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Arizona Corporation Commission
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS:
KRISTIN K MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

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| IN THE MATTER OF:<br><br>MARK W. BOSWORTH and LISA A. BOSWORTH, husband and wife;<br><br>STEPHEN G. VAN CAMPEN and DIANE V. VANCAMPEN, husband and wife;<br><br>MICHAEL J. SARGENT and PEGGY L. SARGENT, husband and wife;<br><br>ROBERT BORNHOLDT and JANE DOE BORNHOLDT, husband and wife;<br><br>MARK BOSWORTH & ASSOCIATES, LLC, An Arizona limited liability company;<br><br>3 GRINGOS MEXICAN INVESTMENTS, LLC; An Arizona limited liability company<br><br>Respondents. | Docket No. S-20600A-08-0340<br><br>Respondents<br>MARK AND LISA BOSWORTH ANSWER<br><br>Respondents<br>MARK BOSWORTH & ASSOCIATES, LLC ANSWER<br><br>Respondents<br>3 GRINGOS MEXICAN INVESTMENTS, LLC ANSWER |

Respondent Bosworth and Respondent's spouse Lisa Bosworth (hereinafter, "the Bosworth's" or collectively, "Respondents") answer the Notice of Opportunity Hearing Regarding Proposed Order to Cease and Desist, For Restitution, For Administrative Penalties, and For Other Affirmative Action (hereinafter, the "Notice"), by admitting, denying and alleging as set forth below. Importantly, Lisa Bosworth had no involvement whatsoever with regard to the allegations in the Notice. Therefore, Mrs. Bosworth's response to each and every allegation is that she is without sufficient information to form a belief as to each allegation and, therefore, denies every allegation. All affirmative defenses set forth by Mr. Bosworth are hereby incorporated by reference and apply to Mrs. Bosworth as well. Mr. Bosworth is

referred to herein as "Respondent." Mr. Bosworth herein specifically denies that he is now engaged, or has ever been engaged in acts, practices or transactions that would constitute violations of the Securities Act of Arizona, including A.R.S. §44-1801, et. seq.

## I.

## JURISDICTION

1. Answering Paragraph 1 of the Notice, Respondent does not have sufficient information to respond to these allegations, therefore denies allegations. Arizona Corporation Commission has not provided any information as to which, if any, of the 19 paragraphs of Article XV of the Arizona Constitution under which it claims authority.

## II.

## RESPONDENTS

2. Answering Paragraph 2 of the Notice, Respondent admits he lives in Maricopa County. Respondent is without sufficient information to form a belief as to the truth of the remaining allegations, including vagueness and lack of specificity and context in using the term member and manager.
3. Answering Paragraph 3 of the Notice, Respondent denies Stephen G. Van Campen is a member of Mark Bosworth & Associates, LLC. Respondent admits Stephen G. Van Campen is a member/manager of 3 Gringos Mexican Investments, LLC. Respondent affirmatively alleges that other allegations contained therein require no response from Respondent.
4. Answering Paragraph 4 of the Notice, Respondent affirmatively alleges that the allegations contained therein require no response from Respondent.
5. Answering Paragraph 5 of the Notice, Respondent admits allegations. Mr. Bornholdt was designated broker for and in behalf of Mark Bosworth & Associates, LLC. from 9/1/04-10/13/06.
6. Answering Paragraph 6 of the Notice, Respondent denies the allegations in Paragraph 6. Mark Bosworth & Associates, LLC ceased all normal operations in 2007 and retained designated broker Glen McArthur thru March 5, 2008 to finalize legal requirements by the Arizona Department of Real Estate while winding down the business, and was not at the time of this filing a holder of a real estate license issued by the Arizona Department of Real Estate.

7. Answering Paragraph 7 of the Notice, respondent admits 3 Gringos Mexican Investments is an Arizona Limited Liability Company. Respondent denies all other allegations contained in paragraph 7.

8. Answering Paragraph 8 of the Notice, Respondent firmly alleges that allegations contained therein require no response from Respondent.

9. Answering Paragraph 9 of the Notice, Respondent admits that Lisa Bosworth is his wife. Respondent denies all other allegations and denies the application of A.R.S. §44-2031.

