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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2006 SEP 22 A 8: 55

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF:

DOCKET NO. S-20426A-05-0768

GARY WAYNE HARDY, CRD# 1298371,
dba HARDY ASSET MANAGEMENT, and
SHERRY HARDY, husband and wife
1711 W. Gary Drive
Chandler, AZ 85224

Arizona Corporation Commission

DOCKETED

SEP 22 2006

HARDY ASSET MANAGEMENT, a sole
proprietorship
4625 S. Wendler Drive, Ste. 111
Tempe, AZ 85282

DOCKETED BY
NR

Respondents.

PROCEDURAL ORDER

BY THE COMMISSION:

On October 27, 2005, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity of Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, for Administrative Penalties, of Revocation, and for Other Affirmative Action ("Notice") against Gary Wayne Hardy, Sherry Hardy and Hardy Asset Management ("Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities.

Respondents were duly served with a copy of the Notice.

On November 10, 2005, Respondent Gary Wayne Hardy filed a request for hearing.

On November 23, 2005, Respondent Gary Wayne Hardy filed a second request for hearing and an Answer.

On November 23, 2005, counsel for Respondent Sherry Hardy filed a Notice of Bankruptcy Filing.

On December 5, 2005, by Procedural Order, a pre-hearing conference was scheduled for February 16, 2005.

1 On December 13, 2005, the Division filed a Notice of Dismissal of Respondent Sherry Hardy
2 from the proceeding.

3 On December 23, 2005, Respondent Gary Wayne Hardy filed a request for a continuance of
4 the pre-hearing stating that he was currently in the custody of the Maricopa County Sheriff and was
5 scheduled to be transferred to the custody of the Arizona Department of Corrections ("ADOC") on
6 February 16, 2006. According to Mr. Hardy, his anticipated release date from custody was to be
7 April 28, 2006. Mr. Hardy further advised that his mailing address would be changed as of January
8 5, 2006.

9 On January 4, 2006, by Procedural Order, the pre-hearing conference scheduled for February
10 16, 2006, was continued indefinitely and the Division was ordered to file a Motion to Reschedule the
11 pre-hearing conference after Mr. Hardy's release from custody.

12 On August 1, 2006, the Division filed a Motion to Amend the Notice which was served upon
13 the Respondent while incarcerated. Mr. Hardy did not file a response.

14 On August 29, 2006, the Division filed a request to reschedule the pre-hearing conference and
15 indicated that Mr. Hardy had been released from the ADOC's custody.

16 On August 30, 2006, by Procedural Order, the pre-hearing conference was rescheduled for
17 September 22, 2006, and the Division's Motion to Amend the Notice was granted.

18 On September 14, 2006, Mr. Hardy filed a letter in which he indicated that he had been
19 indicted in federal court on matters related to the Notice herein and requested that the Commission's
20 administrative proceeding be stayed until the conclusion of the criminal proceeding.

21 On September 22, 2006, the Division appeared through counsel. Mr. Hardy did not appear.
22 The Division requested that a hearing be scheduled and cited case law in support of its request that
23 the administrative proceeding go forward because the United States Constitution does not ordinarily
24 require that a civil proceeding be stayed pending the resolution of criminal charges.

25 Accordingly, a hearing should be scheduled and, in the interim, the Respondent may contact
26 the Division's counsel if he wishes to settle the issues raised in the administrative proceeding and end
27 the litigation before the Commission.

28 IT IS THEREFORE ORDERED that a **hearing** shall be held on **November 16, 2006, at 9:30**

1 a.m., at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona.

2 IT IS FURTHER ORDERED that the **Division and Respondent shall exchange copies of**
3 **their exhibits and their lists of witnesses by November 1, 2006**, with courtesy copies provided to
4 the presiding Administrative Law Judge.

5 IT IS FURTHER ORDERED that Respondent, Mr. Hardy, shall contact by October 31, 2006,
6 the Division's counsel, Ms. Pamela Johnson, if he wishes to enter into a Consent Agreement to
7 negate the need for further litigation before the Commission.

8 Dated this 22nd day of September, 2006

9
10
11 
12 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered
this 22 day of September, 2006 to:

14 Gary Hardy
15 c/o Allen and Betty Hardy
16 8322 E. Dutchman Drive
17 Mesa, AZ 85208
**FIRST CLASS MAIL AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

18 Donald L. Gaffney
19 SNELL & WILMER
20 One Arizona Center
21 400 E. Van Buren
Phoenix, AZ 85004
Attorneys for Sherry Hardy

22 Matt Neubert
23 Securities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix; AZ 85007

24 ARIZONA REPORTING SERVICE, INC.
25 2627 N. Third Street, Ste. Three
26 Phoenix, Arizona 85004-1126

27 By: 
28 Molly Johnson
Secretary to Marc E. Stern