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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

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2007 AUG 14 P 2: 25
AZ CORP COMMISSION
DOCKET CONTROL

30 NE

STAFF OF THE UTILITIES DIVISION,
Complainant

DOCKET NO. W-02258A-07-0470

vs.

AMERICAN REALTY & MORTGAGE CO.,
INC. DBA HACIENDA ACRES WATER
SYSTEM,
Respondent

NOTICE OF ERRATA

On August 13, 2007, Staff filed a Complaint and Petition for an Order to Show Cause. Although the caption of the Order displays the correct docket number, Staff inadvertently inserted the incorrect docket number on the Order to Show Cause pages 2 through 9. The correct docket number is W-02258A-07-0470.

RESPECTFULLY submitted this 14th day of August, 2007.

Kenya S. Collins
Attorneys, Legal Division
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

Original and thirteen (13) copies of the foregoing were filed this 14th day of August, 2007 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

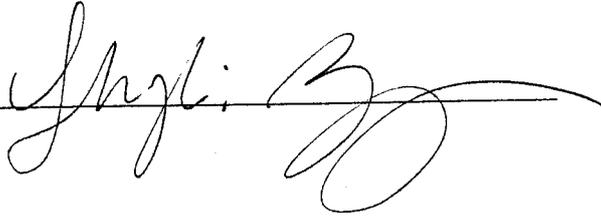
Arizona Corporation Commission
DOCKETED

AUG 14 2007

DOCKETED BY

1 Copy of the foregoing mailed
this 14th day of August, 2007 to:

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3 Joseph W. Lee
4 American Realty & Mortgage Co., Inc.
5 P.O. Box 232
6 Wittman, Arizona 85361

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MIKE GLEASON
Chairman
3 WILLIAM A. MUNDELL
Commissioner
4 JEFF HATCH-MILLER
Commissioner
5 KRISTIN K. MAYES
Commissioner
6 GARY PIERCE
Commissioner
7

8 STAFF OF THE UTILITIES DIVISION,
Complainant

9 vs.
10

11 AMERICAN REALTY & MORTGAGE CO., INC.
DBA HACIENDA ACRES WATER SYSTEM,
Respondent
12

DOCKET NO. W-02258A-07-0470

ORDER TO SHOW CAUSE

DECISION NO. _____

13 **OPEN MEETING**

14 **PHOENIX, ARIZONA**

15 **BY THE COMMISSION:**

16 On August 13, 2007, the Staff of the Utilities Division ("Staff") of the Arizona Corporation
17 Commission ("Commission"), file a Complaint and Petition for Order to Show Cause against
18 American Realty & Mortgage Co. dba Hacienda Acres Water System ("Hacienda" or "Company"),
19 an Arizona Public Service Corporation. Staff seeks an Order to Show Cause against Respondent
20 Hacienda.

21 Staff asserts that Hacienda has violated numerous provisions of Arizona law, including
22 Commission Rules, Orders and provisions of the Arizona Revised Statutes. Count I of Staff's
23 Complaint alleges that Hacienda has failed to make reasonable efforts to supply a satisfactory and
24 continuous level of service, and has additionally failed to make reasonable provisions to meet
25 emergencies that may result from failure of service in violation of A.A.C. R14-2-407(C) and (D).
26 Count II of Staff's Complaint alleges that Hacienda has failed bill its customers on a regular monthly
27 basis in violation of A.A.C. R14-2-409(A)(1). Count III of Staff's Complaint alleges that Hacienda
28 has failed to maintain its 2004 and 2005 annual utility reports as prescribed by the Commission and

1 has failed to submit its 2006 annual utility report in violation of A.R.S. § 40-221. Count IV of the
 2 Staff's Complaint alleges that Hacienda has violated its obligation to provide service to customers
 3 within its certificated area. Count V of Staff's Complaint alleges that Hacienda has violated its
 4 obligation to keep its taxes current. Under Count VI of Staff's Complaint, given Hacienda's
 5 continued failure to provide for the safety and health of its customers, Staff requests that the
 6 Commission consider appointment of an interim manager (the "Manager") selected by Staff for
 7 Hacienda until further order of the Commission, upon reasonable terms and conditions agreed
 8 between the Manager and Staff, with full authority to conduct the business affairs of Hacienda's
 9 water system.

10 * * * * *

11 Having considered the entire record herein and being fully advised in the premises, the
 12 Commission finds, concludes and orders that:

13 **FINDINGS OF FACT**

14 1. Pursuant to Decision No. 44444, issued August 1, 1974, Hacienda received a
 15 Certificate of Convenience and Necessity ("CC&N") to provide water service in Pinal County. As a
 16 condition of its CC&N, Hacienda is required to comply with Arizona law, Commission Orders, and
 17 Commission Rules and Regulations.

18 2. On June 6, 2007, Hacienda filed a Curtailment Plan Tariff with the Commission. In
 19 the Curtailment Plan Tariff, Mr. Joseph Lee (a Company representative) made changes to the
 20 Curtailment Plan Tariff which stated that each customer should take immediate steps to obtain a
 21 personal back-up water supply. Additionally, Mr. Lee terminated services for the back-up well due
 22 to nonpayment, which was leased to Hacienda by the Lee Family Trust. Staff recommended a
 23 suspension of the tariff due to Mr. Lee's unwillingness to haul water in the event the Company
 24 entered into Stage 3 and/or Stage 4 of the Curtailment Plan Tariff.

25 3. Between June 11, 2007 and June 19, 2007, Staff received five calls from customers
 26 regarding the letter sent to them by Hacienda about the Curtailment Plan Tariff and the financial
 27 status of the Company. The letter notified the customers that Hacienda had filed a Curtailment Plan
 28 Tariff with the Commission. It also advised the customers that the Company was in Stage 3 and

1 would likely enter Stage 4 as summer temperatures rose, and that at times, it was likely that no water
2 service would be available. According to the letter, the Company was on the verge of bankruptcy.
3 Customers also advised Staff that they were not being billed on a regular monthly basis.

4 4. On June 21, 2007, Staff met onsite with Mr. Lee and three customers. The visit was
5 scheduled to aid Staff in answering questions about the Curtailment Plan Tariff that might be posed
6 during Open Meeting scheduled for June 26, 2007 and June 27, 2007, and to meet with customers
7 regarding their concerns. Arizona Department of Environmental Quality ("ADEQ") staff was also
8 present.

9 5. On July 12, 2007, Staff received from ADEQ the Drinking Water Compliance Status
10 Report, which showed that the nitrates found in drinking water produced by Hacienda exceeded the
11 maximum level allowed. In addition, the report showed that Hacienda has failed to complete the
12 bacteria testing required by law.

13 6. In further reviewing the viability of the water system, Staff detected the following
14 errors in the Company's 2004 and 2005 annual utility reports:

- 15 a. There was no mention that the Company was doing business as Hacienda
16 Acres Water Company.
- 17 b. There was no onsite manager listed.
- 18 c. No dollar value was reflected for two (2) wells and two (2) pumps.
- 19 d. The Original Cost Less Depreciation ("OCLD") value was incorrect.
- 20 e. The Depreciation expense was incorrect.
- 21 f. Total fixed assets were incorrect.
- 22 g. Total liabilities and capital was incorrect.
- 23 h. Accumulated depreciation (instead of depreciation expense) was incorrectly
24 deducted in the income statement.
- 25 i. Interest expense from unauthorized loans was incorrectly deducted in the
26 income statement.
- 27 j. Water use data sheets were incomplete and/or incorrect.
- 28 k. No copies of property tax bills or canceled checks were attached, as required.

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- l. The income tax page was blank and/or incomplete.
- m. The 2005 annual utilities report indicated that the Company's 2005 property and sales taxes were not current.
- n. The Verification page for Intrastate Revenues included in the 2005 annual utilities report was blank.
- o. The reports were filed late without any request for an extension of time to file.
- p. The system does not have a licensed operator.
- q. The Company has not filed its 2006 annual report.

7. Staff requests that the Commission issue an Order to Show Cause directing Hacienda to appear and show cause:

- a. why its actions do not represent a violation of A.A.C. R14-2-407(C) and (D);
- b. why its actions do not represent a violation of A.C.C. R14-2-409(A)(1);
- c. why its actions do not represent a violation of A.R.S. § 40-221;
- d. why its actions do not represent a violation of its obligation as a public service corporation;
- e. why its actions do not represent a violation of its obligation to keep its taxes current;
- f. why a qualified Manager should not be immediately appointed , as selected by Staff;
- g. why Hacienda should not be ordered to cooperate with and indemnify, defend, and hold harmless the Manager;
- h. why the Manager should not be given the authority to explore, negotiate, and implement a long-term water supply solution for Hacienda;
- i. why Hacienda should not be required to find an additional, adequate, safe and permanent source of water to serve its customers;
- j. why other relief deemed appropriate by the Commission should not be ordered.

1 IT IS THEREFORE ORDERED that Staff shall immediately commence efforts to obtain an
2 agreement with an interim operator who shall assume operation of Hacienda as soon as possible on
3 an interim basis pending further order of the Commission in this docket.

4 IT IS THEREFORE ORDERED that Hacienda shall cooperate fully with the interim operator
5 and supply all necessary documents, records, and other information requested by the interim operator.

6 IT IS THEREFORE ORDERED that if Hacienda intends to appear and show cause as ordered
7 above it shall file within 10 days of the effective date of this Order, a preliminary statement
8 describing how it will make the showing of cause. Said filing shall include and Answer to Staff's
9 Complaint if the Respondent has not yet filed an Answer.

10 IT IS THEREFORE ORDERED that the Hearing Division shall schedule further appropriate
11 proceedings.

12 IT IS THEREFORE ORDERED that this Decision shall become effective immediately.

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BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2006.

BRIAN C. McNEIL
Executive Director

DISSENT: _____

DISSENT: _____

EGJ:KDB:lhm\DMR:sab

1 SERVICE LIST FOR: American Realty & Mortgage Co., Inc.
2 dba Hacienda Acres Water System
3 Docket Nos. W-02497A-06-0580

4 Joseph W. Lee
5 American Realty & Mortgage Co., Inc.
6 P.O. Box 232
7 Wittman, Arizona 85361
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