



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

In the matter of:

AGRA-TECHNOLOGIES, INC. (a/k/a ATI),  
a Nevada corporation,  
5800 North Dodge Avenue, Bldg. A  
Flagstaff, Arizona 86004-2963;

DOCKET NO. S-20484A-06-0669

WILLIAM JAY PIERSON (a/k/a BILL  
PIERSON),  
and SANDRA LEE PIERSON (a/k/a SANDY  
PIERSON),  
husband and wife,  
6710 Lynx Lane  
Flagstaff, Arizona 86004-1404;

REPLY IN SUPPORT OF SECURITIES  
DIVISION'S MOTION FOR RULING  
THAT RESPONDENTS' "ORE RIGHTS &  
MINING AGREEMENT" INVESTMENTS  
ARE UNREGISTERED SECURITIES

RICHARD ALLEN CAMPBELL (a/k/a DICK  
CAMPBELL),  
and SONDR A JANE CAMPBELL,  
husband and wife,  
8686 West Morten Avenue  
Glendale, Arizona 85305-3940;

(Administrative Law Judge Marc Stern)

Arizona Corporation Commission  
DOCKETED

SEP -7 2007

DOCKETED BY  
KLC nr

WILLIAM H. BAKER, JR. (a/k/a BILL  
BAKER), and PATRICIA M. BAKER,  
husband and wife,  
3027 N. Alta Vista  
Flagstaff, Arizona 86004;

JERRY JOHNSTON HODGES,  
1858 Gunlock Court  
Saint George, Utah 84790-6705;

LAWRENCE KEVIN PAILLE (a/k/a LARRY  
PAILLE),  
220 Pinon Woods Drive  
Sedona, Arizona 86351-6902;

Respondents.

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2007 SEP -7 P 12: 20  
AZ CORP COMMISSION  
DOCKET CONTROL

1 As evidenced by Respondents' Opposition, there is no legal reason to litigate the issue of  
2 whether the Unit Contracts constitute unregistered securities at the upcoming hearing. They are.  
3 Respondents provided no controverting evidence that creates a question of fact, primarily because  
4 there is none. Analogous to the oranges at issue in the *Howey* decision, Respondents primarily and  
5 unpersuasively argue that the Unit Contract investors that reside, for instance, in Great Britain or  
6 New York, could theoretically take possession of their 50+ tons of volcanic cinders, and have them  
7 shipped to their residence or elsewhere in an attempt to extract the "precious metals" from them.  
8 (Agra's Controverting Statement of Facts ("CSOF"), at ¶¶2-4). Respondents admitted in their  
9 EUO's that no Unit Contract investor has ever requested to, or taken possession of their many tons  
10 of cinders. All known, undisputed evidence (versus speculation) demonstrates that all Unit  
11 Contract investors purchased their investment based on Respondents' claim that they could extract  
12 precious metals from the cinders for the parties' mutual profit. (**Tab 2, Supplemental Affidavit of**  
13 **Gary Clapper, at ¶¶1-10).**

14 Because the Division has presented a prima facie, uncontroverted case that the Unit  
15 Contracts constitute: (a) investment contracts; and/or (b) commodity investment contracts, the  
16 Division is entitled to a ruling that the Unit Contracts constitute securities.

17 **1. Respondents' Alleged Failure to Attempt to Conduct Discovery is Irrelevant.**

18 Respondents first argue that the Motion should not be granted because they have been  
19 unable to conduct discovery. They are not correct. Respondents have actual or constructive  
20 possession of all of the documents at issue: (a) there is no dispute that Agra employs, or employed  
21 Respondents Pierson, Baker, Campbell, Paille & Hodges at all times relevant; and (b) Respondents  
22 have the ability to contact and interview witnesses in this matter, such as Agra investors, third-  
23 party vendors paid by Agra, and other Agra Plant employees, etc.

24 Further, the Administrative Procedures Act, A.R.S. §§ 41-1001 to 1092.12 (the "APA"),  
25 applies to this proceeding. A.R.S. § 41-1062(4) states that Respondents may conduct pre-hearing  
26 depositions or issue subpoenas for documents on a showing of need. Respondents have not applied

1 to conduct discovery under A.R.S. § 41-1062(4), nor have they offered any arguments or evidence  
2 in support of their alleged “need” to conduct such discovery.

3 Also, the Division voluntarily offered to, and actually provided Respondents with copies of  
4 the documents that Respondents Agra, Pierson and Baker provided to the Division. (Tab 1). The  
5 Division also encouraged the Respondents to exchange documents amongst themselves. Given that  
6 all Respondents are essentially subject to the same allegations set forth in the First Amended  
7 TC&D, it follows that they would have cooperated with each other via interviews, document  
8 sharing, affidavits, etc. Apparently, they have not, and such fact cannot be used to defeat the  
9 Division’s Motion.

10 The Respondents possess avenues for discovery that they have failed to use. They have  
11 actual or constructive possession of any exculpatory evidence that exists to support their primary  
12 argument that a Unit Contract investor has a realistic option to take possession of their many tons  
13 of cinders. The Respondents’ own documents are those relevant to whether the Unit Contracts are  
14 securities. Thus, their Opposition lacks merit and the Division’s Motion should be granted.

15 **2. Respondents’ Failed to Provide Any Controverting Evidence.**

16 Respondents’ Objections to the Division’s Motion (“Objection 1”) and its Statement of  
17 Facts (“Opposition 2”) are not supported by any independent, controverting documentary evidence,  
18 affidavits or declarations.

19 “A party opposing a motion for summary judgment may not rest on the pleadings; it must  
20 respond with specific facts showing a genuine issue for trial.” *Kelly v. NationsBanc Mortgage*  
21 *Corp.*, 199 Ariz. 284, 287, 17 P.3d 790, 793 (App. 2000) (summary judgment granted in improper  
22 foreclosure lawsuit where bank’s accounting was not opposed by the plaintiffs, for instance, via  
23 records or affidavit). “Summary Judgment should be granted if the facts produced in support of the  
24 . . . defense have so little probative value, given the quantum of evidence required, that reasonable  
25 people could not agree with the conclusion, advanced by the proponent of the . . . defense.” *See*  
26 *Mullenaux v. Grahma County*, 207 Ariz. 1, 2, 82 P.3d 362, 363 (App. 2004).

1 Thus, taking substance over form and considering the economic reality of the Unit Contract  
 2 investments in light of *Howey* and its Arizona progeny, it is undisputed that: (1) persons invested  
 3 money in the Unit Contracts; (2) with an expectation of “significant profit;” and (3) based  
 4 primarily on Respondents’ purported ability to extract “precious metals” from the cinders. *Rose v.*  
 5 *Dobras*, 128 Ariz. 209, 212, 624 P.2d 887, 890 (App. 1981) (in analogous case where apple  
 6 orchard investor had “substantial oversight” of their investment, and the right to fire the  
 7 seller/orchard manager, court held that investment was an investment contract, noting that in  
 8 making a security determination, “form should be disregarded for substance and the emphasis  
 9 should be on economic reality.”); (CSOF, ¶¶2-4; Tab 2, ¶¶2-9).

10 Thus, there are no genuine questions of material fact and the Division is entitled to a ruling  
 11 that the Unit Contracts constitute securities as a matter of undisputed fact and law.

12 **3. Respondents’ Reliance the Technical Rules of Evidence Lacks Merit.**

13 Ignoring applicable review standards, Respondents object to the Divisions’ evidence on  
 14 authentication and hearsay grounds. (Objection 2). Article 6 of the APA sets forth the parameters  
 15 of admissible evidence in these proceedings.<sup>1</sup> Irrelevant evidence shall not be admitted in the  
 16 administrative proceeding. *Id.* The APA also uses the term “substantial, reliable, and probative” in  
 17 describing the type of evidence upon which an agency decision must rest. *Id.* Given the fact that  
 18 Respondents’ CSOF is entirely based on the Division’s own SOF exhibits, the Division’s evidence  
 19 is clearly relevant, substantial, reliable and probative.

20 All of the Division’s evidence was authenticated as being Respondents’ business records in  
 21 their EUO’s. Finally, the affidavit of Gary Clapper is actually based on his own personal  
 22 knowledge, including his review of the business records submitted by the Respondents to the  
 23 Division. (*See e.g.*, Division’s SOF, Exhibit 7, ¶¶5-7, Exhibit 9, pp.6:1 to 8:20, Exhibit 2, Paille  
 24  
 25

26 <sup>1</sup>A.R.S. §41-1061(A)(1). Similarly, R14-3-109(K) specifically states that any hearing, investigation or inquiry may be conducted in an informal manner without adherence to the technical rules of evidence.

1 Typed & Signed Statement Stating that he provided the Unit Contract brochure to potential  
2 investors, etc.; **Tab 3**, Campbell Business Record/Custodian Affidavit).

3 Respondents claim there is no proof that Tabs 1-5 of the Division's Statement of Facts  
4 ("SOF") were provided to investors. (Opposition 2, p.3:24-25). In reality, Tab 2 to the Division's  
5 SOF includes a typed and signed Paille statement that states he provided new investors with a copy  
6 of the Unit Contract standard form brochures attached as Tabs 1-5 to the Division's SOF. Indeed,  
7 a Unit Contract investor's alleged option to take possession of their cinders is included within the  
8 Unit solicitation materials attached as Tabs 1-5 of the Division's SOF, and not in the actual 2 page  
9 Unit Contract document itself as discussed further below. In addition, documents within Tabs 1-5  
10 of the Division's SOF were authenticated in the Campbell, Paille, Hodges and Baker EUO's.  
11 Thus, the Division's Motion should be granted.

12 **4. By Respondents' Own Purported Facts, the Unit Contracts are Unregistered**  
13 **"Commodity Investment Contract" Securities.**

14 Respondents admit that a "commodity" is defined under A.R.S. § 44-1801 (6) as any metal  
15 or mineral including a precious metal. (Opposition 1, at p. 6:7-8). In their CSOF, Respondents  
16 further argue that the Unit Contract investors/cinder purchasers can extract "precious metals" from  
17 their cinders and sell the same on the open market "for a significant profit." (CSOF, ¶¶2, 4).  
18 Respondents **do not** allege that the Unit Contract investors can sell their volcanic cinders for a  
19 profit, but rather their CSOF is necessarily based only on the alleged "precious metals" and  
20 "metals" contained in the cinders (COSF, ¶¶2-4). Thus, Respondents' own facts conclusively  
21 establish that the Unit Contracts are commodity investment contracts as a matter of law.

22 Because Respondents argue that that the fundamental value of the Unit Contract investment  
23 is the precious metals allegedly contained in the cinders, and not merely the cinders themselves, the  
24 Judge should issue a ruling that the Unit Contracts constitute "commodity investment contract"  
25 securities as a matter of undisputed fact, A.R.S. §§ 44-1801(6) & 26 and Arizona case law.  
26

1 **5. Respondents' Investment Contract Analysis is not Supported by the Undisputed, Objective Facts.**<sup>2</sup>

2 **A. Respondents' Unrealistic, Hypothetical Argument that a Unit Contract**  
 3 **Investor Has the Purported Ability to Take Possession of and Process their**  
 4 **Volcanic Cinders Lacks Merit.**

5 Respondents have not shown any proof that any Unit Contract investor has ever: (a)  
 6 requested to take possession of their many tons of volcanic cinders (i.e., 50, 100, 150, 200+ tons);  
 7 (b) somehow took possession of their massive tonnage of cinders; and (c) had the cinders  
 8 transported to some far away location at great cost and expense in an effort to extract precious  
 9 metals from them. (Tab 2, ¶¶6-10). They cannot. Additionally, the standard form Unit Contract  
 10 acknowledgement letters signed by Respondent Pierson and issued to Unit Contract investors  
 11 unambiguously state:

12 We thank you for allowing us to process your ore entitlement, and we look forward  
 13 to servicing the agreement for maximum results.

14 (*Id.*, ¶7).

15 Also, if investors could take possession of their cinders, and actually desired to do so, one  
 16 would expect that the Respondents would have provided investors with even minimal, written  
 17 instructions on how they could do so at the time of their Unit Contract investment. After reviewing  
 18 approximately 75,000+ documents, the Division believes that no such documents exist. (*Id.*, ¶6).

19 That a Unit Contract does not have a realistic option to take possession of their many tons  
 20 of volcanic cinders is further supported by the undisputed fact that such investor and/or Agra  
 21 would have to pay the current owner of Sheep Hill substantial sums of money to handle, process  
 22 the cinders to manageable size and have them shipped. Each 50 tons of volcanic cinders purchased  
 23 by a Unit Contract would have to be transported by 2 eighteen wheel tractor trailers. A Unit

24 <sup>2</sup> As a threshold matter, Respondents concede that under the plain language of the Unit Contract  
 25 investments, Respondents and a Unit Contract investor were to share in any profits resulting from precious  
 26 metals extracted from the cinders. Thus, the *Howey* element of commonality via vertical privity is  
 established. As evidenced by their own documents and their CSOF, Respondents also agree that "investors"  
 invested money with Respondents with the expectation of "significant profits." Thus, the first *Howey*  
 element is also satisfied.

1 Contract investor would also have to obtain permission to enter onto Sheep Hill in an attempt to  
2 take possession of their cinders. (Tab 2, ¶¶6-9).

3 Finally, many out-of-state Unit Contract investors purchased multiple Unit Contracts,  
4 thereby creating a situation whereby they would have to pay for handling, processing and shipping  
5 100, 150 or 200+ tons of their volcanic cinders to, for instance, Vancouver, Canada, Great Britain  
6 or New York, etc. Such an alleged option is impractical and unrealistic. Because all Unit Contract  
7 investors necessarily relied on Respondents' purported "undeniably significant" efforts to extract  
8 precious metals from the cinders for the parties' mutual profit, the Division is entitled to a ruling  
9 that the Unit Contracts constitute investment contract securities. *Sullivan v. Metro Productions,*  
10 *Inc.*, 150 Ariz. 573, 577, 724 P.2d 1242, 1246 (App. 1986).

11 **B. The Unit Contracts are Securities.**

12 Respondents next claim that the Unit Contracts are not "investments," and that the  
13 Division's use of the terms, "investor" and "investment" is improper. (Opposition SOF, at p.5:25  
14 to 6:4). Again, Respondents offer no evidence that anyone purchased the Unit Contracts for any  
15 other reasons than the promise of great profits based on Respondents' efforts. Respondents also  
16 ignore the fact that Respondents Hodges and Paille admitted in their November 22, 2006 Answer  
17 that they were Agra's general agents and *securities salespersons*, and that they sold approximately  
18 189 Unit Contract investments. (Hodges and Paille Answer, ¶¶9, 11, 15-19, 25).

19 Most importantly, Respondents ignore the undisputed fact that the executed general agent  
20 contracts they provided to the Division repeatedly, and expressly admit that the Unit Contracts  
21 were to be sold to "investors." (Tab 2, ¶¶2-3). Indeed, even Respondents' CSOF state that Unit  
22 Contract investors may purportedly sell their "precious metals" on "the open market for a  
23 significant profit." (CSOF, ¶¶2,4). Again, Respondents fail to offer any evidence that even one  
24 Unit Contract investor purchased a Unit Contract for any other reason than Respondents'  
25 representations that they could, or would be able to extract marketable quantities of "precious  
26 metals" from the volcanic cinders at a "significant profit." (CSOF, ¶¶2,4). They cannot. Also,

1 Paille, Agra's authorized general agent and securities salesperson expressly acknowledged that the  
2 persons who purchased the Unit Contracts were "investors." (SOF, Tab 2, ACC015303).<sup>3</sup>  
3 Hodges and Paille also repeatedly referred to Unit Contract purchases as investors in their  
4 communications with Respondents. (Tab 2, ¶6).

5 Finally, Respondents have provided no evidence or argument that any Unit Contract  
6 investor purchased their investment and/or 50+ tons of volcanic cinders for any reason other than  
7 promised future profit. Given that the Unit Contract investors' Petition and letters, and  
8 Respondents own General Agent contracts unambiguously reference the investors' desire to  
9 purchase the Unit Contract investment for profit, there is no dispute that investors purchased the  
10 Unit Contracts with an expectation of profit. Thus, the Unit Contracts constitute investment  
11 contract investments.

12 **6. Non-Registration.**

13 Respondents failed to offer any arguments or evidence contradicting the evidence offered  
14 by the Division demonstrating that the Unit Contracts are not registered to be offered or sold within  
15 Arizona, or that the Unit Contracts are exempt from registration as required by A.R.S. § 44-2033.

16 **7. Conclusion.**

17 Based on the foregoing, the Division respectfully requests the Judge to issue a ruling that  
18 the Unit Contracts at issue constitute unregistered securities.

19 **RESPECTFULLY SUBMITTED** this 7<sup>TH</sup> day of September, 2007.



20  
21  
22 J. Micheal Dailey, Esq.  
23 Enforcement Attorney  
24 Securities Division  
25 1300 West Washington, Third Floor  
26 Phoenix, Arizona 85007

<sup>3</sup> See, Paille and Hodges November 22, 2006 Answer to the original TC&D at ¶¶9, 11, 19, 25 & 26.

1 **ORIGINAL AND THIRTEEN (13) COPIES**  
2 of the foregoing filed this 7<sup>th</sup> day of  
3 September, 2007 with:

4 Docket Control  
5 Arizona Corporation Commission  
6 1200 West Washington  
7 Phoenix, Arizona 85007

8 Copy of the foregoing hand-delivered this 8<sup>th</sup> day  
9 of September, 2007 to:

10 Mr. Marc Stern  
11 Administrative Law Judge  
12 Arizona Corporation Commission  
13 Hearing Division  
14 1200 West Washington  
15 Phoenix, Arizona 85007

16 Copy of the foregoing mailed this 8<sup>th</sup> day  
17 of September, 2007 to:

18 Lonnie Williams  
19 Carrie M. Francis  
20 Quarles & Brady Streich Lang, L.L.P.  
21 One Renaissance Square, Two North Central Avenue  
22 Phoenix, Arizona 85004-2391  
23 Attorneys for Respondents Agra, Pierson and Baker

24 Geoffrey S. Kerksmar, Esq.  
25 The Kerksmar Law Firm P.C.  
26 3260 N. Hayden Road, Suite 204  
Scottsdale, Arizona 85251  
Attorneys for Respondents Hodges and Paille

Peter Strojnik, Esq.  
3030 North Central Ave.  
Suite 1401  
Phoenix, Arizona 85012  
Attorneys for Respondents Campbell

24 By: Stephen Kuch  
25 \_\_\_\_\_  
26

**Tab “1”**

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

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT  
DIRECTOR

SECURITIES DIVISION  
1300 West Washington, Third Floor  
Phoenix, AZ 85007  
TELEPHONE: (602) 542-4242  
FAX: (602) 594-7470  
E-MAIL: securitiesdiv@azcc.gov

**ARIZONA CORPORATION COMMISSION**

November 14, 2006

**VIA HAND DELIVERY**

Carrie M. Francis  
Quarles & Brady Streich Lang, L.L.P.  
One Renaissance Square, Two North Central Avenue  
Phoenix, Arizona 85004-2391

**RE: In re Agra-Technologies, Inc., et al., Docket No. S-20484A-06-0669**

Dear Carrie:

As I promised, with this letter I am providing you with the documents produced by both Agra and Mr. Pierson, along with affidavits for their execution to establish foundation for the same. I hope the affidavits also give you a frame of reference at least as to when they were produced.

I have bundled and hand numbered the bundles of Agra documents to match the number of the Agra production identified in the Agra/Baker custodian affidavit.

The only one which may give you pause is paragraph 7 relating to Agra's fourth production of documents. As to that one, my office help bates labeled the documents out of order. However, Gary Clapper, my special investigator, and I have painstakingly made sure that all of the documents within the bates range identified in paragraph 7 of the Agra/Baker affidavit have been provided to you.

Let me know if you have any questions, and look forward to speaking to you about this matter at your earliest convenience.

Sincerely,

Mike Daley  
Enforcement Attorney  
(602) 542-0722 (Direct Line)

Enclosures (Agra and Pierson Docs, and Agra/Baker and Pierson foundation affidavits)

## AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

County of Coconino

} ss.  
}

The undersigned, WILLIAM H. BAKER, JR., hereby declares, under oath, that the following statements are true:

1. I am over the age of eighteen, suffer no legal disabilities, have personal knowledge of the facts set forth below, and am competent to testify.
2. I am the authorized Custodian of Records, Chief Financial Officer, Secretary and Treasurer of Agra-Technologies, Inc. ("Agra"). I submit this affidavit in my various capacities at Agra, and in response to the subpoena for documents issued to Agra by the Securities Division (the, "Division") of the Arizona Corporation Commission in relation to the matter, *In re Agra-Technologies, Inc., et al.*, Docket No.: Docket No.: S-20484A-06-0669.
3. I have the authority to certify the Agra records discussed below.
4. The records first submitted to the Securities Division (the, "Division") of the Arizona Corporation Commission by me on behalf of Agra were delivered via Federal Express mail on or about July 7, 2006, bates labeled ACC002065-002627.
5. Agra's second production of records was hand delivered by me to the Division offices on or about July 25, 2006, bates labeled ACC002673-ACC006987 and ACC009163- ACC0010847.
6. Agra's third production of documents via e-mail from Bill Baker to Mike Dailey dated November 22, 2006, and letter dated November 21, 2006 from Bill Baker to Mike Dailey, and limited amount of documents available on, and downloaded from Agra website, bates labeled ACC 011334-ACC011352.
7. Agra's fourth production of documents via courier on or about October 2, 2003 in partial response to Mike Dailey letter dated September 15, 2006, bates labeled ACC 011353-ACC012743.
8. Agra's fifth production of documents delivered on or about October 10, 2006, bates labeled ACC012745-ACC013742.
9. Agra's sixth production of documents with letter dated October 19, 2006, and CD, delivered via Federal Express on or about October 23, 2006, bates labeled ACC014531-ACC014533.
10. Agra's seventh production of documents with CD, delivered via Federal Express on or about October 20, 2006, bates labeled ACC014534-ACC014535.

11. Agra's eighth production of documents via e-mail from Bill Baker to Mike Dailey dated October 27, 2006, with attached letter from Agra to general agents and salesman regarding TC&D, bates labeled ACC015416-ACC015419.
12. The records identified above are true and correct copies of all records under my possession or control responsive to the Subpoena directed to the Custodian of Records of the entity identified in paragraph 2 above.
13. The records were prepared or obtained by personnel or representatives of the entity or persons acting under the control of personnel or representatives of the entity identified in paragraph 2 above in the ordinary course of business, and at or near the time of the act, condition, or event in said records.
14. The records are kept in the course of regularly conducted business pursuant to the regular practice of the entity identified in paragraph 2 above.

\_\_\_\_\_  
William H. Baker, Jr.  
Custodian of Records, Treasurer, Director and  
Chief Financial Officer of Agra-Technologies,  
Inc.

SUBSCRIBED and SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by  
William H. Baker, Jr.

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

(seal)

## AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA                    )  
  ) ss.  
County of Coconino                 )

The undersigned, WILLIAM J. PIERSON, hereby declares, under oath, that the following statements are true:

1. I am over the age of eighteen, suffer no legal disabilities, have personal knowledge of the facts set forth below, and am competent to testify.
2. I submit this affidavit in my individual capacity, and in my capacity as the Chief Executive Officer, President, Director and Largest Shareholder of Agra-Technologies, Inc. ("Agra").
3. I have the authority to certify the records discussed below in this affidavit that were provided by me to the Securities Division (the, "Division") of the Arizona Corporation Commission in the matter of *In re Agra-Technologies, Inc., et al*, Docket No.: S-20484A-06-0669.
4. In response to the subpoena for documents served on me by the Division, I produced documents via cover letter dated October 9, 2006 per the "ACC Request" on or about October 10, 2006, bates labeled **ACC013473-ACC014498**.
5. The records identified above are true and correct copies of all records under my possession or control responsive to the Subpoena directed to me as discussed in paragraph 2 above.
6. The records were prepared or obtained by me, or personnel or representatives of the entity or persons acting under the control of personnel or representatives of the entity identified in paragraph 2 above in the ordinary course of business, and at or near the time of the act, condition, or event in said records.
7. The records are kept in the course of regularly conducted business pursuant to the regular practice of the entity identified in paragraph 2 above.

