BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission
DOCKETED
JUN 0 9 2005
DOCKETED BY

IN THE MATTER OF:

JOHN E. SHANNON and REBECCA F. SHANNON, husband and wife
8537 W. Onza
Mesa, AZ 85212

GARY R. SHANNON
3279 Pomme De Terre Circle
Flemington, MO 65650

Respondents.

DOCKET NO. S-03580A-04-0000

DECISION NO. 67931

OPINION AND ORDER

DATE OF PRE-HEARING CONFERENCE: February 15, 2005

DATE OF HEARING: April 27, 2005

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES: Mr. Gary R. Shannon, in propria persona; and

Ms. Michelle M. Allen, Staff Attorney, on behalf of the Securities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On December 28, 2004, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against John E. and Rebecca F. Shannon, husband and wife, and Gary R. Shannon (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of promissory notes or investment contracts.

The Respondents were duly served with a copy of the Notice.

On January 14, 2005, requests for hearing were filed by Respondents, John E. and Rebecca F.

Shannon.

On January 20, 2005, by Procedural Order, a pre-hearing conference was scheduled.

On January 31, 2005, Respondents, John E. and Rebecca F. Shannon filed their Answers.

On February 15, 2005, a pre-hearing conference was held. The Division appeared with counsel. Respondents, John and Rebecca Shannon appeared on their own behalf. Respondent, Gary Shannon, although he had not formally requested a hearing in writing or filed an Answer, appeared telephonically. While the parties discussed a possible settlement, the Division requested that a hearing be scheduled and that Respondent Gary R. Shannon be ordered to file a written request for hearing and an Answer by a date certain or be in default.

On February 16, 2005, by Procedural Order, a hearing was scheduled to commence on April 27, 2005, and Respondent Gary R. Shannon was ordered to file a written request for hearing and an Answer or be in default.

On March 4, 2005, Respondent Gary R. Shannon filed a request for hearing and his Answer.

On March 29, 2005, the Commission issued Decision No. 67728, a Consent Order, which resolved the issues raised by the Notice with respect to Respondents, John E. Shannon and Rebecca F. Shannon.

On April 27, 2005, a full public hearing was commenced before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Division appeared with counsel and Respondent Gary R. Shannon appeared on his own behalf. Following the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

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Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. Gary R. Shannon, is an individual whose last known address is 3279 Pomme De Terre Circle, Flemington, Missouri, 65650.

2. On December 28, 2004, the Division issued a Notice against Respondents John E. and

Rebecca F. Shannon, husband and wife, and Gary R. Shannon in which the Division alleged multiple violations of the Act in connection with the offer and sale of securities in the form of promissory notes or investment contracts in violation of A.R.S. §§ 44-1841, 44-1842 and 44-1991.[1]

3. At all times herein, Respondent Gary R. Shannon was not registered as a securities salesman in the State of Arizona.

4. On February 24, 2000, John E. and Gary R. Shannon filed with the Commission the Articles of Organization for Money Tree Auto Services, L.L.C. ("Money Tree"), an Arizona limited liability company, which was to do business as Fast Cash Auto Leasing ("Fast Cash"). According to Commission records, Money Tree was organized with its registered office in Scottsdale, Arizona, and had as its managers, John E. and Gary R. Shannon.

5. Additionally, records from the Arizona Secretary of State's office establish that Gary R. Shannon filed an application for the registration of the trade name for Fast Cash on February 24, 2000.

6. Money Tree/Fast Cash was engaged in the business of purchasing[2] and leasing back automobiles to individuals who previously owned their automobiles free and clear and who needed cash. When Money Tree/Fast Cash leased the vehicle back to its former owner, the lease required lease payments with a high rate of interest.

7. Gary R. Shannon was involved in the operation and management of Money Tree/Fast Cash from its organization through at least September 2002, during which time Respondent Gary R. Shannon solicited investors, placed advertising and signed investment contracts on behalf of Money Tree/Fast Cash.

8. Initially, in order to fund the operations of Money Tree/Fast Cash, Gary R. Shannon helped develop an investor packet that was termed an "Executive Business Plan and Investor Introduction". The packet included a multi-page document given to initial prospective investors to encourage an investment in Money Tree/Fast Cash; however, according to Respondent Gary R.

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[1] On March 29, 2005, the Commission issued Decision No. 67728, a Consent Order with respect to Respondents John E. and Rebecca F. Shannon. Decision No. 67728 ordered John E. and Rebecca F. Shannon to permanently cease and desist from violating the Act, to pay restitution in the amount of $671,054 and to pay administrative penalties of $15,000.

[2] Money Tree/Fast Cash purchased the automobiles for approximately one-half of their Kelly Blue Book value.

Shannon, its use was subsequently discontinued after the initial start up period of Money Tree/Fast Cash.

9. Money Tree/Fast Cash located investors who wished to invest funds by the use of either word of mouth advertising or by the placement of advertisements in a Phoenix Jewish newspaper.

10. Based on the record, it was established that during Respondent Gary R. Shannon's involvement with Money Tree/Fast Cash, seven individuals invested at least $255,000 by signing one year promissory notes or investment contracts. These notes/contracts were guaranteed personally by Respondent Gary R. Shannon even though he lacked sufficient funds or assets to guarantee the investments. These agreements promised returns to investors varying from 30 percent to 48 percent annually, and by their terms could be extended for an additional period of time.

11. Of the seven investors, only one investor, Mr. Santos Acosta, who invested $10,000, was paid back his entire investment in April 2002. However, the funds used for the repayment to Mr. Acosta were provided from the invested funds of later investors in the offering.

