BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

Arizona Corporation Commission
DOCKETED
MAR 29 2005
DOCKETED BY NR

In the matter of THEODORE A. MIETZNER 652 East Ironwood Drive Chandler, AZ 85225 SOUTHWEST CAPITAL ADVISORS, LLC 3130 North Arizona Avenue #105 Chandler, AZ 85224 Respondents.	DOCKET NO. S-03571A-05-0000 DECISION NO. 67726 **ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND CONSENT TO SAME**

RESPONDENTS THEODORE A. MIETZNER and SOUTHWEST CAPITAL ADVISORS, LLC (collectively "RESPONDENTS") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES ("Order"). RESPONDENTS admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit 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. RESPONDENT THEODORE A. MIETZNER ("MIETZNER"), an individual, is a resident of the State of Arizona, whose address is 652 East Ironwood Drive, Chandler, AZ 85225.

2. At all times material hereto, MIETZNER was not registered as a securities salesman nor licensed as an investment adviser or as an investment adviser representative in Arizona.

3. RESPONDENT SOUTHWEST CAPITAL ADVISORS, LLC ("SWCA") is an Arizona limited liability company, with an address of 3130 N. Arizona Avenue #105, Chandler, AZ 85224.

4. At all times material hereto, SWCA was not registered as a securities broker/dealer or investment adviser in the State of Arizona.

5. At all times material hereto, MIETZNER was the named manager of SWCA.

6. Between 1997 and 2002, RESPONDENTS offered for sale and sold securities in the form of promissory notes, within and from the State of Arizona. The securities in question were not registered, nor were they exempt from registration.

7. RESPONDENTS began soliciting investments in 1997 by targeting their insurance clients, MIETZNER's family members, and members of his church.

8. MIETZNER is licensed in the State of Arizona as an insurance producer.

9. RESPONDENTS sold promissory notes which were an investment in American Automotive Group, Inc. ("AAG"), which was in the business of selling secured notes to investors through its employees or agents. The AAG secured notes provided for a rate of return of approximately 18% per annum, payable in installments to the holders of the notes. The AAG secured notes were issued for a three year term, and the entire principal amount of each note was to be payable on the stated maturity date of each AAG secured note.

10. On November 18, 2002, the Arizona Corporation Commission filed a Notice of Opportunity for Hearing against AAG, which included a request to permanently cease and desist from violations of the Securities Act of Arizona. On April 22, 2003 and May 27, 2003, the Arizona Corporation Commission entered such Orders against some of the named individuals in the Notice of Opportunity for Hearing, *In the matter of American Automotive Group, Inc., et al.*, Docket No. S-03457A-02-0000/Decision No. 65955.

11. At all times material hereto, MIETZNER was an agent of AAG.

12. RESPONDENTS received approximately $225,833.27 in commissions from AAG for the sale of AAG promissory notes in the aggregate amount of approximately $2,258,332.75. The securities sales involved approximately sixteen individual investors or investor entities, nine of whom are from Arizona.

13. RESPONDENTS also sold promissory notes that were an investment in Independent Funding, Inc. ("IFI") Inc. IFI was in the business of selling notes to investors through its employees or agents.

14. IFI, a Utah corporation, conducted an unregistered offering of securities that purportedly were backed by auto loans held by a Utah used car dealership. IFI raised money from investors, then loaned money to the car dealership to fund its inventory. In return, the dealership gave IFI promissory notes purportedly secured by the loans resulting from auto sales.

15. At all times material hereto, MIETZNER was an agent of IFI.

16. RESPONDENTS received approximately $28,724.94 in commissions from IFI for the sale of IFI promissory notes in the aggregate amount of approximately $574,498.72. The securities sales involved approximately seven individual and entity investors, five of whom are from Arizona.

17. On October 31, 2003, the Securities and Exchange Commission filed a complaint against IFI, amongst others, seeking the appointment of a Receiver, a preliminary injunction against committing continued violations of the federal securities laws, a permanent injunction against committing continued violations of the federal securities laws, an accounting of investor funds, disgorgement, and administrative penalties. That matter in the United States District Court, Northern District of Texas, Dallas Division, Civil Action No. 3-03-CV-2661-K, *Securities and Exchange Commission v. David B. Henderson, Independent Funding LTD/Nevada, Independent Funding, Inc. et al.*, is still pending.

II.

CONCLUSIONS OF LAW

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

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

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

4. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or salesman nor exempt from registration.

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

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

III.

ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and 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 ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, and any of RESPONDENTS' agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act. Respondents shall not sell any securities in or from Arizona without being registered in Arizona as dealers or salesmen, or exempt from such registration. Respondents shall not sell securities in or from Arizona unless the securities are registered in Arizona or exempt from registration.

IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry of Order.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall, jointly and severally, pay disgorgement of commissions in the form of restitution to investors shown on the records of the Commission in the amount of $254,558.21, plus interest at the rate of 10% per annum from the date of this Order until paid in full. Payment shall be made as follows:

1. RESPONDENTS shall pay $10,000.00 immediately on March 24, 2005, and
2. RESPONDENTS shall pay $400.00 per month, on the 1st of each month, beginning May 1, 2005, until paid in full.

