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**BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

**DOCKETED**

MAY 30 2002

DOCKETED BY 

IN THE MATTER OF:

DOCKET NO. S-03439A-00-0000

TOWER EQUITIES, INC.  
8141 N. Main Street  
Dayton, OH 45415-1747

DECISION NO. 64851

PHILIP A. LEHMAN  
Tower Equities, Inc.  
8141 N. Main Street  
Dayton, OH 45415-1747,

Respondents.

**ORDER**

Open Meeting  
May 23, 2002  
Phoenix, Arizona

**BY THE COMMISSION:**

**FINDINGS OF FACT**

1. On February 22, 2002, the Arizona Corporation Commission ("Commission") issued Decision No. 64559 ("Decision") in the above-captioned matter.

2. On April 11, 2002, pursuant to A.A.C. R14-3-112, Tower Equities, Inc. ("Tower") and Mr. Philip A. Lehman (collectively "the Respondents") filed with the Commission an Application for Rehearing and Review ("Application") of the Decision on the grounds that the Decision is not justified by the evidence and is contrary to law.

3. Although it appeared that Tower's and Mr. Lehman's Application was not timely filed, Respondents stated that their attorneys had not been served with a copy of Decision No. 64559 and attached affidavits which attested to the non-delivery of the Decision at their offices.

4. On April 19, 2002, the Commission's Securities Division ("Division") filed its Response to the Respondent's Application and requested that the Application be denied on the basis that the Decision is based on the evidence and is not contrary to law. The Division pointed out that A.R.S. § 12-901 renders moot the question of the exact date of service if the Commission treats the

1 Application as timely filed. The Division also filed an affidavit of service that indicated that personal  
2 service of Decision No. 64559 had been made upon local counsel on April 17, 2002.

3 5. For purposes of this proceeding, Respondents' Application should be treated as timely  
4 filed.

5 6. Upon review of the Decision, the Division's Response to the Application is well made  
6 and should be adopted.

7 CONCLUSIONS OF LAW

8 1. The Commission has jurisdiction over this matter pursuant to Article XV of the  
9 Arizona Constitution, A.R.S. §§ 44-1901 et seq. and A.A.C. R14-3-112.

10 2. The Respondents have not demonstrated adequate grounds to justify further review of  
11 the Decision pursuant to A.A.C. R14-3-112.

12 3. The Application of Tower and Mr. Lehman should be denied.

13 ORDER

14 IT IS THEREFORE ORDERED that the Application for Rehearing and Review of Tower  
15 Equities, Inc. and Mr. Philip Lehman is hereby denied.

16 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

17 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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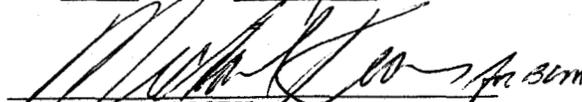
19 CHAIRMAN

20 

COMMISSIONER

COMMISSIONER

21 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
22 Secretary of the Arizona Corporation Commission, have  
23 hereunto set my hand and caused the official seal of the  
24 Commission to be affixed at the Capitol, in the City of Phoenix,  
25 this 30<sup>th</sup> day of MAY, 2002.

26   
27 BRIAN C. McNEIL  
28 EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

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SERVICE LIST FOR: TOWER EQUITIES, INC.

DOCKET NO. S-03439A-00-0000

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