this Order and restore this case to its active
6 docket.

7 16. WALLACE BUTTERWORTH represents that he is authorized by SENIOR
8 ADVISORY SERVICES, LLC to enter into this Order for and on its behalf.

9
10 
11 WALLACE BUTTERWORTH

12 SUBSCRIBED AND SWORN TO BEFORE me this 8 day of January, 2003.

13
14 
15 NOTARY PUBLIC

16 My Commission Expires:

17 11/03/06

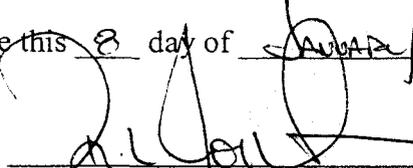


18 Notary Public State of Arizona
19 Pinal County
R. L. Jordan
Expires November 03, 2006

20 SENIOR ADVISORY SERVICES, LLC

21 
22 By WALLACE BUTTERWORTH

23 SUBSCRIBED AND SWORN TO BEFORE me this 8 day of January, 2003.

24
25 
26 NOTARY PUBLIC

My Commission Expires:

11/03/06



Notary Public State of Arizona
Pinal County
R. L. Jordan
Expires November 03, 2006