If victim investors in the instant case are made whole by restitution payments made in the Arizona Corporation Commission, *In the matter of American Automotive Group, Inc., et al.*, Docket No. S-03457A-02-0000/Decision No. 65955, thereafter all payments RESPONDENTS make in the instant case will revert to the State of Arizona. When victim investors in the instant case are made whole by any restitution payments made in United States District Court, Northern District of Texas, Dallas Division, Civil Action No. 3-03-CV-2661-K, *Securities and Exchange Commission v. David B. Henderson, Independent Funding LTD/Nevada, Independent Funding, Inc. et al.*, thereafter all payments RESPONDENTS make in the instant case will revert to the State of Arizona.

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.

If RESPONDENTS do not comply with this order of restitution, any outstanding balance shall be in default and shall be immediately due and payable, without further notice.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall pay an administrative penalty in the amount of $10,000.00. Payment shall be made in full by cashier's check or money order on the date of this Order, payable to the "State of Arizona." The payment obligations for these administrative penalties shall be subordinate to any restitution obligations ordered herein and shall become immediately due and payable only after restitution payments have been paid in full, or if RESPONDENTS have defaulted prior to fulfilling RESPONDENTS' restitution obligations. For the purposes of this Order, a bankruptcy filing by either RESPONDENT shall be an act of default on RESPONDENTS' restitution obligations.

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If RESPONDENTS do not comply with this order for administrative penalties, any outstanding balance may be deemed in default and shall be immediately due and payable, without further notice.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER COMMISSIONER

COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 29th day of March, 2005.

BRIAN C. McNEIL
Executive Secretary

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, Executive Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail lhogan@cc.state.az.us.

MMA

CONSENT TO ENTRY OF ORDER

1. Respondent THEODORE A. MIETZNER ("MIETZNER"), an individual, admits the jurisdiction of the Commission over the subject matter of this proceeding. MIETZNER acknowledges that he has been fully advised of his right to a hearing to present evidence and call witnesses and MIETZNER knowingly and voluntarily waives any and all rights to a hearing before the Commission and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. MIETZNER acknowledges that this ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES ("Order") constitutes a valid final order of the Commission.

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

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

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

5. MIETZNER admits the Findings of Fact and Conclusions of Law contained in this Order.

6. By consenting to the entry of this Order, MIETZNER agrees not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual basis. MIETZNER will undertake steps necessary to assure that all of his agents and employees understand and comply with this agreement.

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

Order.

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

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

10. MIETZNER agrees that until restitution and penalties are paid in full, MIETZNER will notify the Director of the Securities Division within 30 days of any change in home address or any change in MIETZNER's ability to pay amounts due under this Order.

11. MIETZNER understands that default shall render him liable to the Commission for its costs of collection and interest at the maximum legal rate.

12. MIETZNER consents to the entry of this Order and agrees to be fully bound by its terms and conditions. If MIETZNER breaches any provision of this Order, the Commission may vacate this Order and restore this case to its active docket.

RESPONDENT THEODORE A. MIETZNER

SUBSCRIBED AND SWORN TO BEFORE me this 7th day of March, 2005.

NOTARY PUBLIC

My Commission Expires:

OFFICIAL SEAL
KAROL J. CANNIZZARO
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Oct. 7, 2008

CONSENT TO ENTRY OF ORDER

1. RESPONDENT SOUTHWEST CAPITAL ADVISORS, LLC ("SWCA") admits the jurisdiction of the Commission over the subject matter of this proceeding. SWCA acknowledges that it has been fully advised of its right to a hearing to present evidence and call witnesses and SWCA knowingly and voluntarily waives any and all rights to a hearing before the Commission and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. SWCA acknowledges that this ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES ("Order") constitutes a valid final order of the Commission.

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

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

4. SWCA acknowledges that it has been represented by counsel in this matter, it has reviewed this Order with its attorney and understands all terms it contains.

5. SWCA admits the Findings of Fact and Conclusions of Law contained in this Order.

6. By consenting to the entry of this Order, SWCA agrees not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual basis. SWCA will undertake steps necessary to assure that all of its agents and employees understand and comply with this agreement.

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

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

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

10. SWCA agrees that until restitution and penalties are paid in full, SWCA will notify the Director of the Securities Division within 30 days of any change in address or any change in SWCA's ability to pay amounts due under this Order.

11. SWCA understands that default shall render it liable to the Commission for its costs of collection and interest at the maximum legal rate.

12. SWCA consents to the entry of this Order and agrees to be fully bound by its terms and conditions. If SWCA breaches any provision of this Order, the Commission may vacate this Order and restore this case to its active docket.

13. Respondent THEODORE A. MIETZNER represents that he is the Manager of SOUTHWEST CAPITAL ADVISORS, LLC and has been authorized by SOUTHWEST CAPITAL ADVISORS, LLC to enter into this Order for and on behalf of it. Respondent THEODORE A. MIETZNER represents that he is authorized by law to enter into this Order for and on behalf of SOUTHWEST CAPITAL ADVISORS, LLC.

SOUTHWEST CAPITAL ADVISORS, LLC
By THEODORE A. MIETZNER
Its Manager

SUBSCRIBED AND SWORN TO BEFORE me this 7th day of March, 2005.

NOTARY PUBLIC

My Commission Expires:

OFFICIAL SEAL
KAROL J. CANNIZZARO
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires Oct. 7, 2008

RESPONDENT SOUTHWEST CAPITAL ADVISORS, LLC

By THEODORE A. MIETZNER,
Its Manager

SUBSCRIBED AND SWORN TO BEFORE me this _____ day of March, 2005.

NOTARY PUBLIC

My Commission Expires:

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