**BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission
DOCKETED
MAR 29 2005
DOCKETED BY NR

COMMISSIONERS

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

| | |
|---|---|
| In the matter of:<br><br>JOHN E. SHANNON and REBECCA F. SHANNON, husband and wife<br>8537 W. Onza, Mesa, AZ 85212<br><br>and<br><br>GARY R. SHANNON,<br>3279 Pomme De Terre Circle, Flemington, MO 65650<br><br>Respondents. | DOCKET NO. S-03580A-04-0000<br><br>DECISION NO. 67728<br><br>**ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND CONSENT TO SAME BY JOHN E. SHANNON AND REBECCA F. SHANNON** |

RESPONDENTS JOHN E. SHANNON and REBECCA F. SHANNON (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. JOHN E. SHANNON ("JOHN SHANNON") is an individual whose last known address is 8537 W. Onza. Mesa, AZ 85212.

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

3. JOHN SHANNON was at all relevant times the spouse of REBECCA F. SHANNON. JOHN SHANNON is joined in this action individually, and under A.R.S. §44-2031(C) for purposes of determining the liability of the marital community.

4. REBECCA F. SHANNON ("REBECCA SHANNON") is an individual whose last known address is 8537 W. Onza, Mesa, AZ 85212.

5. At all times material hereto, REBECCA SHANNON was not registered as a securities salesman nor licensed as an investment adviser or as an investment adviser representative in the State of Arizona.

6. REBECCA SHANNON was at all relevant times the spouse of JOHN SHANNON. REBECCA SHANNON is joined in this action individually, and under A.R.S. §44-2031(C) for purposes of determining the liability of the marital community.

7. At all times relevant, JOHN SHANNON and REBECCA SHANNON were acting for their own benefit, and for the benefit or in furtherance of the marital community.

8. Money Tree Auto Services, LLC ("Money Tree") is an Arizona limited liability company which was doing business in the State of Arizona as Fast Cash Auto Leasing. Money Tree was filed as an LLC with the State of Arizona in February 2000, with its principal offices located in Arizona.

9. Money Tree was engaged in the business of buying automobiles from cash strapped individuals at a percentage of the automobiles' market value, then leasing them back to the original owners at very high interest rates.

10. To finance its operation, Money Tree and RESPONDENTS offered investment opportunities to other individuals. Under the general terms of the Money Tree investments, Money Tree was to use investor monies for the purchase of automobile inventory and their associated expenses.

11. In written promissory notes with investors, Money Tree and RESPONDENTS guaranteed interest payments of approximately 30% to 40% per annum. Money Tree and RESPONDENTS promised that the principal investment would be returned to the investor when the automobile purchased with each investor's money was resold by Money Tree or the respective lease was paid off prior to the end of the respective investment term.

12. RESPONDENTS made false statements regarding the financial health of Money Tree. Up until November 2003, Money Tree and RESPONDENTS specifically told investors that their money was safe and growing, when in fact the business was in financial difficulty and had been using later investor money to pay back earlier investors for a long period of time. Even with the additional new investor money, it was not enough to keep the scheme afloat. Automobile inventory was missing, clients who were leasing back their own automobiles at high interest rates were defaulting on their contracts, and there was little cash reserve to allow Money Tree to pay investors.

13. RESPONDENTS did not disclose that neither Money Tree nor RESPONDENTS were able to meet their financial obligations to the investors. In fact, Money Tree and RESPONDENTS deceived investors by sending out false statements to investors indicating a preservation of their principal investment and accrued interest. In some instances, the statements

showed an accrual of interest to certain investors which was reinvested in Money Tree. In other cases, investors were issued checks in the amount of their interest accrual on a regular basis. For the majority of the time that Money Tree was in operation, the interest money paid to investors was paid as a result of new investor money.

14. RESPONDENTS made material omissions by failing to disclose material facts including risk factors associated with the Money Tree investment, such as liquidity and transferability of the investment contracts. RESPONDENTS made material omissions by failing to provide prospectus information or audited or actual financial statements to investors.

15. RESPONDENTS made material misrepresentations to investors by failing to disclose that investor funds would be used for expenses not directly associated with the terms outlined in the promissory notes, including, but not limited to: business expenses, personal expenses, salaries, and paying back earlier investors with new investor money.

16. RESPONDENTS told investors that their investment was fully secured by the automobiles purchased with the investors' money, which was untrue. RESPONDENTS also advised investors that the principals involved in managing the investor monies had extensive experience in credit assessment, loan and lease administration, and automobile markets. In fact, none of the RESPONDENTS had extensive experience in any of those areas.

17. RESPONDENTS told investors that their investment was personally guaranteed by the owners of Money Tree. In fact, none of the RESPONDENTS had the financial wherewithal to guarantee the investor money.

18. Between February 2000 and January 2004, Money Tree and RESPONDENTS raised approximately $960,000.00 from approximately thirty one investors, most of whom reside in Arizona.