10. Answering Paragraph 10 of the Notice, Respondent denies allegations as they pertain to Respondent.

11. Answering Paragraph 11 of the Notice, Respondent admits he was not registered with the Arizona Corporation Commission as a securities dealer or salesman and affirmatively alleges that he was under no obligation to be so registered.

## III.

## FACTS

12. Answering Paragraph 12 of the Notice, Respondent denies all allegations as written. Respondent alleges Mr. Bornholdt created and implemented entire investment system in question and actually authored all the initial Agreements, Documents, Notes and Receipts. Respondent found out months later about Bornholdts investment system. Respondent was required by law to hire a designated broker by the Arizona Department of Real Estate. The State of Arizona educated, trained, certified and completed their own background check for Designated Broker/Respondent Mr. Bornholdt and Respondent had no reason to doubt Bornholdts assertions as he trained Stephen G. Van Campen, Barbara Broyles and other licensed real estate agents under his care and control as designated broker in performing real estate related business.

13. Answering Paragraph 13 of the Notice, Respondent denies. The Arizona Corporation Commission has not produced a single advertisement that violates the Securities Act. The Commission has not produced a single screen from website that would violate the Securities Act. The Commission has produced no documents, documentation, recordings or sworn affidavits of alleged "van trip" violations that would violate the Securities Act. Respondent is

deeply distressed that the Commission would make such serious multimillion dollar claims and felony criminal allegations and demand responses without providing anything to which they are referring and demanding timely answers under potential penalty of criminal perjury charges. Respondent asserts that all advertisements including Arizona newspapers and website were reviewed thoroughly and approved by the designated broker, Mr. Bornholdt as required by State of Arizona Department of Real Estate, Commissioners Rules and Regulations, Chapter 28, Article 5 "Advertising" Section R4-28-502 Section C states, "A salesperson or broker shall ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. A salesperson or broker shall not misrepresent the facts or create misleading impressions." In addition, Section G states, "The designated broker shall supervise all advertising, for real estate, cemetery, or membership camping brokerage services." Furthermore, Section L states, "The use of an electronic medium such as the Internet or web site technology, that targets residents of this state with the offering of a property interest or real estate brokerage services pertaining to property located in this state constitutes dissemination of advertising as defined in A.R.S. §32-2101(2). Mr. Bornholdt was responsible for all actions of his agents including Stephen G. Van Campen and Barbara Broyles in any alleged "van trips" to Rocky Point. Mr. Bornholdt clearly maintains all civil and criminal liabilities for any and all advertising. Respondent was never in a van, car, etc. with agents or investors of any kind for any "trips" to Mexico.

14. Answering Paragraph 14 of the Notice, Respondent denies all allegations. Any sales of any kind were done through licensed real estate agents including, Stephen G. Van Campen and Barbara Broyles under the legally required care and control of the designated broker, Mr. Bornholdt. Respondent had every right to believe that Mr. Bornholdt and his agents were acting within the law. The State of Arizona, specifically the Arizona Department of Real Estate, make no requirement of business owners/managers Mr. Bosworth & Mr. Sargent to know the laws regarding real estate. They only require that the business retain a designated broker that has been put through the rigorous training, education, certification and licensing of the Arizona Department of Real Estate, which Respondent and Mr. Sargent did.

15. Answering Paragraph 15 of the Notice, Respondent is without information sufficient to for a belief as to the truth or falsity of the allegations of paragraph 15 and therefore denies the same. Respondent asserts licensed real estate agents including Stephen G. Van Campen, Barbara Broyles and others supplied any information at the specific direction of their designated broker, Mr. Bornholdt and that they had reason to trust Mr. Bornholdts claims and sales trainings. Respondent has never offered in any capacity to finance commercial buildings for the benefit of others.

16. Answering Paragraph 16 of the Notice, Respondent denies all allegations and asserts his current understanding is that some properties did close escrow; at a minimum Bell Road Project building A, B, C & E, Cave Creek/101 Project, Syphon Road Project and Raintree Project, and that the Mexico property is an ongoing project that will close escrow and have a return of some type to every Mexico investor despite catastrophic market conditions there, in Arizona and the entire country.

