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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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COMMISSIONERS

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

In the matter of:

EDWARD A. PURVIS and MAUREEN H. PURVIS, husband and wife
2131 W. Shannon
Chandler, Arizona 85224

GREGG L. WOLFE and ALLISON A. WOLFE, husband and wife
2092 W. Dublin Lane
Chandler, Arizona 85224

NAKAMI CHI GROUP MINISTRIES INTERNATIONAL, (a/k/a NCGMI), a Nevada corporation sole
4400 N. Scottsdale Road, Suite 9-231
Scottsdale, Arizona 85251

JAMES W. KEATON, Jr. and JENNIFER KEATON, husband and wife
11398 E. Whitehorn Drive, Apt. D
Scottsdale, Arizona 85255

ACI HOLDINGS, INC., a Nevada corporation
17650 N. 25th Avenue
Phoenix, Arizona 85023

Respondents.

DOCKET NO. S-20482A-06-0631

SECURITIES DIVISION'S RESPONSE TO ACI HOLDINGS, INC. AND JAMES W. AND JENNIFER KEATON'S EMERGENCY/EXPEDITED MOTION FOR PROTECTIVE ORDER/NON-DISCLOSURE OF FINANCIAL INFORMATION

Arizona Corporation Commission
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The Securities Division (the "Division") of the Arizona Corporation Commission (the "ACC") hereby responds to Respondent ACI Holdings, Inc. and James W. and Jennifer Keaton's *Emergency/Expedited Motion for Protective Order/Non-Disclosure of Financial Information*

("Keaton's Motion for Protective Order") filed by Respondents ACI Holdings, Inc. and James W. Keaton and Jennifer Keaton ("Keaton Respondents") as follows:

A. *The ACC did not unlawfully disclose the Keaton Respondents' financial information.*

The Keaton Respondents are mistaken in their belief that the Division merely "elected" to disclose the Keaton Respondents' financial information to Edward and Maureen Purvis (the "Purvis Respondents"). Although the Division does not intend to use the information during the administrative hearing, it does intend to call its forensic accountant, Ricardo Gonzales, as an expert witness. So, the Division disclosed to the Purvis Respondents' any information its proposed expert witness reviewed and which relates to is testimony. Therefore, Mr. Gonzales' file relating to the Keaton Respondents should be produced.

According to the Arizona Court of Appeals in *Slade v. Schneider*, the Division's disclosure of Keaton Respondent's financial information was proper. The court held,

> "...in designating the accountant as a testifying expert, the accountant's entire case file is discoverable to the extent that he obtained those materials in the course of his investigation *and* they relate to the subject of his testimony..." *Slade,* 212 Ariz. 176 at 180-181, 129 P.3d 465 at 469-470. (Ariz.Ct.App. 2006). *Emphasis added.*

Since the Division intends to call Mr. Gonzales as an expert witness for the administrative hearing, all documents and information he reviewed and which relate to the information in his report must be disclosed. Mr. Gonzales' file contained the Keaton Respondents' financial information which was obtained pursuant to a lawfully issued subpoena. Thus, the Division was proper in its disclosure of Keaton Respondents' financial information.

B. *The Division has not violated the Confidentiality Statute.*

Furthermore, the Keaton Respondents' claim that the Division has violated its Confidentiality Statute lacks merit. The ACC's Confidentiality Statute states,

> "...An officer, employee or agent of the commission shall not make the confidential names, information or documents available to anyone...unless the commission or *the director authorizes the disclosure of the names, information or documents as not contrary to the public interest*." A.R.S. §44-2042 (A). (*Emphasis added.*)

Simply stated, the ACC shall not disclose confidential information or documents unless such disclosure is not contrary to the public interest. The Division's Director authorized the release of the documents to the Purvis Respondents. As previously stated, the Division disclosed this information to the Purvis Respondents because it was reviewed by and relates to the testimony of the Division's proposed expert, Ricardo Gonzales. The Division's Director found it was not contrary to the public interest to release such documents because the production of this information is supported by the Arizona Court of Appeal's holding in *Slade v. Schneider*.

C. *The ACC agrees that private information should be redacted before being publicly disclosed.*

The Division does not dispute that Keaton Respondent's records are private and the information contained in them should not be publicly disclosed. The Division in its November 9, 2007 letter to John O'Neal, legal counsel for the Purvis Respondents, asked Mr. O'Neal to not publicly disclose any confidential data contained in the Keaton Respondents' financial records without first taking measures to redact the private information.

D. *Conclusion*

The Division properly disclosed the Keaton Respondents' financial information to the Purvis Respondents. The financial records were lawfully obtained by the Division and their production to the Purvis Respondents was supported by applicable case law and permitted by the ACC's Confidentiality Statute. Moreover, the Division concurs with the Keaton Respondents' efforts to protect their private information and protect from public disclosure the confidential information of third parties which is contained in the records.

RESPECTFULLY SUBMITTED this 30th day of November, 2007.

By _____
Rachel F. Strachan
Attorney for the Securities Division of the
Arizona Corporation Commission

ORIGINAL AND THIRTEEN (13) COPIES of the foregoing
filed this 30th day of November, 2007, with:

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COPY of the foregoing hand-delivered this
30th day of November, 2007, to:

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COPY of the foregoing mailed
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