

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)
11 DAVID NUTTER)
12 CRD #2346911)
13 5353 N. 16th Street, #260)
14 Phoenix, Arizona 85016)
15)
16 NORTH AMERICAN INSURANCE)
17 SERVICES, L.L.C.)
18 5353 N. 16th Street, #260)
19 Phoenix, Arizona 85016,)
20)
21 Respondents.)

DOCKET NO. S-03463A-01-0000

**NOTICE OF OPPORTUNITY FOR
HEARING REGARDING PROPOSED
ORDER TO CEASE AND DESIST, FOR
RESTITUTION, FOR
ADMINISTRATIVE PENALTIES, AND
FOR OTHER AFFIRMATIVE ACTION**

22 **NOTICE: RESPONDENTS HAVE 10 DAYS TO REQUEST A HEARING**

23 The Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”)
24 alleges that Respondents have engaged in acts, practices and transactions that constitute violations of the
25 Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* (“Securities Act”).

26 **I.**

JURISDICTION

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

II.

RESPONDENTS

2. DAVID NUTTER (“NUTTER”), CRD #2346911, whose last known business
address was 5353 N. 16th Street, #260, Phoenix, Arizona, 85016, was a registered securities

1 salesman from 1997 through 1999. NUTTER is also a registered insurance agent and has been
2 since 1994.

3 3. NORTH AMERICAN INSURANCE SERVICES, L.L.C. (“NORTH
4 AMERICAN”), whose last known business address was 5353 N. 16th Street, #260, Phoenix,
5 Arizona, 85016, has been an Arizona limited liability company since 1997. NUTTER is the
6 managing member of NORTH AMERICAN.

7 4. NUTTER and NORTH AMERICAN may be collectively referred to as
8 “RESPONDENTS”.

9 III.

10 FACTS

11 5. Beginning in December of 1997, RESPONDENTS offered and sold promissory
12 notes to at least 16 people who invested at least \$750,000. The promissory notes were from one
13 to three years in duration and paid an interest rate of 10% to 12%. RESPONDENTS have repaid
14 approximately \$150,000 of principal and interest as scheduled. As of the date of this Notice,
15 RESPONDENTS owe 12 people approximately \$610,000. The due dates on the notes go through
16 2004.

17 6. RESPONDENTS borrowed funds from their clients and issued promissory notes
18 with the term of the notes and the interest rate of the notes varying depending upon the client. The
19 notes state that each note was secured by the assets and accounts receivable of NORTH
20 AMERICAN and NUTTER as its managing member. RESPONDENTS did not provide any
21 financial information to clients regarding the assets and accounts receivable of NORTH
22 AMERICAN.

23 7. NUTTER stated that the funds were used to continue the business while he attended
24 educational seminars to expand the options for his clients. Specifically, NUTTER stated that the
25 funds were used to pay for the seminars, traveling to the seminars, and to make up for the lost
26 commissions while he was in training.

1 **VI.**

2 **VIOLATION OF A.R.S. § 44-1991**

3 **(Fraud in Connection with the Offer or Sale of Securities)**

4 15. In connection with the offer or sale of securities within or from Arizona,
5 RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii)
6 made untrue statements of material fact or omitted to state material facts which were necessary in
7 order to make the statements made not misleading in light of the circumstances under which they
8 were made; or (iii) engaged in transactions, practices or courses of business which operated or
9 would operate as a fraud or deceit upon offerees and investors. RESPONDENTS conduct includes,
10 but is not limited to, the following:

- 11 a) RESPONDENTS failed to provide any disclosure documents to the offerees and
12 investors in the promissory note program including but not limited to disclosures
13 regarding risk, use of funds and the financial condition of RESPONDENTS.
- 14 b) RESPONDENTS failed to disclose to offerees and investors that the promissory
15 notes they were selling were not approved by NUTTER's employing dealer nor had
16 NUTTER informed his employer about the existence of the notes.
- 17 c) RESPONDENTS failed to disclose to offerees and investors that by issuing the
18 promissory notes, they were violating industry standards which finds that it is a
19 dishonest and unethical practice for a securities salesman to borrow money from his
20 clients.

21 16. This conduct violates A.R.S. § 44-1991.

22 **VII.**

23 **REQUESTED RELIEF**

24 The Division requests that the Commission grant the following relief against
25 RESPONDENTS:

