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480-483-9600  
Attorneys for HCH Enterprise, L.L.C.  
and Helen C. Hartze

**BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

**DOCKETED**

JUN - 1 2004

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

DOCKETED BY 

LAW OFFICES  
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IN THE MATTER OF  
  
HCH ENTERPRISE, L.L.C.  
5952 West Gail Drive  
Chandler, Arizona 85226

DOCKET NO. S-03540A-04-0000

ANSWER

HELEN C. HARTZE and JOHN DOE HARTZE,  
husband and wife  
5952 West Gail Drive  
Chandler, Arizona 85226

MARK KESLER and JANE DOE KESLER  
husband and wife  
10783 W. Encanto Boulevard  
Avondale, Arizona 85323

Respondents.

AZ CORP COMMISSION  
DOCUMENT CONTROL

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Pursuant to R14-4-305, Respondents HCH Enterprises, L.L.C. ("HCH") and Helen Hartze ("Hartze") (collectively "Respondents"), by and through counsel undersigned, hereby respond to the Notice of Opportunity for Hearing ("Notice"), and state, deny, admit, and allege as follows:

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**I.  
JURISDICTION**

1. Respondents admit the allegations of Paragraph 1 of the Notice.

**II.  
RESPONDENTS**

2. Respondents admit the factual allegations of Paragraph 2 of the Notice.

3. Respondents deny that any "investor entities" were formed or exist, or that the members of the Williamsburg Apartments, L.L.C. ("Williamsburg") and Ashberry Apartments, L.L.C. ("Ashberry"), referred to in the Notice as "investors," were investors. However, denying those characterizations each time they are made in the Notice would not be productive. Therefore throughout this Answer, Respondents shall consider the term "investor entity(ies)" as the "limited liability company(ies)" and "investors" as "members." With these corrections, both in this paragraph and throughout this Answer, Respondents admit the factual allegations of Paragraph 3 of the Notice.

4. Respondents deny the allegations of Paragraph 4, and affirmatively allege that Hartze is not married.

5. Respondents deny that Mark Kesler ("Kesler") was a sales person with HCH, and admit the other factual allegations of Paragraph 5.

6. Respondents are without information sufficient to admit or deny the allegations of Paragraph 6 and therefore deny the same.

7. Respondents deny the allegations of Paragraph 7.

8. The allegations contained in Paragraph 8 do not require a response, but Respondents affirmatively allege that the word "Respondents" as used in this Answer refers solely to HCH and Helen Hartze.

**III.  
FACTS**

9. Respondents deny that they offered or sold interests in any investment opportunities, and deny the allegations of Paragraph 9. Respondents allege that two persons

1 made capital contributions of approximately \$115,000 as members of Williamsburg, and that  
2 seven persons (comprised of three marital communities and one individual) made capital  
3 contributions of approximately \$245,000 as members of Ashberry.

4 10. Respondents do not understand the meaning of the allegation that Kesler “was  
5 involved with HCH” and therefore deny the same; Respondents admit the remaining factual  
6 allegations of Paragraph 10.

7 11. In response to Paragraph 11, Respondents admit that funds from Ashberry and  
8 Williamsburg were loaned to one person, referred to in the Notice as the Borrower. Respondents  
9 deny the remaining allegations of Paragraph 11.

10 12. Respondents deny the allegations stated in the first sentence of Paragraph 12.  
11 Respondents are without information sufficient to admit or deny the remaining allegations of  
12 Paragraph 12 and therefore deny the same.

13 13. Respondents admit the factual allegations of the first two sentences and the last  
14 sentence of Paragraph 13 as to these Respondents only, and not as to Kesler. Respondents do not  
15 understand the allegations of the third sentence of Paragraph 13 and, therefore, deny the same.

