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BEFORE THE ARIZONA CORPORATION COMMISSION

In the Matter of:

DOCKET NO. S-03550A-04-0000

ARTHUR B. COOPER
CRD #1856331
8025 E. Redwing
Scottsdale, Arizona 85250

**RESPONDENTS' NOTICE OF
BANKRUPTCY FILING AND
MOTION TO CONTINUE
HEARING**

LINDA EBINGER-COOPER
CRD #1353173
8025 E. Redwing
Scottsdale, Arizona 85250

(Expedited Oral Argument Requested)

Respondents.

Notice is hereby given that Respondents Arthur Cooper and Linda Cooper have filed for bankruptcy protection with the U.S. Bankruptcy Court in Phoenix. Attached is a copy of the voluntary petition for bankruptcy and the *Declaration Re: Electronic Filing*.

After consulting with bankruptcy counsel for Mr. and Mrs. Cooper, the consensus is that this firm cannot represent Mr. and Mrs. Cooper in the ACC matter, or in connection with a motion for ruling with the Bankruptcy Court regarding applicability of the automatic stay, unless counsel complies with 11 U.S.C., §§ 327-331. This involves making an application to the Bankruptcy Court to be appointed to represent Mr. and Mrs. Cooper and obtaining the Court's ruling authorizing this firm's continued employment.

1 Counsel does not believe that the foregoing can be accomplished by the
2 November 1st hearing date. Therefore, Respondents ask that this hearing be continued
3 for a period of at least thirty days so that this firm can be properly appointed as
4 Respondents' counsel for the limited purpose of representing them in this administrative
5 action and/or seeking the Bankruptcy Court's order regarding the applicability of the
6 automatic stay.

7 After conferring with the ACC's counsel, it appears that the ACC does not
8 believe that the automatic stay applies to the upcoming hearing. However, it is clearly in
9 the parties' best interest to have the Bankruptcy Court make the final decision regarding
10 the stay. *See Contractors' State License Bd. v. Dunbar*, 245 F.3d, 1058 (9th Cir. 2001).
11 In that case, the court held that actions taken in violation of the automatic stay, including
12 actions taken by a state court or by an administrative agency, are void *ab initio*. 245
13 F.3d at 1063. In addition, the court concluded that the final determination regarding the
14 applicability of the stay belongs to the Bankruptcy Court. *See also McGhan v. Rutz*, 288
15 F.3d 1172 (9th Cir. 2002).

16 Although the hearing date is rapidly approaching, the ACC should suffer no
17 prejudice by a short continuance as the Respondents are not a threat to the public.
18 Indeed, they are not engaged in any activities involving the alleged past securities
19 violations or misconduct, nor are they licensees. On the other hand, there are potential
20 serious ramifications to the Respondents, the ACC and this law firm if this matter
21 continues in violation of federal bankruptcy law.

22 WHEREFORE, Respondents request an order postponing the November 1st
23 hearing and having it scheduled to a mutually convenient date for the parties.
24
25
26

1 RESPECTFULLY SUBMITTED this 27th day of October, 2005.

2 CHESTER & SHEIN, P.C.

3
4
5 By: 

6 Mark D. Chester, Esq.
7 8777 N. Gainey Center Drive, Suite 191
8 Scottsdale, Arizona 85258-2106
9 Attorneys for Respondents

10 **Original** and thirteen (13) copies of the foregoing
11 delivered this 28th day of October, 2005, to:

12 Docket Control
13 ARIZONA CORPORATION COMMISSION
14 1300 West Washington, 1st floor
15 Phoenix, Arizona 85007

16 **Copies** of the foregoing delivered this
17 28th day of October, 2005 to:

18 Wendy Coy, Esq.
19 Securities Division
20 ARIZONA CORPORATION COMMISSION
21 1300 West Washington, Third Floor
22 Phoenix, Arizona 85007

23 Matthew Neubert, Esq.
24 Director of Securities
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