\_\_\_\_\_  
**WILLIAM JAY PIERSON**  
Individually and as the Chief Executive  
Officer, President, Director and Largest  
Shareholder of Agra-Technologies, Inc.

SUBSCRIBED and SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006,

by William H. Baker, Jr.

My Commission Expires:

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(seal)

**From:** Michael Dailey  
**Sent:** Tuesday, November 14, 2006 10:57 AM  
**To:** 'cfrancis@quarles.com'; 'Strojnik@aol.com'; 'gsk@klfirm.com'  
**Cc:** Gary Clapper; Julie Coleman  
**Subject:** Agra Letter From Dailey

**Attachments:** Dailey to Francis, et al. re Respondents Docs 11-14-06.pdf  
Carrie, Peter and Geoff:

Attached please find a PDF letter to all of you. Originals are in the mail. Thank you.

Sincerely,

Mike Dailey  
Staff Attorney  
Arizona Corporation Commission, Securities Division  
1300 W. Washington, 3rd Floor  
Phoenix, AZ 85007  
(602) 542-0722 (direct line)

This message and any of the attached documents contain information from the Office of the Securities Division of the Arizona Corporation Commission, that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information, and no privilege has been waived by your inadvertent receipt. If you have received this transmission in error, please notify the sender by reply e-mail and then delete this message. Thank you.



Dailey to Francis, et  
al. re R...

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

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT  
DIRECTOR

SECURITIES DIVISION  
1300 West Washington, Third Floor  
Phoenix, AZ 85007  
TELEPHONE: (602) 542-4242  
FAX: (602) 594-7470  
E-MAIL: securitiesdiv@azcc.gov

**ARIZONA CORPORATION COMMISSION**

November 14, 2006

**VIA U.S. MAIL & E-MAIL**

Carrie M. Francis  
Quarles & Brady Streich Lang, L.L.P.  
One Renaissance Square, Two North Central Avenue  
Phoenix, Arizona 85004-2391

Peter Strojnik  
3030 North Central Avenue, Suite 1401  
Phoenix, Arizona 85012

Geoffrey S. Kerksmar, Esq.  
The Kerksmar Law Firm P.C.  
3260 N. Hayden Road, Suite 204  
Scottsdale, Arizona 85251

**RE: In re Agra-Technologies, Inc., et al., Docket No. S-20484A-06-0669**

Dear Carrie, Peter and Geoff:

As you know, the Security Division's ("Division") investigation of this matter is ongoing. Also, all materials in my investigative file are confidential under A.R.S. § 44-2042, the work-product and attorney-client privileges. Such documents and information are non-discoverable by you in this administrative action absent an order of production of the documents that I intend to use at a hearing shortly before the hearing, or a limited waiver by the Division prior to hearing.

This case is *extremely unique* in that thus far, Carrie's clients, and one of Geoff's clients (Larry Paille) have produced thousands of pages of unambiguous and frank documents that, if shared with each of you, could result in a cost effective and speedy resolution of this matter. In Carrie's and Geoff's case, it is highly likely that they have no idea what their clients have already produced. Similarly, I strongly believe that Peter's grasp of the Division's case is severely hampered by both the limited amount of documents his client has produced and/or by merely relying on what his client has told him about his previous conduct.

As I informed Carrie and Peter, I obtained a limited authorization for the disclosure of documents and information ("limited authorization") from the Director of Securities that permitted me to give Campbell a copy of the documents he initially provided me in response to his subpoena. I provided Campbell with the documents he provided me and, in return, Campbell provided me with a foundation affidavit regarding the same.<sup>1</sup>

<sup>1</sup> I am still awaiting Mr. Campbell's revised foundation affidavit.

I have also informed Carrie and Peter that I previously agreed to provide Carrie's clients with copies of the voluminous amounts of documents they provided in response to the subpoena I issued to Agra because: (1) the initial subpoena cover letter we sent to Agra mistakenly stated that the Securities Division would pay for copies of documents and related expenses, despite the fact that our policy is to not pay the target of an investigation for such documents and no statute, rule or regulation requires us to do so; and (2) I desired Mr. Baker to execute a standard form foundation and custodian affidavit similar to Mr. Campbell. Mr. Pierson also provided me with some documents under a subpoena I issued to him in his individual capacity which I am also going to voluntarily provide to Carrie.

I am still awaiting Mr. Hodge's documents. However, given Mr. Paille's apparently robust production which we are still reviewing, I *may* similarly seek a limited authorization for the disclosure to Geoff of the documents produced to us by Mr. Paille, in part, based on whether you make certain "sharing" assurances discussed below.

It has taken considerable effort and expense on my part to obtain the 2 existing limited authorizations, review the documents, etc. Although it may appear that I am negotiating with myself somewhat by voluntarily disclosing some of my documents in my file without yet receiving anything in return, I do not see any benefit in this particular, isolated case for any of us by having you defend you clients in the dark. Particularly, I see no real benefit for any of us in forcing Peter to merely rely on what his client tells him about this matter.

I am only providing Carrie with copies of the documents provided to me by her clients.<sup>2</sup> I will not make copies of, for instance, all of Agra's and Mr. Campbell's documents for each of you. Thus, please confirm at your earliest convenience that you will share with each other the documents that your clients have produced to our office. By doing so, we can all get on the same page rather quickly, and I will have more freedom to, if necessary: (1) share with you specific documents we deem relevant at a great savings of time and effort for you; (2) discuss any additional claims I may be forced to make via an amended TC&D if this case does not settle early on; and (3) the validity of your clients' claimed affirmative defenses.

If you have any questions regarding this or another issue, please give me a call on my direct line listed below.

Sincerely,

  
Mike Dailey  
Enforcement Attorney  
(602) 542-0722 (Direct Line)

---

<sup>2</sup> Along with the copies of her clients' documents, I am also providing Carrie with 2 proposed standard form affidavits to establish the foundation for her clients' documents in lieu of expensive and time consuming examinations under oath regarding the same. I will work with her and her clients regarding the completion of such affidavits. However, because even hearsay evidence is admissible in our administrative proceeding under A.R.S. § 41-1062(A)(1), A.R.S. § 44-1973(B) and A.A.C. R14-3-109(K), I do not anticipate any problems procuring such affidavits from her clients. *Also, e.g., Coulter v. Industrial Com'n of Ariz*, 198 Ariz. 384, 10P.3d 642 (App. 2000).

## Micheal Dailey

---

**From:** Geoffrey Kercksmar [gsk@k-mlaw.com]  
**Sent:** Tuesday, January 30, 2007 6:01 PM  
**To:** Michael Dailey  
**Subject:** RE: Agra - EUO's

The information contained in this electronic mail message is confidential information intended only for the use of the individual or entity named above, and may be privileged. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone (480.421.1001), and delete the original message. Thank you.

Mike-

At the hearing, you indicated that because of the (limited) waiver of Agra, you are able to provide me copies of their documents. Do you have an idea how many documents we're talking about? I am not interested in the financials of Agra.

What is the copying charge, or are we permitted to use an outside vendor? (In the past, we have been allowed to use an outside vendor by the ACC, but we understood this was special dispensation.)

Thanks for your help.

Geoff

## Micheal Dailey

---

**From:** Michael Dailey  
**Sent:** Tuesday, February 27, 2007 2:41 PM  
**To:** 'Geoffrey Kerksmar'  
**Cc:** Stephanie Kirk; Gary Clapper  
**Subject:** FW: Agra documents

Geoff:

We have copied the Agra documents that we have bates labeled (minus financials/bank account information) and for which I have obtained a limited release. The total comes to \$1,013.20, or a total of 13 hours and 4,416 copies. Please make the check out to the Securities Division, of the Arizona Corporation Commission. Your runner can coordinate with Stephanie as for as pick up and contemporaneous payment. Thank you.