17. Answering Paragraph 17 of the Notice, Respondent denies all allegations and asserts licensed real estate agents Stephen G. Van Campen and Barbara Broyles were operating under the care, control and instruction of their AZDRE licensed designated broker, Mr. Bornholdt as required by the Arizona Department of Real Estate, Commissioners Rules and Regulations, Section 32-2153 #21 which states, "As a licensed broker, failed to exercise reasonable supervision over the activities of salespersons, associate brokers or others under the broker's employ or failed to exercise reasonable supervision and control over the activities for which a license is required of a corporation, limited liability company or partnership on behalf of which the broker acts as designated broker under section 32-2125."

18. Answering Paragraph 18 of the Notice, Respondent denies all allegations. Only licensed real estate agents Stephen G. Van Campen and Barbara Broyles made representations under the care, control and instruction of designated broker Mr. Bornholdt. Respondent is aware of money transferred to MBA to cover extensive advertising, media and seminar expenses to market projects which was pre-agreed to when Respondent got involved in marketing the project. Respondent received "trip" from 3GMI as agreed to by all members of 3GMI. Respondent never at any time offered to invest hundreds of thousands of dollars out of pocket

to promote development. Stephen G. Van Campen used $59,000 of investor funds to pay off personal liability to unhappy investor (Camille Evans) from another project he personally owned known as "Raintree", even though Mr. Van Campen had no investment in the Mexico project.

## IV.

## VIOLATION OF A.R.S. §44-1841

### (Offer of Sale of Unregistered Securities)

19. Answering Paragraph 19 of the Notice, Respondent denies due to complete lack of specificity and intentional vagueness. Section 41-1061(A) (4) of the A.A.P.A. requires the allegations be "short and plain." If allegation was plain Respondent would know which alleged act of which nothing has been supplied but this written complaint, violated which of the 19 Articles and 122 sub article sections it could possibly be alleging. Not one name, date, time, transaction, amount, advertisement or any "plain" information of any kind has been supplied by the commission. Respondent affirmatively alleges that A.R.S. 44-1841 does not apply.
20. Answering Paragraph 20 of the Notice, Respondent denies and alleges all claims and assertions in answer to paragraph 19. There are no securities involved and no requirement to register them. Respondent Bosworth and Respondent Mr. Sargent had reason to believe that Bornholdt who was educated, trained, certified and licensed and his background approved by the State of Arizona was a reliable source. Respondent also alleges all claims and assertions in answer to Paragraph 19 Rule 14-3-106 (E) allow only defects in complaint from Commission "which do not effect substantial rights of the parties." Respondent agrees every detail and fact is not required to be disclosed in complaint by Commission. Respondent asserts and alleges that in good faith a charge of a felony, as is made in this paragraph, must meet some standard of disclosure – no disclosure is given.
21. Answering Paragraph 21 of the Notice, Respondent denies and alleges all claims made in answer to Paragraph 19 and 20 violate article 9 of the Securities Act is an overly broad and intentionally vague allegation. It contains 10 sub articles/categories and nearly 100 possible rules, laws or claims the commission may be claiming. Respondent alleges this lack of

specificity does not meet the legal bar of "plain" and imputes Respondents ability to answer or defend claim.

## V.

## VIOLATION OF A.R.S. §44-1842

**(Transactions by Unregistered Dealers or Salesmen)**

22. Answering Paragraph 22 of the Notice, Respondent denies.

23. Answering Paragraph 23 of the Notice, Respondent denies.

## VI.

## VIOLATION OF A.R.S. §44-1991

**(Fraud in Connection with the Offer or Sale of Securities)**

24. Answering Paragraph 24 of the Notice, Respondent denies entire paragraph and subparagraphs A, B and C.

25. Answering Paragraph 25 of the Notice, Respondent denies.

## VII.

## REQUESTED RELIEF

- Respondent requests that the Commission deny the Requested Relief as identified in Paragraphs 1, 2, 3, 4 and 5 of Section VII of the Notice.
- That no restitution be ordered against Respondents Mark and Lisa Bosworth, Mark Bosworth & Associates, LLC and 3 Gringos Mexican Investments, LLC.
- That no administrative penalties be assessed against Respondents Mark and Lisa Bosworth, Mark Bosworth & Associates, LLC and 3 Gringos Mexican Investments, LLC.
- That no findings of any marital community liability of Respondent Mark and Lisa Bosworth be determined.
- That this action be dismissed with respect to Respondents Mark and Lisa Bosworth, Mark Bosworth & Associates, LLC and 3 Gringos Mexican Investments, LLC.

