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ARIZONA CORPORATION COMMISSION

JAMES MATTHEWS
EXECUTIVE SECRETARY

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007-2996
TELEPHONE: (602) 542-4242
FAX: (602) 542-3583

August 30, 1995

Mr. William M. Christou
Ace Hardware Corporation
2200 Kensington Court
Oak Brook, Illinois 60521

RE: Ace Hardware Corporation
A.R.S. § 44-1801(22)

Dear Mr. Christou:

On the basis of the facts set forth in your letter of August 7, 1995, and in reliance upon your opinion as counsel, the Securities Division (the "Division") will not recommend enforcement action for violation of the Securities Act of Arizona (the "Act") should the transaction take place as set forth in your letter. In concurring with your opinion that the shares offered by Ace Hardware Corporation do not constitute "securities" for purposes of the registration requirements of the Act, the Division has noted particularly your representations that Ace Hardware Corporation is a retailer-owned cooperative and that its stock merely evidences membership in the cooperative and the stock does not possess most of the characteristics of a security, such as transferability, ordinary dividend rights, and the potential for appreciation in value.

As this position is premised upon the facts set forth in your letter, it should not be relied on for any other set of facts or by any other person.

To the extent that the transactions do not take place as set forth in your letter of August 7, 1995, or a material change in circumstances cause these cooperative shares to be deemed "securities" for purposes of the Act, then the anti-fraud provisions of the Act would be applicable ab initio.

Mr. William M. Christou
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We have attached a photocopy of your letter. By doing this we are able to avoid having to recite or summarize the facts set forth therein.

Very truly yours,



DEE RIDDELL HARRIS
Director of Securities

DRH:ldl
Attachment



Ace Hardware Corporation

2200 Kensington Court
Oak Brook, Illinois 60521
708/990-6600

Legal Department
708/990-2780

August 7, 1995

Arizona Corporations Commission
Securities Division
1200 West Washington Street
Suite 201
Phoenix, AZ 85007

Re: Ace Hardware Corporation
Registration No. S-0010566-QUAL

Gentlemen:

Ace Hardware Corporation (hereinafter referred to as the "Company") has previously registered its Class A and Class C stock with the Commission. The Company respectfully requests that the Arizona Corporations Commission issue a no-action letter or similar interpretive opinion determining that shares of the Company's Class A and Class C stock are not a "security" within the meaning of Section 44-1801.22 of the Arizona Blue Sky Law.

FACTUAL BACKGROUND

The Company operates in the United States as a retailer-owned cooperative in accordance with Subchapter T of the Internal Revenue Code. As such, it makes wholesale sales of hardware and related merchandise to its independent retailer-members (hereinafter referred to as "dealers"). All of the Company's stock is owned by its dealers. In conjunction with their application to become a member of the cooperative, each prospective dealer must concurrently subscribe for one share of Class A voting stock at a price of \$1,000, and forty shares of Class C non-voting stock at a price of \$100 per share, for a total of \$5,000 of capital stock. All applications for membership and all subscriptions for shares of the Company's stock must be accepted by an executive officer of the Company at its corporate headquarters in Oak Brook, Illinois.

At the end of each year the profits made by the Company are distributed to its dealer-shareholders as patronage dividends based upon their respective purchases of merchandise from the Company, and not upon the number of shares of stock they own. The payment of dividends on the Company's stock is prohibited by its Certificate of Incorporation.

The Company's stock is not traded on any securities exchange or over-the-counter market, and is sold exclusively by the Company. No commissions are paid, either directly or indirectly, in

connection with the sale of the Company's stock. The stock of the Company is not transferable by the dealer except with the consent of the Company, and in that event, it would be transferable at par value only to another retailer of hardware and related merchandise whom the Company agreed to accept as a cooperative member with respect to a particular retail outlet. Upon termination of a dealer's membership, unless his stock is transferred as aforesaid, all of his shares of the Company's stock are repurchased by the Company at par value.

LEGAL ANALYSIS

Section 44-1801.22 of the Arizona Blue Sky Law provides as follows:

"Security" means any note, stock, treasury stock, bond, commodity investment contract, commodity option, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, real property investment contract or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

The United States Supreme Court has addressed the question of what constitutes a security under Section 2(1) of the Securities Act of 1933, which is substantially similar to the definition set forth above. In United Housing Foundation, Inc. v. Forman, 421 U.S. 837 (1975), the Supreme Court held that shares of stock entitling a purchaser to lease an apartment in a nonprofit housing cooperative were not securities within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934. The Court noted that the stock in the housing cooperative lacked the most common feature of stock: the right to receive "dividends contingent upon an apportionment of profits" [citing Tcherepnin V. Knight, 389 U.S. 332 (1967)]. The Court also stated that the stock did not possess other characteristics traditionally associated with stock:

[T]hey are not negotiable; they cannot be pledged or hypothecated; they confer no voting rights in proportion to the number of shares owned; and they cannot appreciate in value. In short, the inducement to purchase was solely to acquire subsidized low-cost living space; it was not to invest for profit.

The stock of the Company has the same characteristics as the stock in the Forman case. Dealers do not purchase the shares with the expectation of receiving profits; rather, the shares are sold and purchased for membership in the cooperative. Once purchased, the shares cannot be sold, pledged, hypothecated or otherwise transferred by the dealer without the consent of the Company's Board of Directors. Thus, there is no market for the shares of the Company stock. No dividends are paid, and the financial benefits of membership in the cooperative are not determined by the number of shares owned, but rather by the dealer's purchases of merchandise from the Company. Lastly, the stock does not appreciate in value, nor is it purchased to achieve increases in value as a result of the efforts of others in managing the business.

CONCLUSION

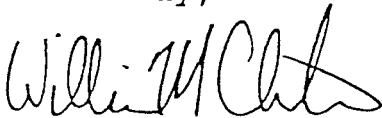
The shares of the Company lack the qualities of an investment security. They are required merely as an incident of cooperative membership in the Company. They have no marketability and are not the type of instrument which the securities laws were designed to regulate. Therefore, we respectfully request that the Arizona Corporations Commission issue a no-action letter determining that the shares issued by the Company are not securities within the meaning of Section 44-1801.22 of the Arizona Blue Sky law.

For the Commission's information, to date, the states of Alabama, Georgia, Iowa, Maine, Mississippi, Missouri, New York, South Dakota, Washington and Wisconsin have already responded favorably to the Company in like rulings or exemption letters.

Pursuant to Section 44-1861.L, I have enclosed a check in the amount of \$200.00 to cover the required fee.

Thank you for your consideration in this matter. Please advise if you have any questions or need additional information.

Sincerely,



William M. Christou
Attorney

Enclosure