Mike Dailey

---

**From:** Michael Dailey  
**Sent:** Wednesday, February 14, 2007 9:53 AM  
**To:** 'Geoffrey Kerksmar'  
**Cc:** Stephanie Kirk; Gary Clapper  
**Subject:** Agra documents

Geoff:

This e-mail confirms our agreement that the Division will provide you with copies of the non-financial documents provided by Agra at a cost of \$.20 per page and \$10 an hour for labor to be paid at the time of your pick up at our offices of the same. This process is under way. We have not had a chance to copy or bates lable the tax returns or seek a limited authorization for the realease to you of the same. I make no promises I can or will provide the tax returns as given your posture at the last hearing, I necessarily am dedicating all of my time to hearing and EUO work. However, I will try to do so time permitting. See you tommorow.

Mike Dailey  
Staff Attorney  
Arizona Corporation Commission, Securities Division  
1300 W. Washington, 3rd Floor  
Phoenix, AZ 85007  
(602) 542-0722 (direct line)

This message and any of the attached documents contain information from the Office of the Securities Division of the Arizona Corporation Commission, that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information, and no privilege has been waived by your inadvertent receipt. If you have received this transmission in error, please notify the sender by reply e-mail and then delete this message. Thank you.

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>
	'Geoffrey Kerksmar'	
	Stephanie Kirk	Delivered: 2/27/2007 2:41 PM
	Gary Clapper	Delivered: 2/27/2007 2:41 PM

**Micheal Dailey**

---

**From:** Geoffrey Kerksmar [geoff@k-mlaw.com]  
**Sent:** Wednesday, February 14, 2007 10:12 AM  
**To:** Michael Dailey  
**Cc:** Stephanie Kirk; Gary Clapper  
**Subject:** RE: Agra documents

Thank you, Mike.

Geoff

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---

**From:** Michael Dailey [mailto:MDailey@azcc.gov]  
**Sent:** Wednesday, February 14, 2007 9:53 AM  
**To:** Geoffrey Kerksmar  
**Cc:** Stephanie Kirk; Gary Clapper  
**Subject:** Agra documents

Geoff:

This e-mail confirms our agreement that the Division will provide you with copies of the non-financial documents provided by Agra at a cost of \$.20 per page and \$10 an hour for labor to be paid at the time of your pick up at our offices of the same. This process is under way. We have not had a chance to copy or bates label the tax returns or seek a limited authorization for the release to you of the same. I make no promises I can or will provide the tax returns as given your posture at the last hearing, I necessarily am dedicating all of my time to hearing and EUO work. However, I will try to do so time permitting. See you tomorrow.

**Mike Dailey**  
Staff Attorney  
Arizona Corporation Commission, Securities Division  
1300 W. Washington, 3rd Floor  
Phoenix, AZ 85007  
(602) 542-0722 (direct line)

This message and any of the attached documents contain information from the Office of the Securities Division of the Arizona Corporation Commission, that may be confidential and/or privileged. If you are not the intended recipient, you may not read, copy, distribute, or use this information, and no privilege has been waived by your inadvertent receipt. If you have received this transmission in error, please notify the sender by reply e-mail and then delete this message. Thank you.

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This footnote confirms that this email message has been scanned to detect malicious content. If you experience problems, please e-mail postmaster@azcc.gov  
=====

8/27/2007

**Tab “2”**

## SUPPLEMENTAL AFFIDAVIT OF GARY R. CLAPPER

I, Gary R. Clapper, being duly sworn, deposes and says:

1. This Supplemental Affidavit is provided in addition to my June 11, 2007 Affidavit submitted in support of the Securities Division's Motion For Ruling that Respondents' Ore Rights & Mining Agreement Investments Are Unregistered Securities. That affidavit ("First Clapper Affidavit"), previously attached as "Tab 7" to the Division's Statement of Facts, is incorporated herein by reference.
2. In response to the investigative subpoenas set forth in Paragraph 8 of the First Clapper Affidavit, Respondents produced "General Agent" agreements executed by Respondent Agra-Technologies, Inc. ("Agra") and its general agents and securities salesman, such as Respondents Jerry Johnston Hodges ("Hodges") and Lawrence Kevin Paille ("Paille"), as follows:
  - A. On or about October 2, 2006, Agra via its Custodian of Records Respondent William H. Baker, Jr. ("Baker") produced to me the General Agent agreement executed by Agra and former Unit Contract general agent and securities salesman, Tim Thomis of PGM Marketing, dated July 15, 2003, attached to this Supplemental Affidavit as **Exhibit "1,"** ACC011680.001-011682;
  - B. On or about October 2, 2006, Agra/Baker produced to me the General Agent agreement executed by Agra and Southport Associates, Ltd. dated August 1, 2003, attached to this Supplemental Affidavit as **Exhibit "2,"** ACC011686.001-011688;
  - C. On or about October 5, 2006, Paille produced to me the General Agent agreement executed by Agra, Paille and Hodges dated August 8, 2005, attached to this Supplemental Affidavit as **Exhibit "3,"** ACC0014547-014548; and
  - D. On or about October 5, 2006, Paille produced to me the General Agent agreement executed by Agra and Paille, dated August 14, 2006, attached to this Supplemental Affidavit as **Exhibit "4,"** ACC014545-014546.
3. The General Agent agreements set forth the commissions that could be earned by Agra's general agents and securities salesman, such as Hodges and Paille, for selling the Unit Contract investments at issue. (**Exhibits 1-4**). During their EUO's, Respondent Baker and Respondent

Pierson acknowledged that: (1) Respondents Paille and Hodges sold the Unit Contract investments; and (2) that Respondent Agra paid Respondents Paille and Hodges substantial commissions pursuant to the General Agent agreements.

4. Each of the General Agent agreements attached to this Supplemental Affidavit were signed by Respondent William J. Pierson as Agra's President, Chief Executive Officer, Chairman of the Board and largest shareholder, and by Respondent Richard Allen Campbell, Agra's former Vice-President, Director and second largest shareholder. In his August 30, 2007, Examination Under Oath, Mr. Pierson testified under oath that Campbell was authorized by Agra to execute the General Agent agreements, and that the General Agent agreements attached to this affidavit were authentic, and part of the many "business records" produced by Respondents to the Division in this matter.
5. Each of the General Agent agreements state that a Unit Contract purchaser is an "investor" in 4 different places, in part, as follows:

INDEPENDENT CONTRACTOR [i.e., Hodges and Paille] shall...

Perform the necessary duties associated with an *investor's* participation and complete the program package for acceptance of:

**INVESTOR funds for Agra Technologies, Inc. Platinum Recovery Project Program**

...  
Any *investors* placed into the program will be honored and the INDEPENDENT CONTRACTOR will receive compensation for that *investor's* participation as long as it is in effect...

(Exhibits 1-4)(emphasis added via underline and italics). Mr. Pierson testified in his EUO that the so-called "Platinum Recovery Project" is based on the Unit Contracts at issue in this matter.

6. Out of the approximately 75,000+ pages of documents produced by Respondents and third-party witnesses pursuant to investigative subpoenas in this case to the Securities Division, I have not reviewed a single document that expressly states, for instance, that "the Unit Contracts cannot be called investments." On the other hand, the Respondents often referred to the Unit Contract purchasers as "investors." (See e.g., **Exhibit "5,"** Unit Contract related emails produced by Respondent Hodges, that refer to Unit Contract purchasers as investors).

None of these documents actually describe exactly how an investor can take possession of their cinders.

7. Analogous to Respondents Campbell, Paille & Hodges, Respondent Baker and Respondent Pierson testified in their EUO's that: (a) no Unit Contract investor has requested to take possession of their substantial tonnage of volcanic cinders; (b) no Unit Contract investor actually took possession of their volcanic cinders. Further, the purported proposition that the Unit Contract investors can take possession of their many tons of volcanic cinders and to have them shipped, for instance, to Canada or Great Britain, to be processed, is belied by the standard form Contract acknowledgement letters signed by Respondent Pierson and issued to Unit Contract investors that unambiguously state:

We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

(**Exhibit "6,"** HOD/PAI00001, HOD/PAI00009, HOD/PAI00012, produced by Paille; ACC080884, produced by Agra/Pierson/Baker; ACC075293, ACC075669 & ACC075402, produced by Hodges).