19. Between Money Tree's incorporation date of February 2000 and the amendment date of October 2002, JOHN SHANNON and GARY SHANNON were the sole members of Money Tree. Between the amendment date of October 2002 and May 2003, GARY SHANNON was the sole member of Money Tree. Between May 2003 and September 2003, REBECCA SHANNON was a member of Money Tree. Between September 2003 and the present, REBECCA SHANNON has been the sole member of Money Tree.

20. Between the start up date of Money Tree and its subsequent bankruptcy filing in January 2004, JOHN SHANNON was active in the business. His activities in Money Tree included soliciting investors, advertising for investors, executing contracts with investors, business planning, management decisions and direction, employee management, and monetary disbursement.

21. Between approximately October 2002 and January 2004, REBECCA SHANNON was active in the business. Her activities in Money Tree included business planning, management decisions and direction, employee management, and monetary disbursement.

22. Money Tree filed for Chapter 7 bankruptcy protection January 22, 2004 in the United States Bankruptcy Court, District of Arizona (Phoenix), where it is currently pending as *Money Tree Auto Services, LLC dba Fast Cash Auto Leasing* Bankruptcy Petition # 2:04-bk-01086-GBN.

23. Astute, LLC is an Arizona limited liability company. Astute was registered with the State of Arizona in February 2002, with its principal offices located in Arizona. Astute was originally created as a business venture in art work.

24. Between Astute's incorporation date of February 2002 and the termination date of November 2003, REBECCA SHANNON was either the sole member or the controlling member of Astute.

25. In approximately October 2002, Astute assumed direct and sole management of Money Tree. REBECCA SHANNON, as the controlling member of Astute, was the primary director of Money Tree and exercised power over Money Tree's affairs.

26. Astute filed its Termination with the Arizona Corporation Commission, Corporations Division on November 6, 2003.

## 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 the RESPONDENTS were neither registered as a dealer or salesman, nor exempt from registration.

5. RESPONDENTS violated A.R.S. § 44-1991 by (a) employing a device, scheme or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, (c) misrepresenting professional qualifications with the intent that the misrepresentation be relied on, and (d) engaging in transactions, practices, or courses of business which operate or would operate as a fraud or deceit.

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

7. RESPONDENTS' conduct is grounds for an Order of restitution to be provided pursuant to A.R.S. § 44-2032.

8. 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 ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS JOHN SHANNON and REBECCA SHANNON shall pay, jointly and severally with each other, restitution to investors shown on the records of the Commission in the amount of $671,054.00 plus interest at the rate of 10% per annum from the date of this Order until paid in full.

IT IS FURTHER ORDERED that all 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 $15,000.00. 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.

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

. . .

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.

**CONSENT TO ENTRY OF ORDER (JOHN E. SHANNON)**

1. Respondent JOHN E. SHANNON ("JOHN SHANNON"), an individual, admits the jurisdiction of the Commission over the subject matter of this proceeding. JOHN SHANNON acknowledges that he has been fully advised of his right to a hearing to present evidence and call witnesses and JOHN SHANNON 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. JOHN SHANNON 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. JOHN SHANNON 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. JOHN SHANNON 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. JOHN SHANNON acknowledges that he has reviewed this Order and understands all terms it contains.

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

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

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

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

RESPONDENT JOHN E. SHANNON

SUBSCRIBED AND SWORN TO BEFORE me this 11 day of March, 2005.

NOTARY PUBLIC

My Commission Expires:

Notary Public State of Arizona
Maricopa County
Ronald R. Clark
Expires May 05, 2007

**CONSENT TO ENTRY OF ORDER (REBECCA F. SHANNON)**

1. Respondent REBECCA F. SHANNON ("REBECCA SHANNON"), an individual, admits the jurisdiction of the Commission over the subject matter of this proceeding. REBECCA SHANNON acknowledges that she has been fully advised of her right to a hearing to present evidence and call witnesses and REBECCA SHANNON 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. REBECCA SHANNON 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. REBECCA SHANNON 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. REBECCA SHANNON 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. REBECCA SHANNON acknowledges that she has reviewed this Order and understands all terms it contains.

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

6. By consenting to the entry of this Order, REBECCA SHANNON 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. REBECCA SHANNON will undertake steps necessary to assure that all of her agents and employees understand and comply with this agreement.

7. While this Order settles this administrative matter between JOHN SHANNON and the Commission, REBECCA SHANNON 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. REBECCA SHANNON 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. REBECCA SHANNON 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. REBECCA SHANNON agrees that until restitution and penalties are paid in full, REBECCA SHANNON will notify the Director of the Securities Division within 30 days of any change in home address or any change in REBECCA SHANNON's ability to pay amounts due under this Order.

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

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

RESPONDENT REBECCA F. SHANNON

SUBSCRIBED AND SWORN TO BEFORE me this 11 day of March, 2005.

NOTARY PUBLIC

My Commission Expires:

Notary Public State of Arizona
Maricopa County
Ronald R. Clark
Expires May 05, 2007