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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

13 vs.

14 MAYNARD L. JENKINS,

15 Defendant.

Case No. CV-09-01510-PHX-GMS

**CONSENT OF DEFENDANT
MAYNARD L. JENKINS**

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18 1. Defendant Maynard L. Jenkins ("Defendant") acknowledges having been
19 served with the complaint in this action, enters a general appearance, and admits the
20 Court's jurisdiction over Defendant and over the subject matter of this action.

21 2. Without admitting or denying the allegations of the complaint (except as to
22 personal and subject matter jurisdiction, which Defendant admits), Defendant hereby
23 consents to the entry of the final Judgment in the form attached hereto (the "Final
24 Judgment") and incorporated by reference herein, which, among other things, orders
25 Defendant to reimburse O'Reilly Automotive Inc. ("O'Reilly"), which acquired CSK
26 Auto Corporation ("CSK"), \$2,796,467 pursuant to Section 304(a) of the Sarbanes-Oxley
27 Act of 2002, 15 U.S.C. § 7243(a).
28

1 3. Defendant waives the entry of findings of fact and conclusions of law
2 pursuant to Rule 52 of the Federal Rules of Civil Procedure.

3 4. Defendant waives the right, if any, to a jury trial and to appeal from the
4 entry of the Final Judgment.

5 5. Defendant enters into this Consent voluntarily and represents that no
6 threats, offers, promises, or inducements of any kind have been made by the Commission
7 or any member, officer, employee, agent, or representative of the Commission to induce
8 Defendant to enter into this Consent.

9 6. Defendant agrees that this Consent shall be incorporated into the Final
10 Judgment with the same force and effect as if fully set forth therein.

11 7. Defendant waives service of the Final Judgment and agrees that entry of the
12 Final Judgment by the Court and filing with the Clerk of the Court will constitute notice
13 to Defendant of its terms and conditions. Defendant further agrees to provide counsel for
14 the Commission, within thirty days after the Final Judgment is filed with the Clerk of the
15 Court, with an affidavit or declaration stating that Defendant has received and read a
16 copy of the Final Judgment.

17 8. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims
18 asserted against Defendant in this civil proceeding. Defendant acknowledges that no
19 promise or representation has been made by the Commission or any member, officer,
20 employee, agent, or representative of the Commission with regard to any criminal
21 liability that may have arisen or may arise from the facts underlying this action or
22 immunity from any such criminal liability. Defendant waives any claim of Double
23 Jeopardy based upon the settlement of this proceeding, including the imposition of any
24 remedy or civil penalty herein.

25 9. Defendant understands and agrees to comply with the Commission's policy
26 "not to permit a defendant or respondent to consent to a judgment or order that imposes a
27 sanction while denying the allegations in the complaint or order for proceedings." 17
28 C.F.R. § 202.5. In compliance with this policy, Defendant agrees: (i) not to take any

1 action or to make or permit to be made any public statement denying, directly or
2 indirectly, any allegation in the complaint or creating the impression that the complaint is
3 without factual basis; and (ii) that upon the filing of this Consent, Defendant hereby
4 withdraws any papers filed in this action to the extent that they deny any allegation in the
5 complaint. If Defendant breaches this agreement, the Commission may petition the Court
6 to vacate the Final Judgment and restore this action to its active docket. Nothing in this
7 paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or
8 factual positions in litigation or other legal proceedings in which the Commission is not a
9 party.

10 10. Defendant hereby waives any rights under the Equal Access to Justice Act,
11 the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision
12 of law to seek from the United States, or any agency, or any official of the United States
13 acting in his or her official capacity, directly or indirectly, reimbursement of attorney's
14 fees or other fees, expenses, or costs expended by Defendant to defend against this
15 action. For these purposes, Defendant agrees that Defendant is not the prevailing party in
16 this action since the parties have reached a good faith settlement.

17 11. Defendant acknowledges the Commission's position that a public
18 company's agreement to indemnify a person against liability for payments under Section
19 304 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7243 violates public policy and
20 agrees not to seek indemnification from O'Reilly, or its wholly owned subsidiary, CSK,
21 for the payment required by the Final Judgment.

22 12. Defendant agrees that the Commission may present the Final Judgment to
23 the Court for signature and entry without further notice.

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1 13. Defendant agrees that this Court shall retain jurisdiction over this matter for
2 the purpose of enforcing the terms of the Final Judgment.

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5 Dated: 11/10/11


6 Maynard L. Jenkins

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8 On November 10th, 2011, before me, Jessica Copeland-Anderson, ^{Notary} ~~Public~~ personally
9 appeared Maynard L. Jenkins who proved to me on the basis of satisfactory evidence to
10 be the person whose name is subscribed to the within instrument and acknowledged to
11 me that he executed the same in his authorized capacity, and that by his signature on the
12 instrument the person, or the entity upon behalf of which the person acted, executed the
13 instrument.

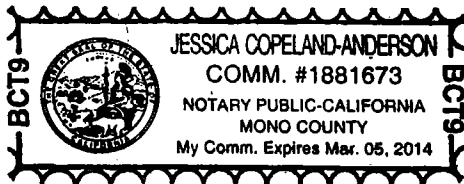
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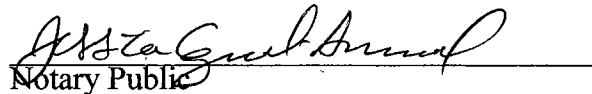
15 I certify under penalty of perjury under the laws of the State of California that the
16 foregoing paragraph is true and correct

17

WITNESS my hand and official seal

18




19 Notary Public
20 Commission expires:
21

22 Approved as to form:

23 /s/ John W. Spiegel
24 John W. Spiegel
25 Gregory J. Weingart
26 355 South Grand Avenue, 35th Floor
27 Los Angeles, CA 90071
28 Telephone: (213) 683-9100
Facsimile: (213) 687-3702

Attorneys for Defendant Maynard L. Jenkins