8. That any Unit Contract investor would actually exercise their purported, option to take possession of their many tons of volcanic cinders and attempt to process them themselves to get precious metals from them, is further belied by the undisputed fact that such investor and/or Agra would have to pay substantial sums of money to handle, process the cinders to, for instance, 3/8 minus size, and to have them shipped. (See e.g., **Exhibit "7,"** Pierson letter in which he admitted in his EUO that Agra tried to have over \$10,000 worth of processed cinders delivered to the Agra Plant in May 2007). Each 50 tons of volcanic cinders purchased by a Unit Contract investor would take approximately 2, eighteen wheel tractor trailers to transport them. Both Respondents Pierson and Baker testified in their EUO's that a Unit Contract investor and/or Agra would have to pay such fees in order to actually take possession of the cinders. They also both testified in their EUO's that a Unit Contract investor or Agra would have to obtain permission to enter onto Sheep Hill in an attempt to take possession of their cinders.
9. In addition, many Unit Contract investors purchased multiple Unit Contracts, thereby creating a situation whereby they would have to pay for handling, processing and shipping 100, 150 or 200+ tons of their volcanic cinders to, for instance, Vancouver, Canada, Great Britain or New York, etc.

10. Respondent Pierson further testified in his EUO that: (a) Agra has sold over 1,000 Unit Contracts; and (b) to persons or entities that reside in many different states and abroad, including Canada and Great Britain.

Dated: Phoenix, Arizona  
County of Maricopa

September, 2007

  
\_\_\_\_\_  
Gary R. Clapper  
Special Investigator  
Securities Division

I hereby certify that this is the original affidavit sworn to and subscribed to before me by Gary R. Clapper on September 6, 2007, in Phoenix, Arizona, County of Maricopa.

  
\_\_\_\_\_  
Notary

9/21/2010 My commission expires on



**Exhibit “1”**  
(Supplemental Clapper Affidavit)

PGM Marketing  
Agent Contract

ACC011680.001  
AGRA TECH  
---

EXHIBIT NO. 53A  
W. Peterson  
8.30.01 KB  
INSISTERO.COM

**CONFIDENTIAL**

**Exhibit "1"**

**Page 2 - 3**

**ACC011681**

**&**

**ACC011682**

**Exhibit “2”**  
(Supplemental Clapper Affidavit)

**CONFIDENTIAL**

**Exhibit "2"**

**Page 1 - 2**

**ACC011687**

**&**

**ACC011688**

**Exhibit “3”**  
(Supplemental Clapper Affidavit)

**CONFIDENTIAL**

**Exhibit “3”**

**Page 1 - 2**

**ACC014547**

**&**

**ACC014548**

# **Exhibit “4”**

(Supplemental Clapper Affidavit)

**CONFIDENTIAL**

**Exhibit “4”**

**Page 1 - 2**

**ACC014545**

**&**

**ACC014546**

**Exhibit “5”**  
(Supplemental Clapper Affidavit)

MIME-Version: 1.0  
Content-Type: multipart/alternative;  
boundary=-----SmarterMail\_NextPart\_5053742768215008  
Date: Fri, 23 Jun 2006 01:56:46 -0400  
Subject: Three issues  
From: Larry Paille [REDACTED]  
Reply-To: larry@ [REDACTED]  
To: <wpierson@agra-technologies.com>  
CC: <dgettler@agra-technologies.com>  
Message-ID: <b357787b304a4fbca8b73db24a0207a3@mindbodyhealth.com>

---

Bill,  
Here are three issues that need to be addressed:

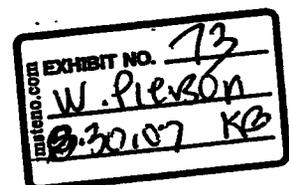
1. [REDACTED] was promised a \$1,500/month payment in order to complete the payout of the platinum rental fund (\$90,000 was moved into mining contracts; the balance was to be paid out at \$1,500/month until fully paid out). Agra-Tech has not made the May or June payments, and since Nancy lives with [REDACTED], another Agra-Tech investor, word is getting out that Agra-Tech is in serious trouble. This is not going to help the sale of ATI stock!

Can Nancy expect \$1,500/month from Agra-Tech or not? Please let me know how ATI plans to move forward on this issue.

2. If the Larry [REDACTED] deal goes through, I would recommend ATI receiving an additional \$10M to pay the principal back for all mining contract investors. This will greatly relieve investor stress and will be a very nice good-will move. Given this loan is self-liquidating, this should have minimal financial impact to ATI.

3. I have \$264K invested in the platinum rental fund; by the terms of the agreement, this \$264K is in platinum. If it is indeed still in platinum, I would be glad to discuss moving these funds out of platinum and allowing ATI to use the funds for operating expenses. Let me know if you would like to discuss this option.

Regards,  
Larry Paille  
928-284-4221



ACC065829  
AGRA



on between us we are left in the dark and this makes it very hard to communicate with the investors as they quiz us on what is happening at the plant.

I feel you should know this because things are starting coming to critical mass with the investors and the next update we put out with more delays is going to cause and up evil that isn't going to be pretty. I know of a few investors that are talking about going to the Arizona Attorney General and as you well know this would be super bad.

Bill we need to communicate and soon!!!

Sincerely,

Jerry Hodges

MIME-Version: 1.0  
Date: Fri, 10 Mar 2006 23:49:19 -0500  
Subject: Approval for next update  
From: Larry Paille <[REDACTED]>  
Reply-To: larry@[REDACTED]  
To: <rcampbell@agra-technologies.com>, <wpierson@agra-technologies.com>  
CC: <jerry@[REDACTED]>  
Message-ID: <0c629d1302f747ffaf657a0bdb43ff3f@mindbodyhealth.com>  
Content-Type: multipart/mixed;  
boundary=----\_SmarterMail\_NextPart\_1817548550773246

Bill and Dick,  
Please review the attached update ASAP and let us know if it is OK to go out to all the investors.  
We have a number of investors burning up the phone lines requesting information, so a prompt  
response would be greatly appreciated.

Jerry and I feel it would be very helpful if we could review the inspectorate report. Would you  
allow us to review it if we agree to not share the information contained in the report with anyone  
else?

Give me a call if you have any questions. Thanks for meeting with me today and sharing all the  
information provided.

Thanks,  
Larry Paille  
(928) 284-2659

P.S. Any progress on sorting out the discrepancy with the number of shares remaining with  
Imatire Eng. Services LLC?

ACC065615  
AGRA

MIME-Version: 1.0  
Content-Type: multipart/alternative;  
boundary=-----SmarterMail\_NextPart\_8703840251380604  
Date: Tue, 18 Apr 2006 21:55:33 -0400  
Subject: Mining contract and stock transfer instructions  
From: Larry Paille <[REDACTED]>  
Reply-To: larry@[REDACTED]  
To: <wpierson@agra-technologies.com>, <rcampbell@agra-technologies.com>  
CC: <jerry@[REDACTED]>  
Message-ID: <c35413b0e81640c3b372260ce79fba94@mindbodyhealth.com>

Bill,

Thank you for setting up the tour. and everyone else came away with the expectation that the process is far from finalized and that research will probably continue throughout the summer and production will start in the fall. Payouts will start at the end of the year. On the plus side, it was clear that potential significant improvements may be made in the yield as well as process efficiency. Everybody attending the tour was understanding of the technical complexity of the process and the resulting delays, and could see that Agra-Tech was working diligently to get the plant up and running.

I'm sure the new schedule will not be well accepted by other investors. Any positive information you can share from the Inspectorate report or any other sources will be most helpful in keeping the next update positive.

In addition, I suspect the cash flow issues are hindering the plant ramp-up. At this point, no investors are aware of this issue. Furthermore, if you don't get funds from somewhere soon, things will come to a grinding halt, especially since production is at least several months away. It appears the Capital Corp funds are critical to Agra-Tech.

This cash flow issue is also affecting the platinum rental fund, and Nancy is getting very nervous about that situation. She has been trying to get an answer from Agra-Tech on how the remaining funds will be distributed, but has not heard a word in about a month.

