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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Terry Edward Avery
Avery Financial & Insurance Services, Inc.
4510 E. Pacific Coast Highway, Suite 340
Long Beach, California 90804

and

573 Durham Street
El Cajon, CA 92109

DESIST AND REFRAIN ORDER
(For violations of sections 25110 and 25401 of the Corporations Code)

The California Corporations Commissioner finds that:

1. At all relevant times, Terry Edward Avery (hereinafter “Avery”) was the sole owner of Avery Financial and Insurance Services, Inc. (hereinafter “Avery Financial”) located at 4510 E Pacific Coast Highway, Suite 340, Long Beach, California 90804.
2. Beginning in or about February 2002, Avery and Avery Financial offered or sold investments, in the State of California in the form of investment contracts for units in Branson City Limits, Inc. (hereinafter “Branson City”) and Resort Hotels, Inc. (hereinafter (Resort Hotels”).
3. The purported purpose of the Branson City securities offerings was to sell interests in specified resort or timeshare hotel rooms with a promise of a specified annual rate of return for a

1 certain number of years. The investors were given the option to use the rooms themselves, rent the
2 rooms out themselves, or use a local leasing company, Ozark Ticket and Travel, Inc. (hereinafter
3 “Ozark”), to rent the rooms out with a promised return of 9% -11% annually.

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5 4. The purported purpose of Resort Hotels securities offering was structured with the same
6 essential characteristics as the Branson City investment, but involved different hotel facilities than the
7 Branson City investment.

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9 5. The investors who purchased the Branson City and Resort Hotels investments were
10 predominately elderly, unsophisticated, and non-accredited investors.

11
12 6. Avery and Avery Financial offered or sold securities in the form of investment contracts in
13 Branson City and Resort Hotels to at least two California investors.

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15 7. These securities were offered or sold in this state in issuer transactions. The Department of
16 Corporations has not issued a permit or other form of qualification authorizing any person to offer or
17 sell these securities in this state.

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19 8. In connection with these offers and sales, Avery and Avery Financial represented to investors
20 that:

21 a. The investment was safe and not risky. In fact, the investment was very risky and
22 investors suffered significant losses on their investment.

23 b. Investors would receive a specified return on their investment for a specified number
24 of years. In fact, only some of the investors received a few of the promised interest payments. Others
25 received no payment at all. None of the investors received the full amount as promised.

26
27 9. In connection with these offers and sales, Avery and Avery Financial failed to disclose to
28 investors that:

1 a. In September of 1999, the Tennessee Commissioner of Commerce and Insurance
2 issued a Cease-and-Desist Order (No: 99-013) enjoining Dennis R. Weaver (hereinafter “Weaver”), a
3 co-owner, founder, and managing member of Branson City and Resort Hotels, from selling
4 unregistered securities and acting as an agent of an unregistered broker-dealer and enjoining an entity
5 controlled by Weaver from acting as an unregistered broker-dealer.

6 b. In October 1999, the Franklin Kentucky Circuit Court issued an Order of Permanent
7 Injunction (Civil Action No. 99-CI-717) enjoining Weaver, and an entity he controlled, from
8 violating an anti-fraud provision of the Kentucky securities laws and from offering and selling
9 unregistered securities.

10 c. In February 1995, Lee E. Larscheid, the owner and President of Ozark who
11 participated in the fraudulent scheme, by providing leasing services for investors – investors were
12 encouraged to use Ozark to lease the hotel rooms thereby generating the promised 9% - 11% return,
13 was convicted of bank fraud in violation of 18 U.S.C. § 1344, a felony, for his part in an unrelated
14 fraudulent scheme.

15
16 Based upon the foregoing findings, the California Corporations Commissioner is of the
17 opinion that the investment contracts representing units in Branson City and Resort Hotels coupled
18 with the leasing contracts with Ozark are securities subject to qualification under the California
19 Corporate Securities Law of 1968 and are being or have been offered or sold without being qualified
20 in violation of Corporations Code section 25110. Pursuant to section 25532 of the Corporate
21 Securities Law of 1968, Terry Edward Avery and Avery Financial and Insurance Services, Inc. are
22 hereby ordered to desist and refrain from the further offer or sale of securities in the State of
23 California, including but not limited to investment contracts, unless and until qualification has been
24 made under the law.

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26 Further, the California Corporations Commissioner is of the opinion that the securities in the
27 form of investment contracts in Branson City and Resort Hotels were offered or sold in this state by
28 means of written or oral communications which included an untrue statement of a material fact or

1 omitted to state a material fact necessary in order to make the statements made, in the light of the
2 circumstances under which they were made, not misleading, in violation of section 25401 of the
3 Corporate Securities Law. Pursuant to section 25532 of the Corporate Securities Law, Terry Edward
4 Avery and Avery Financial and Insurance Services, Inc. are hereby ordered to desist and refrain from
5 offering or selling or buying or offering to buy any security in the State of California, including but
6 not limited to investment contracts, by means of any written or oral communication which includes
7 an untrue statement of a material fact or omits to state a material fact necessary in order to make the
8 statements made, in the light of the circumstances under which they were made, not misleading.
9

10 This Order is necessary, in the public interest, for the protection of investors and consistent
11 with the purposes, policies, and provisions of the Corporate Securities Law of 1968. This order shall
12 remain in full force and effect until further order of the California Corporations Commissioner.
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14 Dated: November 2, 2005
15 Sacramento, California

16 WAYNE STRUMPFER
17 Acting California Corporations Commissioner
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19 By: _____
20 ALAN S. WEINGER
21 Acting Deputy Commissioner
22 Enforcement Division
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