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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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FEB 26 2008

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In the matter of:)	DOCKET NO. S-20520A-07-0155
LEONARD FRANCIS ALCARO (a/k/a)	OBJECTION TO MOTION TO CONTINUE
"LENNY ALCARO"), and)	
MARY BRIGID LAVIN ALCARO, husband)	
and wife,)	
1140 West San Lucas Circle,)	
Tucson, Arizona 85704,)	Hearing Dates: March 4, 5 & 6, 2008
Respondents.)	(Assigned to the Hon. Marc E. Stern)

The Securities Division ("Division") of the Arizona Corporation Commission objects to Respondent Mary Brigid Lavin Alcaro's ("Mary Alcaro") Motion to Continue, and requests that it be denied.

The sole remaining issue before the Court is whether Mary Alcaro's half of Respondents' marital community is liable for the default judgment rendered against her husband Respondent Leonard Alcaro on September 6, 2007.

A. Mary Alcaro's Purported Reliance on Leonard Alcaro's Testimony Lacks Merit.

First, neither Mary Alcaro nor her marital community with Leonard Alcaro are defendants in the pending criminal case against Leonard Alcaro. Thus, contrary to Mary Alcaro's logic, there can be no criminal restitution ordered against the Respondents' marital community in the criminal case. This was also confirmed by the prosecutor assigned to the criminal case. Mary Alcaro failed to cite to any authority to support this argument. Thus, a resolution of the criminal matter will not, as a matter of fact and law, resolve the remaining community property issue in this matter.

1 Second, nothing is preventing Leonard Alcaro from testifying. To undersigned's
2 knowledge, Leonard Alcaro is not in jail and, in fact, was released on his own recognizance as
3 result of his voluntary appearance at his arraignment. He could also testify via telephone, if
4 necessary.

5 Mary Alcaro next argues that Leonard Alcaro may testify that some of the Mary Alcaro
6 signatures on some of the Division's exhibits were forged by Leonard Alcaro. Mary Alcaro herself
7 can testify as to the alleged lack of authentication of her signatures on some exhibits.

8 Similarly, Mary Alcaro argues that Leonard Alcaro will testify that his conduct did not
9 benefit the marital community. Again, Mary Alcaro can attempt to testify that her community was
10 not benefited by Leonard Alcaro's conduct and her attorney can argue the same based on the
11 evidence. Mary Alcaro can also attempt to introduce documentary evidence regarding her marital
12 community, and she can cross-examine the Division's witnesses.¹ Thus, there is no legal or
13 equitable reason to postpone the currently scheduled hearing. This is also true because a new
14 hearing date would likely have to be scheduled for the summer or fall of 2008 in light of the many
15 other proceedings already scheduled until such date. Because Leonard Alcaro's pending criminal
16 case has no impact in this one, the Motion to Continue should be denied.

17 **B. The Division's Few, Additional Exhibits Do Not Justify a Continuance.**

18 On or about February 13, 2008, the Division provided Mary Alcaro with certified copies of
19 several judgments obtained by investors against the Respondents' marital community. Because:
20 (1) Mary Alcaro was a party to such lawsuits; and (2) she can cross examine the Division's
21 witnesses regarding the same, there is no prejudice to her in proceeding with the March 4 hearing
22 as currently scheduled. Indeed, Mary Alcaro has had ample time to prepare for hearing in this
23 matter, despite the delinquent nature of her Motion. Further, the vast majority of the Division's
24 approximately 30 exhibits were provided to Mary Alcaro long ago in November 2007.

25 _____
26 ¹ To date, Mary Alcaro has not provided the Division with her list of witnesses and exhibits. Also, Leonard Alcaro's
purported willingness to testify in this case is belied by the fact that he improperly failed to participate in his previously
scheduled EUO, or otherwise defend this matter. (See Division Response to Spouse's Motion to Dismiss filed on
June 19, 2007).

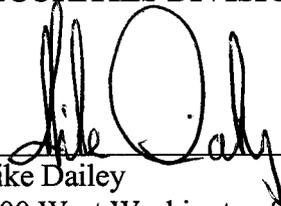
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C. Conclusion.

Based on the foregoing, the Division respectfully requests that Mary Alcaro's Motion to Continue be denied.

RESPECTFULLY SUBMITTED this 26th day of February, 2008.

**ARIZONA CORPORATION COMMISSION
SECURITIES DIVISION**



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ORIGINAL AND THIRTEEN (13) COPIES
of the foregoing filed this 26th day of
February, 2008 with:

Docket Control
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Copy of the foregoing hand-delivered this 26th day
of February, 2008 to:

Mr. Marc Stern
Administrative Law Judge
Arizona Corporation Commission
Hearing Division
1200 West Washington
Phoenix, Arizona 85007

1 Copy of the foregoing
2 Mailed & e-mailed
3 this 26th day of February, 2008 to:

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By: Stephan Kirk