And I have to say, I am very concerned about the \$264,000 I have invested in the platinum rental fund. I, too, would like to hear soon, how Agra-Tech is planning on addressing this issue.

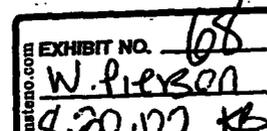
Nancy has a number of close friends who are Agra-Tech investors, and they are hearing about her concerns with the platinum rental fund. It is only a matter of time before investors start calling Jerry and I and asking us what is going on. The schedule delays coupled with the cash flow related issues will make many already nervous investors go into orbit.

I know you guys are really busy, but I would urge you to share with Jerry and I what you guys are doing to remedy this situation so that we can explain what is being done, and hopefully, keep things under control with the investors.

Thanks,  
Larry Paille  
(928) 284-2659

P.S. I delivered one additional mining contract to the office today (sorry, just \$10,000)

P.S.2. I also delivered the stock certificates and transfer instructions for the shares  
(with transfer fee)



ACC065764  
AGRA

MIME-Version: 1.0  
Content-Type: multipart/alternative;  
boundary=----- SmarterMail\_NextPart\_0046315376866548  
Date: Thu, 20 Apr 2006 15:55:27 -0400  
Subject: Tuesday the 25th tour list  
From: Larry Paille <[REDACTED]>  
Reply-To: larry@[REDACTED]  
To: <wpierson@agra-technologies.com>, <rcampbell@agra-technologies.com>  
CC: <jerry@[REDACTED]>  
Message-ID: [17c2df4cb53e401cb3d945e4fe364049@mindbodyhealth.com](mailto:17c2df4cb53e401cb3d945e4fe364049@mindbodyhealth.com)

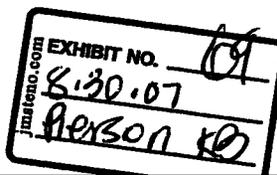
Bill,  
Here is the list of people currently planning on attending the tour on Tuesday the 25th:

- (Canadian investor; partner of Warren Nickerson)
- (Canadian investor; owns 2 units and owns 6,000 shares of stock; has referred at least 3 other relatives)
- , Larry
- , Jerry
- , David (local investor who owns units and stock)
- , Hoffa (new investor who has just purchased 1 unit and is planning on purchasing 18,000 shares of stock)
- , John (new investor who may buy stock and units pending the perceptions from this tour)

I'll let you know of any changes.

Any progress on the funding issues? I'm already starting to get calls as a result of Nancy's situation with her platinum rental fund and I'm not able to provide answers. It would be extremely helpful to know what the current status is and what you guys are doing to remedy the situation.

Thanks,  
Larry Paille  
928-284-2659



ACC066706  
AGRA

MIME-Version: 1.0  
Date: Sat, 6 May 2006 17:33:36 -0400  
Subject: Revised update  
From: Larry Paille <[REDACTED]>  
Reply-To: larry@[REDACTED]  
To: <wpierson@agra-technologies.com>, <rcampbell@agra-technologies.com>  
CC: <jerry@[REDACTED]>  
Message-ID: <85b28012ca244c2cb090f8c8c1c01903@mindbodyhealth.com>  
Content-Type: multipart/mixed;  
boundary=-----\_SmarterMail\_NextPart\_0723821781210258

Bill and Dick,

Thank you very much for taking the time out of your busy schedules to share all of the information with us. Attached is the revised update based on your suggestions, with the changed areas highlighted in yellow. Please confirm the revised update is acceptable to send out.

It was great to hear about all the possibilities that Agra-Tech is investigating, particularly the processing of concentrated ore as a mechanism for generating revenue for the company. We have also pulled the latest business plan from the website; we were both impressed with the information content and the presentation in that piece of work.

We are both looking forward to assisting Agra-Tech with the proposed private placement and realize the critical nature of this offering to the viability of Agra-Tech. The private placement is very time-sensitive, as Agra-Tech needs the money NOW!

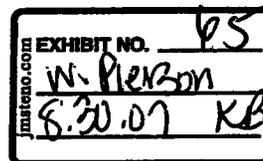
Our only concern about the private placement is that virtually all of our connections are unit holders, and at this point in time, are not overly optimistic about Agra-Tech. We have both noticed a significantly more negative mood with the investors, which we are constantly having to explain to the unit holders why they shouldn't go out and slit their wrists just yet. Furthermore, the latest update will communicate yet another mining contract delay, where payouts which were to start in July will now be in the December timeframe. We have not been able to answer yield questions for unit holders. There are two questions that unit holders are concerned about: 1) when am I getting my money, 2) how much am I getting (yield).

That being said, about a third of the unit holders are stock holders, and as a stock holder, the updates can be viewed in a much different, and more positive, perspective. However, all the communication we have had with stockholders comes from the perspective of unit holders.

Part of the selling process will likely be educating investors about the difference between the stockholder perspective and the unit holder perspective, which unfortunately will take time. We will have to sell Tom Smith, and other key players on Agra-Tech before they will move forward and sell to their connections. Of course, we will be contacting any accredited investor that we know, whether or not they are a current Agra-Tech investor.

So, in summary, we are ready to give the private placement our best shot at raising the \$1.8M for Agra-Tech. Get us the information and we will move forward ASAP. Just realize it might take a little time to get the funds rolling in. Since this is a time critical issue, we would recommend a parallel path course of action where you have everybody you know selling this to any breathing accredited investor.

Larry and Jerry



ACC065804  
AGRA

**Exhibit “6”**  
(Supplemental Clapper Affidavit)



5800 N. Dodge Ave. Bldg. A  
Flagstaff, Arizona 86004  
928-526-2275 Fax: 2269  
www.agra-technologies.com

March 17, 2004

Lawrence Paille  
3219 Kyle Circle  
Loveland, Co 80537

Subject: Acknowledgement of Ore Rights & Mining Agreement

Dear Mr. Paille,

We hereby acknowledge receipt of your agreement for participation in Phase I of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

Your financial representative, will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for Phases I/II, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

William J. Pierson  
President & CEO

HOD/PAI00001



5800 N. Dodge Ave. Bldg. A  
Flagstaff, Arizona 86004  
928-526-2275 Fax: 2269  
www.agra-technologies.com

July 26, 2004

Imatire Investments LLC  
c/o Laurence K Paille  
3219 Kyle Circle  
Loveland, CO 80537

**Subject: Acknowledgement of Ore Rights & Mining Agreement**

Dear Mr. Paille:

We hereby acknowledge receipt of your agreement for participation in Phase I of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

Your financial representative, will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for Phases I/II, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

A handwritten signature in cursive script that reads "William J. Pierson".

William J. Pierson  
President & CEO

HOD/PAI00009



5800 N. Dodge Ave. Bldg. A  
Flagstaff, Arizona 86004  
928-526-2275 Fax: 2269  
[www.agra-technologies.com](http://www.agra-technologies.com)

October 18, 2004

Imatire Investments LLC  
3219 Kyle Circle  
Loveland, CO. 80537

Subject: Acknowledgement of Ore Rights & Mining Agreement

Dear Mr. Paille

We hereby acknowledge receipt of your agreement for participation in Phase III of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

Your financial representative, will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for Phases I/II, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

William J. Pierson  
President & CEO

HOD/PAI00012



**COPY**

5800 N. Dodge Ave. Flagstaff, AZ 86004  
P: 928.526.2275 F: 928.526.2269  
[wpierson@agra-technologies.com](mailto:wpierson@agra-technologies.com)  
[www.agra-technologies.com](http://www.agra-technologies.com)

October 04, 2006

Mr. Douglas  
ro Cres.  
Victoria, BC. V8X 4M9  
Canada

Subject: Acknowledgement of Ore Rights & Mining Agreement

Dear Mr.

We hereby acknowledge receipt of your agreement for participation in Phase IV of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

Cinder Mountain Company will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

William J. Pierson  
President & CEO

AGRA TECH.  
**ACC080884**  
AGRA TECH.

