



ORIGINAL

BEFORE THE ARIZONA RECEIVED CORPORATION COMMISSION

192

COMMISSIONERS:

2005 OCT -5 A 10: 38

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

AZ CORP COMMISSION
DOCUMENT CONTROL

In the matter of:

CENTENARIOUS GOLD INC.)
5190 N. 83RD STREET)
SCOTTSDALE, AZ 95250)
)
TIM WATT AND JANE DOE WATT)
5826 N. Granite Reef Road)
SCOTTSDALE, AZ 85250)

DOCKET NUMBER S-03584A-05-0000

RESPONDENTS APPLICATION FOR REHEARING

Responded moves for a rehearing and finding that the Respondent did not offer or intend to sell securities in violation of Arizona Law. Support for Respondent's contention is based on Respondent's Exceptions which were apparently not reviewed by the Commission, apparently owing to the fact that Respondent had moved and consequently did not realize the Hearing Examiner had filed his recommendations in time.

The remainder of this document is dedicated to information and recommendations provided with the thought in mind that you might be influential in inducing better laws to be enacted to address entrepreneur's needs to raise small sums of capita and how your Enforcement Division and the Commission as a whole, might be more effective in dealing with fraud while taking steps to not unnecessarily damage an accused reputation.

I believe myself to be well qualified to make such observations and recommendations due to my somewhat unique career course. In addition to my long mineral career, I spent several years prosecuting and defending criminal cases.

I was seeking to identify a few investors who might joint with me to place a gold mine in production with the initial funding needed being only \$250,000 to \$500,000. The modest needs were due in part to the fact that I already had in place the geology, a 2,200' tunnel and an excellent camp. All that was required to test the premise was to acquire the land and extend the tunnel for an additional 50', according to the GPS survey, to reach the first vein. It was an excellent project promising to deliver everything I stated.

The problem is there are no investment banker types interested in participating in such small financing. The fees they can charge just do not justify the time and expense. There are venture capitalists, but very few interested in participating at such an early stage with

a small investment. Statistics indicate that approximately 90% of such small capital requirements come from the private sector.

There are, perhaps, 20,000 corporations filed in Arizona each year, each with a corporate goal and most, I would guess, in need of additional capital. My guess is that very few of these financings file an offering memorandum with the Arizona Corporate Commission when capital is raised and that virtually all financings made are sold by officers of the company who have not filed a offering memorandum with the Commission or registered as a broker dealer.

If my experience is any indicator, there is a reason for such massive violation of the law. The law does not work and when laws do not work or are unreasonable, there will be a certain amount of civil disobedience. Not only are the costs to retain an attorney to file the document too great (the staff's expectations in my case certainly indicate an attorney should draft the document), but once it is filed, there are no investment bankers interested in selling the issue.

Investment banker types do not consider dealing with sums of less than \$1,000,000, and very few at that size. It is just not worth their time and effort. Further, in all probability, their plans, like mine, are somewhat nebulous and not susceptible to being reduced to a single offering memorandum because the plan changes on a daily basis and depend on, as I stated to the investigator, "to a certain degree on who I am talking to".

Some, with an extraordinary product, might find a venture capitalists to back their company as there are about 4,000 such funds out that control tens of billions of dollars. , Even so, very, very few of these are interested in investing less than \$1 million. Try as I might, and I tried hard, I was unable to identify any venture capitalists interested in investing the \$250,000 to \$500,000 I needed for the Mesa Mine.

Entrepreneurs may be particularly adept in their particular area of expertise, but in the arena of raising funds to develop their companies, they are at a distinct disadvantage to compete with the professional fund raisers.

Ironically, the only two people I found through my search that I came face to face with were the fraud investigator and an investment banker type who suggested that I follow Golden Patriot's formula, which is innovative. It provided a vendor with 25 million shares for services, bought them back, somehow converted them to free trading shares and sold them to the public for an average of about \$0.50 per share putting about \$12 million or so in their pockets.

