

ORIGINAL



0000022680

25HV

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF:

TIERRA GROUP, aka TIERRA GROUP
 PROPERTIES, aka TIERRA GROUP COMPANIES,
 aka TIERRA GROUP, INC.
 10105 East Via Linda Drive, Ste. 103-330
 Scottsdale, AZ 85258

PRESERVATION TRUST CORPORATION, aka
 PRESERVATION CORPORATION, aka
 PRESERVATION TRUST COMPANY,
 10105 East Via Linda Drive, Ste. 103-330
 Scottsdale, AZ 85258

PARTNERSHIP PRESERVATION TRUST, aka
 PARTNERSHIP PRESERVATION
 CORPORATION LIMITED PARTNERSHIP
 10105 East Via Linda Drive, Ste. 103-330
 Scottsdale, AZ 85258

CATERPILLAR FOUNDATION PROPERTIES,
 aka CATERPILLAR FOUNDATION PROPERTIES
 LIMITED PARTNERSHIP
 10105 East Via Linda Drive, Ste. 103-330
 Scottsdale, AZ 85258

RENE L. COUCH, a married man
 10727 East Palm Ridge Drive
 Scottsdale, AZ 85259

TERRY COUCH, a married woman
 10727 East Palm Ridge Drive
 Scottsdale, AZ 85259

Respondents.

DOCKET NO. S-03437A-03-0000

Arizona Corporation Commission

DOCKETED

MAY 31 2005

DOCKETED BY	
-------------	--

AZ CORP COMMISSION
DOCUMENT CONTROL

2005 MAY 31 P 3:05

RECEIVED

NINTH
PROCEDURAL ORDER

BY THE COMMISSION:

On February 3, 2003, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and for Other

1 Affirmative Action ("Notice") against Tierra Group, aka Tierra Group Properties, aka Tierra Group
2 Companies, aka Tierra Group, Inc., Preservation Trust Corporation, aka Preservation Corporation,
3 aka Preservation Trust Company, Partnership Preservation Trust, aka Partnership Preservation
4 Corporation Limited Partnership, Caterpillar Foundation Properties, aka Caterpillar Foundation
5 Properties Limited Partnership, Rene L. Couch and Terry Couch (collectively "Respondents"), in
6 which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection
7 with the offer and sale of securities by fraudulent transactions.

8 The Respondents were duly served with a copy of the Notice.

9 On February 3, 2003, a request for hearing was filed for Mr. Couch.

10 On February 19, 2003, by Procedural Order, a pre-hearing conference was scheduled.

11 On March 12, 2003, a pre-hearing conference was held with the Division present with
12 counsel. Mr. John Augustine, counsel for Mr. Rene Couch, was present and indicated that he had
13 accepted service for the other entities that are participants in an involuntary bankruptcy proceeding in
14 U.S. Bankruptcy Court where other counsel are involved. Although Mrs. Terry Couch was served
15 with a copy of the Notice, she has not requested a hearing.

16 Counsel for the Division and Mr. Couch indicated that they are conducting settlement
17 discussions, but stipulated that an additional pre-hearing conference should be scheduled in April,
18 2003, in the event that the matter is not resolved.

19 On March 12, 2003, by Procedural Order, a pre-hearing conference was scheduled for April
20 30, 2003.

21 On April 30, 2003, at the pre-hearing conference, the Division was present with counsel.
22 Neither Mr. Couch nor any other Respondent entered an appearance or filed an Answer to the Notice.
23 Counsel for the Division indicated that the Division had been unable to contact counsel for Mr.
24 Couch, and that the matter was further complicated by the involuntary bankruptcy proceeding. The
25 proceeding was recessed pending further action by the Division.

26 On October 7, 2004, the Division filed what was captioned "Motion to Recognize Securities
27 Division Allegations as Admitted" ("Motion") which requests that the allegations stated in the Notice
28 be admitted as fact due to the failure of Mr. Couch or any other Respondent to file a timely Answer to

1 the Notice. The Division acknowledged that it delayed its filing to allow Respondents time to
2 address the problems arising from the involuntary bankruptcy proceeding from which disbursements, if
3 any are made, will be disbursed. The Division indicated that the Motion had been served personally
4 and also mailed to the individual Respondents on October 7, 2004. No Responses have been filed to
5 the Division's Motion.

6 On October 28, 2004, by Procedural Order, the Division's Motion was granted.

7 On October 29, 2004, a new attorney for Respondent Rene L. Couch filed the following: a
8 notice of appearance and request for hearing; an Answer to the Notice; and a Response to the
9 Division's Motion arguing that Mr. Couch would be denied due process of law if he was not
10 permitted to file his Answer and defend himself against the allegations contained in the Notice.

11 On November 5, 2004, by Procedural Order, the Division's Motion was vacated and a pre-
12 hearing conference was scheduled for November 18, 2004.

13 On November 18, 2004, the Division and Respondent appeared with counsel. The parties
14 were negotiating a possible form of Consent Order and agreed that another pre-hearing be scheduled
15 in January, 2005, to schedule a hearing if the matter is not resolved.

16 On November 19, 2004, by Procedural Order, a pre-hearing was scheduled for January 6,
17 2005.

18 On January 6, 2005, the Division and Respondent filed a joint stipulation to continue the
19 January 6, 2005, pre-hearing for an additional 30 days to further pursue settlement negotiations. By
20 Procedural Order, the proceeding was continued to February 10, 2005.

21 On February 1, 2005, the Division and Respondent telephonically requested an additional 30
22 day continuance.

23 On February 2, 2005, by Procedural Order, the pre-hearing conference was continued to
24 March 10, 2005.

25 On March 10, 2005, the Division and Respondent appeared with counsel at the pre-hearing
26 conference. Although the parties were attempting to negotiate a settlement, the Division and
27 Respondent agreed that a hearing should be scheduled at the beginning of June if a settlement was not
28 reached. By Procedural Order, a hearing was scheduled for June 1, 2005.

1 On May 31, 2005, the Division filed a request to vacate the hearing date(s) as the parties had
2 reached a settlement which would be presented to the Commission for its approval.

3 Accordingly, the hearing date(s) should be vacated.

4 IT IS THEREFORE ORDERED that the hearing in the above-captioned matter scheduled on
5 June 1, 2005, shall be vacated pending approval by the Commission by a proposed form of Consent
6 Order.

7 IT IS FURTHER ORDERED that the Consent Order is not approved by the Commission then
8 the Division shall request the matter be rescheduled for hearing..

9 DATED this 31st day of May, 2005.

10
11 
12 MARC E. STERN
13 ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered
this 31st day of May, 2005 to:

15 John F. Goodson
16 Paul E. Deloughery
17 Goodson and Manley, PLC
18 2025 North Third Street, Ste. 200
19 Phoenix, AZ 85004
20 Attorney for Respondent Rene L. Couch

21 Terry G. Couch
22 9821 E. Mirasol Circle, #2191
23 Scottsdale, AZ 85260

24 Matt Neubert, Director
25 Securities Division
26 ARIZONA CORPORATION COMMISSION
27 1300 West Washington Street
28 Phoenix, AZ 8500

ARIZONA REPORTING SERVICE
2627 N. Third Street, Ste. Three
Phoenix, AZ 85004-1003

27 By: 
28 Debbi Person
Secretary to Marc E. Stern