ATI01900



5800 N. Dodge Ave. Bldg. A  
Flagstaff, Arizona 86004  
928-526-2275 Fax: 2269  
www.agra-technologies.com

February 28, 2005

Mr.  
Reptil S.A.  
Jorgan Cres  
West Vancouver, B.C. V7V2P1  
Canada

Subject: Acknowledgement of Ore Rights & Mining Agreement

Dear Mr.

We hereby acknowledge receipt of your agreement for participation in Phase IV of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

Your financial representative, will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for Phases I/II, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

William J. Pierson  
President & CEO

ACC075293  
AGRA TECH.



5800 N. Dodge Ave. Bldg. A  
Flagstaff, Arizona 86004  
928-526-2275 Fax: 2269  
www.agra-technologies.com

---

November 17, 2005

: Ave.  
Asheville, NC. 28806-3039  
USA

**Subject: Acknowledgement of Ore Rights & Mining Agreement**

Dear Ms.

We hereby acknowledge receipt of your agreement for participation in Phase IV of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

---

Alpine Trading, LLC will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for Phases I/II, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

William J. Pierson  
President & CEO

ACC075669  
AGRA TECH.



5800 N. Dodge Ave. Bldg. A  
Flagstaff, Arizona 86004  
928-526-2275 Fax: 2269  
[www.agra-technologies.com](http://www.agra-technologies.com)

October 14, 2005

\_\_\_\_\_ a Rd.  
Katonah, NY. 10536-2508  
USA

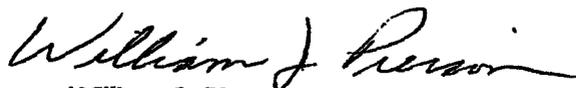
Subject: Acknowledgement of Ore Rights & Mining Agreement

Dear Mr. \_\_\_\_\_,

We hereby acknowledge receipt of your agreement for participation in Phase IV of the Ore Rights & Mining Project with Agra-Technologies, Inc. We have enclosed a copy of your agreement, signed for Agra-Technologies, Inc. and recorded on your behalf.

Alpine Trading, LLC will be kept apprised of all activities, and subsequent progress regarding your Ore Rights & Mining Project, for Phases I/II, for the benefit of all those involved. We thank you for allowing us to process your ore entitlement, and we look forward to servicing the agreement for maximum results.

Best regards,

  
William J. Pierson  
President & CEO

-----  
ACC075402  
AGRA TECH.

# **Exhibit “7”**

(Supplemental Clapper Affidavit)



5800 N. Dodge Ave. Flagstaff, AZ 86004  
P: 928.526.2275 F: 928.526.2269  
[wpierson@agra-technologies.com](mailto:wpierson@agra-technologies.com)  
[www.agra-technologies.com](http://www.agra-technologies.com)

July 31, 2007

**RE: Demand for Repair per Cinder Purchase Agreement: Supplying Cinders to AgraTech**

Glory Enterprises LLC  
Mr. & Mrs. James Crick  
P.O. Box 3627  
Flagstaff, AZ 86003

Dear Mr. and Mrs. Crick:

Pursuant to our Purchase Order #L000184 to Glory Enterprises LLC (Glory) dated May 9, 2007, placed under the terms and conditions of our Cinder Purchase Agreement (CPA) with Glory dated August 1, 2000, we hereby give written notice of disparity – this disparity identified as your apparent inability to deliver cinders as explained below – and demand immediate repair.

The CPA states: "Should Glory Enterprises LLC be determined to be non-competitive or unable to deliver the cinders as requested at any point in time, Agra-Technologies Inc. shall give reasonable notice and enter into more in-depth review. Reasonable notice shall be thirty days. Review of findings and circumstances shall be given consideration for an additional fifteen days, should this become necessary, constituting a total of 45 days to repair any disparity or default."

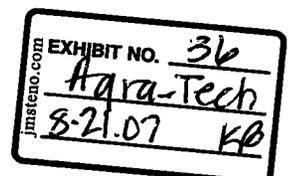
On May 31, 2007, Bill Baker, our CFO, prepaid \$800 by check for cinders to be delivered to our Leupp Road facility. Five loads in total were delivered by Glory, two of which were not screened to 3/8- as required under the Purchase Order and CPA. On July 3, 2007, Nina Pulley, our Office Administrator, went to Glory offices with a \$10,000 check for additional cinders. At that time, Mrs. Crick refused to take the check, stating she was not yet sure of how much Rinker Materials (Rinker), under contract to buy Glory assets, would be charging Glory to deliver cinders to us.

Subsequently, Mike Leinen, our Project Manager, asked Mr. Crick when cinder deliveries would resume and was verbally informed (by Mr. Crick) that Glory had made arrangements with Rinker to move its screening operations back onto Sheep Hill to fulfill CPA obligations to Agra-Tech. As of today, no further cinder deliveries have been made by either Rinker or Glory – and multiple phone calls from Mike Leinen to the Crick residence (928.526.3716) have not been returned.

In respect for the complications created by the Rinker purchase of Glory, as well as our own attempts to negotiate a satisfactory agreement with Rinker that would maintain our rights under the CPA, we have foregone issuing this letter until today. We are confused by the conflicting information provided by Mr. and Mrs. Crick (whether Rinker or Glory will provide cinders to us), we are damaged by our inability to acquire cinders, and we cannot tolerate further delay. In closing, we note that "reasonable notice under the CPA" may have occurred as early as July 3, 2007. We remain willing to work with Rinker or Glory and look forward to your timely response.

Sincerely,

William J. Pierson  
CEO/President



**Tab “3”**

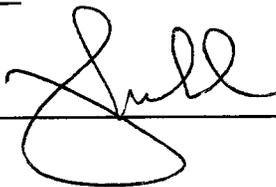
**RICHARD CAMPBELL**  
AFFIDAVIT OF ~~ROBERT ECKERT~~

STATE OF ARIZONA        )  
                                  ) ss.  
County of Maricopa        )

RICHARD ALLEN CAMPBELL, states upon his oath:

1. I am a resident of Arizona, am over the age of 18, and I have personal knowledge of the facts set forth below.
2. From July 2003 to June 2006, I served as an Executive Vice President and a Director of AGRA-TECHNOLOGIES, INC. ("AGRA").
3. I have reviewed the subpoena issued by the Securities Division of the Arizona Corporation Commission to me dated July 27, 2006.
4. In response to the subpoena, I reviewed the documents and information identified in the subpoena in my possession or reasonable ability to obtain. Based on this review, I produced documents to the Securities Division that have been bates labeled ACC006988 to ACC008290.
5. Based on the advice of my counsel, I did not produce the documents identified in the attached Exhibit "A" on the basis that they are privileged.
6. These documents were obtained by me during the normal course of my employment by AGRA, and they were generated by AGRA during the normal course of its business operations.
7. Further affiant sayeth naught.

Dated: 08-23-06

  
\_\_\_\_\_



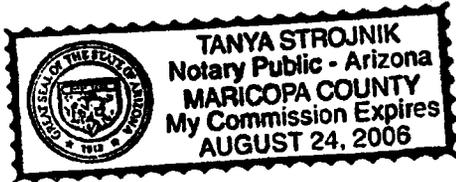
By: RICHARD ALLEN CAMPBELL

Subscribed and sworn to before me this 23<sup>rd</sup> day of August

2006 by RICHARD ALLEN CAMPBELL.

  
Notary Public

My commission Expires:



**PRIVILEGE LOG**

Richard Campbell  
CORP COM file number 7586  
Re: Agra Technologies, Inc.  
Subpoena returnable on 08-15-06

<b>DOCUMENT</b>	<b>PRIVILEGE</b>
Undated e-mail from Campbell to Strojnik	Attorney-Client
Outline of events prepared by Campbell for Strojnik, with exhibits 1-28	Attorney-Client
06-01-06 From Peter Strojnik to Peter K. Strojnik re research	Attorney-Client; Work Product
06-05-06 from Strojnik to Campbell	Attorney-Client; Work Product
06-07-06 From client to Strojnik	Attorney-Client
06-15-05 from Campbell to Strojnik	Attorney-Client
Various and numerous e-mails between Campbell and Strojnik	Attorney-Client

**EXHIBIT "A"**

**ACC080799**  
AGRA TECH.