In my view, companies in the formative stages requiring small amounts of capital should be able to sell to whomever by whatever means, as long as they do not commit fraud. Why should someone who is not an accredited investor, but willing to "take a shot" not be privileged to get in on the ground floor on a business deal? He can go to a casino. Are the restrictions imposed designed to save him from himself or save him from the

scam artists? I submit it is to protect him from the scam artists who, as indicted by Golden Patriot, are inventive enough to figure out ways to circumvent any legislation.

My belief, for what it is worth, is that the government in this area should allow market forces to work, imposing no restrictions between the buyer and seller in small offerings because there are basically no available, viable means to find such financing. That is what was originally intended when the "504" exemption from registration was adopted. Since, it has been amended to provide that one can only sell to accredited investors and the states have enacted a crazy quilt of laws designed to protect the investor which, in my opinion, do not work.

To reduce the burden placed on one wishing to shop his wares states have adopted ULOR (ULOR prohibits people in the extractive industries from availing themselves of its benefits). ULOR is of little help as there are still no investment banker types interested in selling small offerings.

I can go further, for what its worth. In order to sell any offering, there has to be an exit strategy for the investor. The reality of the situation is the market loathes "small cap" companies which it considers to be "penny stocks" which it defines as any stock with a share price under \$5.00. Most investment bankers prohibit their brokers from even dealing with penny stocks. Then there is Sarbanes-Oxley with all its additional requirements.

Unless one has a superb product, his chances of succeeding as a public company is very low because, most likely, the exit will never develop. Since small entrepreneurs are responsible for a great deal of this nations economy, governments should enact legislation which fosters, not hinders, development.

The Prosecutor spent a great deal of time, energy and money developing its case, ultimately securing a temporary restraining order while charging me with fraud and attempting to sell unregistered securities without a license, all of which was published on the web where it will remain till doomsday.

My position is that Prosecutor used extraordinary bad judgment in filing such a flimsy case in the first place, that he is guilty of having included in the document statements made by your Respondent out of context that had absolutely nothing whatsoever to do with the specific charges, but were extremely inflammatory and designed to influence the Hearing Examiner, this Commission and anyone finding it on the internet was totally irresponsible and unprofessional.

My position is that the Hearing Examiner violated the law in not trying this case within 30 days as required by law, that his handling of the pre-trial hearing was unproductive and a waste of time, that he did not address the issues in his findings of fact and conclusions of law, misstated facts, and is guilty of reiterating and relying on immaterial statements in his findings of fact.

My position is that the Commission, itself, not only reiterated the immaterial statements which I presume will again be posted on the web, but in its Commission News put a “spin” on its holding that was not warranted by its order and that the combined activities of the Prosecution, Hearing Examiner and this Commission has trashed my reputation irreparably.

I feel very much a victim in this case. I committed no fraud. I had no intent to and did not violate the law. All I attempted to do was find capital for an excellent project. Had the Prosecutor a sense of balance and fairness, this case would never have been brought.

The Commission should understand that security charges are very serious. For this reason everyone involved in an enforcement action from the initial investigator through this Commission should be very judicious in bringing charges, making findings of fact and conclusions of law and reporting same because they will have an impact on a persons reputation far beyond any sanctions the Commission may impose.

Even if the person charged is exonerated, the very fact that he was charged may result in his failure to be able to operate on a level playing field because, with everything posted on the internet, people will conclude without investigating further and with the party having no opportunity to defend himself, that the charges would not have been brought if there was not something to it. Who amongst you would supplant his name for mine in the documents published and your Order and its report in the Commission News? They are very damning documents.

The allegations of fraud are bad enough, but the addition of all the surplusage regarding goals and estimates of value that have absolutely nothing to do with the charges filed can only be interpreted for what they are: A malicious attempt to prejudice the Hearing Examiner, as it did, and indicate to any reader that I am untruthful, a raving lunatic or both. The prosecutor should, knowing that his documents will be made public, tightly draft his documents to support the actual charges made.