## VIII.

## HEARING OPPORTUNITY

Respondent requests a hearing pursuant to A.R.S. §44-1972.

**AFFIRMATIVE DEFENSES**

26. For his first affirmative defense, Respondent alleges that the Notice fails to claim upon which relief can be granted and this matter should be dismissed in its entirety with prejudice.
27. For his second affirmative defense, Respondent alleges that no securities are involved in the alleged transactions.
28. For his third affirmative defense, Respondent alleges that any ruling in this act would be unconstitutional under the laws of the State of Arizona and under the laws of the United States of America for, inter alia, failing to provide due process, among other provisions.
29. For his fourth affirmative defense, Respondent alleges that any ruling or action by the Commission in this matter will violate Respondents Fourth and Fifth Amendment rights guaranteed under the United States Constitution.
30. For his fifth affirmative defense, Respondent alleges that application of A.R.S. §44-2031(C) in this case exceeds the authority granted to the Commission by the Arizona Constitution.
31. For his sixth affirmative defense, Respondent alleges that to the extent documents that were allegedly offered or sold are determined to be securities the Respondent the subject documents are exempt from the registration provisions of the Arizona Securities Act.
32. For his seventh affirmative defense, Respondent alleges that all of his actions were taken for a proper purpose.
33. For his eighth affirmative defense, Respondent alleges that he has not taken any improper action within or from the State of Arizona.
34. For his ninth affirmative defense, Respondent alleges that the Commission's claims are barred by the applicable statute(s) of limitations.
35. For his tenth affirmative defense, Respondent states that he did not offer or sell investment contracts or any securities under Arizona law.
36. For his eleventh affirmative defense, Respondent alleges the claims in the Notice are barred by estoppels.
37. For his twelfth affirmative defense, Respondent alleges the claims in the Notice barred by laches. Respondent personally and through his business, in good faith, invested over

$90,000 to obtain legal opinions and mitigate losses and presented such legal options to investors, who were believed to have a very strong and defendable legal case to protect and preserve their entire investments and more than likely a return on their investment. Investors would have been required to pay their own legal bills from that point forward but they chose not to do so. Respondent owned no free legal service to investors to defend investors claims. Many investors we coerced not to do this by their agent(s) Barbara Broyles.

38. For his thirteenth affirmative defense, Respondent alleges that the claims in the Notice are barred by waiver.

39. For his fourteenth affirmative defense, Respondent alleges that the claims in the Notice are barred by assumption of risk. Investors had many investment options offered by MBA including ultra conservative options which they did not choose. All investors only met with licensed real estate agents and made their own choices. The runaway market at that time was a significant factor in many consumers giving way to caution and letting quick investment gratification supersede coaching from Respondent. If it were not for the historic collapse of the real estate market there would be no claims of any kind.

40. For his fifteenth affirmative defense, Respondent alleges that the Securities Division has failed to allege securities fraud with reasonable particularity as required by Rule 9(b) of the Arizona Rules of Civil Procedure.

41. For his sixteenth affirmative defense, Respondent alleges that he did not know in the exercise of reasonable care could have known, of any alleged untrue statements material omissions as set forth in the Notice

42. For his seventeenth affirmative defense, Respondent states that he has not acted the requisite scienter.

43. For his eighteenth affirmative defense, Respondent states that he has not employed a deceptive or manipulative device in connection with the offer, purchase or sale of any security.

44. For his nineteenth affirmative defense, Respondent states that the alleged purchase have suffered no injuries or damages as a result of Respondents acts.

45. For his twentieth affirmative defense, Respondent that he did not make a misrepresentation or omissions, material or otherwise.

46. For his twenty-first affirmative defense, Respondent alleges that he acted in good faith and did not directly or indirectly induce the conduct at issue.