12. While the record established that some of the remaining six investors received some return on their investments, based on the evidence presented by the Division's investigator, the remaining six investors are still owed $174,450. Respondent Gary R. Shannon signed as a guarantor on these investors' promissory notes or investment contracts. During the hearing, Respondent Gary R. Shannon acknowledged that he lacked sufficient assets to repay the amounts invested in Money Tree/Fast Cash by these investors.

13. Based on the record, it is established that Respondent Gary R. Shannon misrepresented the financial health of the business to investors and began to use later investor money to repay earlier investors. It was also established that risks inherent in the auto leasing business were not disclosed, such as problems with missing vehicles and what their loss would mean to the investors.

14. Evidence was also presented that Respondent Gary R. Shannon misrepresented the liquidity of an investment in Money Tree/Fast Cash and also failed to disclose past criminal convictions of the company's business manager to investors.

15. The record established that Respondent misrepresented to an investor that a retired banker was involved in Money Tree/Fast Cash's operations when, in fact, he had been an ATM repairman.

16. Additionally, it was not disclosed to investors that invested funds were being used for operating expenses including the payment of employee salaries rather than being used to purchase automobiles for leasing back to their former owners to earn income for investors.

17. Respondents also failed to disclose to investors that they lacked experience in the auto leasing business.

18. Although Respondent Gary R. Shannon testified that Money Tree/Fast Cash was in good financial condition when he left the company in September 2002, he stated in his Answer to the Notice that $450,000 was owed to investors, with only approximately $32,000 in cash on hand and nine repossessed vehicles worth approximately $30,000, which total sum was insufficient to repay investors.

19. Although Respondent Gary R. Shannon stated that he contacted various state agencies including the Banking Department and the Department of Transportation along with contacting the Maricopa County Sheriff's office regarding whether the Respondents required any special licenses or certifications to transact business, there was no evidence that Gary R. Shannon had contacted the Division to determine whether the Respondents had to meet the requirements of the Act in order to operate lawfully in Arizona.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-1801, et seq.

2. The investments in the form of investment contracts or promissory notes offered and sold by Respondent Gary R. Shannon were securities within the meaning of A.R.S. § 44-1801 (26).

3. The securities were neither registered nor exempt from registration, in violation of A.R.S. § 44-1841.

4. Respondent Gary R. Shannon acted as a salesman within the meaning of A.R.S. § 1801(22).

5. The actions and conduct of Respondent Gary R. Shannon constitute the offer and sale of securities within the meaning of A.R.S. § 44-1801(15) and (21).

6. Respondent Gary R. Shannon offered and sold unregistered securities within or from Arizona in violation of A.R.S. § 44-1841.

7. Respondent Gary R. Shannon offered and sold securities within or from Arizona without being registered as a dealer or salesman in violation of A.R.S. § 44-1842.

8. Respondent Gary R. Shannon employed a device, scheme or artifice to defraud, made untrue statements or omitted to state material facts and engaged in transactions, promises, practices or a course of business which operated or would operate as a fraud or deceit in violation of A.R.S. § 44-1991.

9. Respondent Gary R. Shannon has violated the Act and should cease and desist pursuant to A.R.S. § 44-2032 from any future violations of A.R.S. §§ 44-1841, 44-1842 and 44-1991 and all other provisions of the Act.

10. Respondent Gary R. Shannon should make restitution pursuant to A.R.S. § 44-2032 and A.A.C. R14-4-308 in the amount of $174,450 subject to any legal set-offs.

11. The actions and conduct of Respondent Gary R. Shannon constitute multiple violations of the Act and are grounds for administrative penalties pursuant to A.R.S. § 44-2036.

ORDER

IT IS THEREFORE ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2032, Respondent Gary R. Shannon shall cease and desist from his actions described hereinabove in violation of A.R.S. §§ 44-1841, 44-1842 and 44-1991.

IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under A.R.S. § 44-2032, and pursuant to A.A.C. R14-4-308, Respondent Gary R. Shannon shall make restitution to the six remaining investors who dealt with him as reflected on the records of the Commission in the amount of $174,450 subject to any legal set-offs 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 restitution payments 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 until distributions are made. 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 that if Respondent Gary R. Shannon does 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 that pursuant to the authority granted to the Commission under A.R.S. § 44-2036, Respondent Gary R. Shannon shall pay as and for administrative penalties: for the violation A.R.S. § 44-1841, $5,000; for the violation of A.R.S. § 44-1842, $5,000; and for the violation of A.R.S. §44-1991, $5,000; for a total of $15,000.

IT IS FURTHER ORDERED that pursuant to authority granted to the Commission under A.R.S. § 44-2036, that Respondent Gary R. Shannon shall pay the administrative penalty ordered above in the amount of $15,000 payable by either cashier's check or money order payable to the "State of Arizona" for deposit in the General Fund for the State of Arizona. The payment obligation for his administrative penalty shall be subordinate to any restitution obligations ordered hereinabove and shall become immediately due and payable only after restitution payments have been paid in full, or if Respondent has defaulted prior to fulfilling his restitution obligations.

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IT IS FURTHER ORDERED that if Respondent Gary R. Shannon fails to pay the administrative penalty ordered hereinabove, any outstanding balance plus interest at the maximum lawful amount may be deemed in default and shall be immediately due and payable, without further notice.

IT IS FURTHER ORDERED that this Decision 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 9th day of June, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

SERVICE LIST FOR: GARY R. SHANNON

DOCKET NO.: S-03580A-04-0000

GARY R. SHANNON
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Respondent

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