The prosecutor should recognize that his duty is to stamp out fraud and protect the innocent. When fraud is recognized, the prosecutor should take actions to stamp it out as soon as it is identified. What purpose does it serve the populous to conduct an investigation over a lengthy period of time, as was done in my case, when during that period of time the perpetrator of the fraud may be stealing millions that may not be accounted for at a later date? If there is actual fraud, backing up such charges should not be difficult as there will, in all probability, be a paper trail and witnesses available to testify.

If fraud is present, and I am not talking about some supposed technicality, but fraud in the sense that the perpetrator has a scheme to or is obviously stealing- isn't that what fraud is-, the Prosecutor should, in my opinion, file criminal charges. Isn't that how a thief should be treated? If he does not have sufficient confidence to file criminal charges, they there is something wrong with his fraud charges. The odd thing is that civil allegations of

fraud have the same impact on a person as actual criminal charges in the public and business community's eyes.

If it appears that a fraudulent activity may be or is taking place, would it not be in the best interest of the public for the Enforcement Division to confront the suspected individual at the earliest opportunity and find out what is going on, nipping it in the bud or, if no fraud is found to be taking place, going on to more fertile ground.

If it's a case of the suspected party acting more out of ignorance than actual intent to defraud, would it not be better to set things straight on a case by case basis. Isn't this particularly true in areas of securities fraud where a person's reputation is important and everything is posted on the internet- there to remain for eternity.

The law provides that temporary restraining orders be tried in 30 days. The Hearing Examiner should recognize that temporary restraining orders are, by their very nature, an extraordinary remedy and should be brought to trial within 30 days as required. I can tell you as one who values his reputation highly that standing accused of fraud for some six months from start to the entering of an order drained me.

As things progressed in this case, after I asked for a hearing, I was notified that a pretrial hearing would be held. I appeared for the pretrial with a pretrial memorandum that I was prepared to give the Hearing Examiner and the Prosecutor outlining what I felt were the issues and my defenses. To my surprise, he had none so I withheld mine.

The Hearing Examiner asked if we were going to settle the case which both the Prosecutor and I stated that we were logger headed. That being so and without any attempt to define the issues the Hearing Examiner set a trial date. I had asked that it be set as quickly as possible, but was informed that he was very busy. The trial date was set some thirty plus days later.

Since there was no pretrial guidance established, the proceedings seemed to lurch about in the most unexpected of directions. Had we have had a real pretrial, the actual hearing I may not have turned out to be as bizarre as it turned out to be. Allow me to provide a blow by blow account as it was truly extraordinary. Lady Justice must have hung her head.

The Prosecutor opened the trial with a motion for a directed verdict based on the fact that I had admitted that the Moris Mine probably lost money and that I had not included a cautionary clause on currency fluctuations, as if his ill thought out accusations were an established fact. Somewhat ambushed as I was, it took some time to discuss what the actual issues were and that there might be something for the Hearing Examiner to decide that we might continue.

Following this, the prosecutor's witness testified, over my objection, that the Moris mine had lost money. I did not object to his statement that it had lost money, but for the reason that it was immaterial. Instead of having a ruling on that point, we proceeded. When I

attempted to cross examine to illustrate to the Hearing Examiner that it was indeed immaterial, the prosecutor objected to cross as the witness was not an expert, which was sustained.

During the course of argument/evidence that followed on this matter I attempted to inform the Hearing Examiner why the economics of a nearby mine, or one 5,000 miles away for that matter, had no bearing on what the economics of another mine might be, during which I commented that the price of gold fluctuates and the Moris Mine had the misfortune to be mining full scale when the price of gold plummeted to \$250 an ounce.

It was at this point that the Hearing Examiner broke in stating that he was unaware that the price of gold fluctuated and suggested that this fact as well should be made as a disclosure. He further stated that he thought that if you had a gold mine, it must be profitable. I felt as though I was in a mad house, weakly suggested that since I would be dealing with accredited investors, that they would perhaps know.

The case went on with allegations that I had guaranteed a \$310 an ounce profit (what the prosecutor was doing wallowing in this area I had no idea) with the witness stating that he felt that he had been guaranteed same, with the Prosecutor and Investigator indicating to the Hearing Examiner that my estimates and goals were quite mad- even thought, as stated previously, they had absolutely nothing to do with the specific charges of omissions and which I was not prepared to defend.