47. For his twenty-second affirmative defense, Respondent states that he has caused no damages.

48. For his twenty-third affirmative defense, Respondent alleges that purchasers relied on others, and not this Respondent, in connection with the matters at issue in the Notice. Purchasers failed to act in good faith to mitigate or eliminate their damages. All 31 investors received notice from Respondent on how to provide information to Respondent so he could potentially mitigate or eliminate losses through errors and omissions insurance coverage. The only investor to properly do so, Cactus Shadows LLC has indeed reached full settlement and recovered tens of thousands of dollars. Many investors were coached by their licensed real estate agents Mr. Bornholdt, Stephen G. Van Campen and with evangelical fervor by Barbara Broyles not to supply the information in an attempt to protect their real estate licenses. Stephen G. Van Campen and Barbara Broyles continued selling the Mexico investments properties to MBA customers after leaving their employment with MBA despite having signed non-compete agreements (not to solicit) said investors/customers of MBA. Respondent had no idea Stephen G. Van Campen and Barbara Broyles were still soliciting/selling 3GMI. Their relentless illegal solicitation included illegal seminars to non accredited investors where they also sold unregistered securities as unlicensed agents for "Castle Arch". Stephen G. Van Campen, Barbara Broyles and Alan Bywater continued to solicit and to sell other illegal securities for Trademark Capital Management, LLC. Barbara Broyles sold these to the Ferrises who were MBA clients. Barbara Broyles sold Castle Arch Investments and records will show she received a large base salary plus large commissions when funds were invested through her, which is a clear violation of the Securities Act. This documents that the conduct of Stephen G. Van Campen , Barbara Broyles and Alan Bywater continues long after their affiliation with MBA and the other Respondents in this matter.

49. For his twenty-fourth affirmative defense, Respondent alleges that restitution barred because the damages, if any, were caused by the purchasers' own acts, omissions and lack of any due diligence. Most investors handed Mr. Bornholdt, Mr. Van Campen or Barbara Broyles a check on just a handshake and never met personally with Respondent before investing. Most instruments were negotiated months or years after the funds were invested on pure hearsay from agents.

50. For his twenty-fifth affirmative defense, Respondent alleges restitution is barred in whole or in part, because purchasers failed to mitigate their damages or supply the proper paperwork needed for an E & O insurance claim.

51. For his twenty-sixth affirmative defense, Respondent alleges the claims in the Notice and restitution are barred, in whole or in part, because purchasers' damages, if any, were caused by the intervening and/or superseding acts of others over whom Respondent has no control and for whose acts Respondent is not legally answerable.

52. For his twenty-seventh affirmative defense, Respondent alleges the claims in the Notice and restitution are barred, in whole or in part, because of mutual mistake.

53. For his twenty-eighth affirmative defense, Respondent alleges claims in the Notice and restitution are barred, in whole or in part, because of payment, accord and satisfaction.

54. For his twenty-ninth affirmative defense, Respondent alleges claims in the Notice and restitution are barred, in whole or in part, because of ratification.

55. For his thirtieth affirmative defense, Respondent alleges claims in the Notice and restitution are precluded, in whole or in part, by offsets.

56. For his thirty-first affirmative defense, Respondent alleges claims in the Notice and restitution are barred, in whole or in part, by the doctrine of unclean hands.

57. For his thirty-second affirmative defense, Respondent alleges claims in the Notice and restitution are barred, in whole or in part, by the doctrine of contributory negligence.

58. For his thirty-third affirmative defense, Respondent alleges claims in the Notice and restitution are barred, in whole or in part, because purchasers acted in bad faith.

59. For his thirty-fourth affirmative defense, Respondent alleges claims in the Notice and restitution are barred, in whole or in part, because when damages were caused, in whole or in

part, by factors beyond Respondents control including the unexpected and historic collapse of real estate and the credit markets and the lack of liquidity in the economy caused, in part, lenders failures to fund developments and alleged victims inability to finance their own purchases.

60. Respondent alleges such other affirmative defenses as set forth in Arizona Rule of Civil Procedures 8(c), as may be determined to be applicable through discovery.

61. Respondent reserves the right to amend this Answer to assert additional defenses after completion of appropriate discovery.

WHEREFORE, there is no basis for imposition of liability of any kind or nature and there should be no order of any kind or nature against Respondents.

RESPECTFULLY SUBMITTED this 23rd day of February, 2009

By_____
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theboz@cox.net
(480) 840-5062

By_____
Lisa Bosworth
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By_____
Mark Bosworth & Associates, LLC
Mark Bosworth, Manager

By_____
3 Gringos Mexican Investments, LLC
Mark Bosworth, Member

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