16 14. Respondents admit that both Ashberry and Williamsburg were represented to be  
17 member-managed limited liability companies and allege that they were formed as member-  
18 managed limited liability companies. Respondents deny the allegations stated in the first and  
19 fourth sentences of Paragraph 14. For those allegations stated in the second and third sentences  
20 of Paragraph 14, Respondents state that the documents speak for themselves and are the best  
21 evidence of their terms; therefore, Respondents deny the allegations of the second and third  
22 sentences of Paragraph 14. Respondents admit that Hartze was the sole signatory as the HCH  
23 accounts. Respondents deny all remaining allegations of Paragraph 14.

24 15. In response to Paragraph 15, Respondents deny that any “offering documents”  
25 were prepared, and state that any documents speak for themselves and are the best evidence of  
26 their terms; therefore, Respondents deny the remaining allegations of Paragraph 15.

16. Respondents deny the allegations of Paragraph 16.



1           2.       Respondents allege that the Securities Division has failed to allege securities  
2 fraud with reasonable particularity.

3           3.       Respondents allege that the alleged investors did not rely, reasonably or  
4 otherwise, on any alleged misrepresentation by Respondents.

5           4.       Respondents allege that they did not offer, sell, induce or participate in the sale of  
6 securities.

7           5.       Respondents allege that they did not know and, in the exercise of reasonable care,  
8 could not have known of certain untrue or material omissions, if any.

9           6.       Respondents allege that they have not acted with requisite scienter.

10          7.       Respondents allege that they did not initially or at any time employ a deceptive or  
11 manipulative device in connection with the purchase or sale of any interest in a limited liability  
12 company.

13          8.       Respondents allege that the alleged investors did not rely, reasonably or  
14 otherwise, on the effort of others for the management of their alleged investments.

15          9.       Respondents allege that the alleged investors or lenders did not suffer any injuries  
16 or damages as a result of Respondents' acts.

17          10.      Respondents allege that only the Borrower is obligated to pay lenders and that an  
18 order of restitution would be inappropriate.

19          11.      Respondents allege that they did not initially or at any time make any  
20 misrepresentations or omissions, material or otherwise.

21          12.      Respondents allege that the violations, if any, of the Securities Act, were  
22 proximately caused and contributed to by the improper conduct or intervening acts of the other  
23 Respondent and/or other third persons who were not named in this action as parties.

24          13.      Respondents allege the alleged transactions did not involve securities.

25          14.      Respondents allege that to the extent the Commission determines the alleged  
26 transactions at issue involve securities, the alleged transactions were exempt from registration.

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15. Respondents allege that they initially and always acted in good faith and did not directly or indirectly induce the conduct at issue.

WHEREFORE, having fully answered the allegations presented in the Notice, Respondents HCH Enterprises, L.L.C. and Helen Hartze plead that the Commission grant the following relief:

- A. That the Notice be dismissed and that nothing be taken thereby;
- B. That the Proposed Order to Cease and Desist and for Restitution be dismissed;
- C. That the Respondents be awarded their attorneys' fees and costs pursuant to A.R.S. § 41-1007; and
- D. That Respondents be awarded such other and further relief as the Commission may deem appropriate.

RESPECTFULLY SUBMITTED THIS 1<sup>st</sup> day of June, 2004.

**TITUS, BRUECKNER & BERRY, P.C.**

By: Charles R. Berry  
Charles R. Berry  
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Attorneys for Respondents HCH  
Enterprises, L.L.C. and Helen C. Hartze

ORIGINAL and 13 copies of the foregoing hand-delivered this 1<sup>st</sup> day of June, 2004, to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

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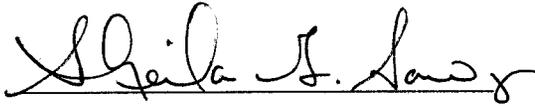
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COPY of the foregoing hand-delivered  
this 1st day of June, 2004, to:

Matthew Neubert  
Director of Securities  
Securities Division  
Arizona Corporation Commission  
1300 West Washington Street  
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