From there we ambled off into the area of currency valuations with the witness testifying, over my objection, that several companies had included language covering the subject in their prospectuses. When I attempted to suggest (how exactly do you provide testimony in rebuttal to the fact that three companies used such language) that it is an esoteric area and raise questions, the prosecutor, the hearing examiner, and the witness all indicated that they had no difficulty understanding the concept and that currency valuations could have a dramatic impact on the profitability of a mine.

By this time we had gone on for about three hours and were well into the time for a lunch break. The hearing examiner appeared to be going to sleep with his head in his hands and everyone, including myself, appeared to be quite sick of the whole thing.

Four months later the Hearing Examiner finally entered his report which, aside from the fact that no fraud was found, did not please either myself or the Prosecutor. The issues were not addressed.

It appears that the Hearing Examiner did not quite have a handle on the case, but felt somehow, intuitively, that there was something not quite right with the Prosecution's case. Accordingly, the Hearing Examiner, in a rambling manner, made a number of findings of fact, including all those statements the Prosecution included in its initial order that I found so objectionable and which the Commission reiterated in its order, recommending that I not be found guilty of fraud while throwing the Prosecutor a bone.

Your respondent believes that the prosecutors allegation of fraud are entirely baseless and that his inclusion of surplusage having no bearing on the specific charges (which were subsequently incorporated into the Hearing Examiners recommendations and re-broadcast by this commission in its decision) and broadcasting same on the web has trashed your respondents reputation irreparably.

The Commission piled on in its Commission News stating that "Before any Arizona Investors lost money" it was able to stop this fraud. Isn't that the implication that a fraud was in progress and that the Commission, valiant as it is, on a white horse rode in and stopped the fraud dead in its tracks. What right and on what grounds does the Commission News have to indicate that the Mesa Mine project is anything other than a marvelous project? Is there anything in the order that says so other than the immaterial innuendo and untrue statements reiterated?

It stated that Robert Timothy Watt was ordered to "stop promoting the gold mine" offering. Now that is not true, is it? I was enjoined from selling unregistered securities without a license, not from promoting the gold mine. The clear implication from this language is that the gold mine was a fraud. Can I not file a offering memorandum with the Commission and clearly have the right to sell an offering? Can't I sell it to an institutional investor?

The Commission reiterated the Hearing Examiner's finding that I had "alleged that a nearby mine had been extremely profitable." I guess that it not the commission's fault. It just echoed the Hearing Examiner's erroneous finding.

The Commission ended by warning investors to "ponder optimistic mining claims". That is fair. No one could agree more than I, but placing it in the same news article as the one pertaining to my being enjoined from selling unregistered securities is hitting way below the belt, particularly with all the innuendo and misstatements, because the implication is that I made wild claims impossible to fulfill, a liar, and a person of bad character who, in the Commission's opinion, is not to be believed.

As more fully addressed in Respondent's Exceptions, I stand behind every statement I made and believe that my pro forma estimates of profitability and goals to be reasonable, given a little cooperation from Mother Nature.

The Mesa Mine project is as good as any I have ever had for a small mine. I had the benefit of some of the best geological opinions available, a modern camp and 2,200' of production, not exploration, but a large production tunnel ending within 50' of the first vein based on GPS surveys with another 4 veins within 1000'.

All I lacked was a few dollars to acquire the project and test the premise. If the first vein is mineralized, as it should be based on the fact that bonanza grades- ounces of gold and kilos of silver in the hot spots- were recovered from surface mining, I would have probably have been mining the veins for the next 25 years.

The Commission is totally unjustified in stating or indicating anything other than it is an excellent opportunity. There is nothing in the testimony to the contrary. It would have been more professional had the Commission News simply stated that I had offered to sell unregistered securities without a license without all the surplusage, rhetoric, innuendo and untrue statements of fact.

A handwritten signature in black ink, appearing to read "Tim Watt". The signature is fluid and cursive, with the first letter of each word being significantly larger and more stylized than the others.

Tim Watt