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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

JUN 27 2003

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF:

MUTUAL BENEFITS CORPORATION,

Respondents.

DOCKET NO. S-03464A-03-0000

THIRD
PROCEDURAL ORDER

BY THE COMMISSION:

On June April 30, 2003, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Mutual Benefits Corporation ("MBC" or "Respondent"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of life and viatical settlements ("viaticals") and/or investment contracts.

The Respondent was duly served with a copy of the Notice.

On May 13, 2003, a request for hearing was filed for MBC.

On May 15, 2003, by Procedural Order, a pre-hearing conference was scheduled.

On June 4, 2003, Respondent filed a Motion to Quash Subpoena ("Motion") of third party, Ms. Debbie Bugliera. The subpoena issued to Ms. Bugliera was issued on May 6, 2003 after the Notice herein was issued. The subpoena references this proceeding on its face and a copy was not served on the Respondent. Subsequently, Ms. Bugliera did not appear in response to the Division's subpoena to give testimony under oath and Respondent filed the Motion herein.

On June 5, 2003, the Division and the Respondent appeared by counsel to address issues raised in the proceeding. The parties agreed that a second pre-hearing conference should be scheduled in early August, 2003 after some initial discovery had taken place in order that a hearing could be scheduled once the approximate number of witnesses was determined and whether certain matters could be resolved by stipulation. By Procedural Order, a pre-hearing conference was scheduled on August 5, 2003.

1 On June 17, 2003, the Division filed its Response in opposition to the Respondent's Motion.
2 While presenting a number of legal arguments against the Motion, the Division acknowledged that
3 "Pre-hearing discovery in agency proceedings is a matter of agency discretion."

4 On June 24, 2003, the Respondent filed its Reply to the Division's Response essentially
5 restating its earlier arguments that the Arizona Rules of Civil Procedure ("ARCP") should apply as
6 stated by Commission rule, A.A.C. R14-3-109(P).

7 Under the circumstances, although the Motion should not be granted to quash the subpoena, if
8 it is reinstated, proper notice should be provided and Respondent's counsel should have an
9 opportunity to participate as set forth in the ARCP.

10 IT IS THEREFORE ORDERED that the Motion to Quash Subpoena is denied; however, if
11 the subpoena discussed above is reinstated, proper notice should be given pursuant to the ARCP to
12 Respondent's counsel who shall have an opportunity to participate consistent with the ARCP.

13 DATED this 27th day of June, 2003.

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16 
17 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

18 Copies of the foregoing mailed/delivered
19 this 27th day of June, 2003 to:

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