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BEFORE THE ARIZONA CORPORATION COMMISSION  
RECEIVED

COMMISSIONERS

2009 FEB 27 A 11:43

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE FORMAL  
COMPLAINT OF SWING FIRST GOLF  
LLC AGAINST JOHNSON UTILITIES  
LLC.

DOCKET NO. WS-02987A-08-0049

NOTICE OF FILING SUBPOENA

Johnson Utilities LLC, dba Johnson Utilities Company ("Johnson Utilities") hereby files the subpoena issued by the Third District Court, State of Utah and served upon Michael Lance White pursuant to Rule 45 of the Utah Rules of Civil Procedure, Rule 26 and 30 Ariz. Rules of Civ. Pro. and Arizona Administrative Code § R14-3-109. Johnson Utilities also files the Affidavit of Service which indicates Mr. White was served on February 24, 2009. Mr. White's deposition is currently scheduled for Friday, March 13, 2009, at Snell & Wilmer, L.L.P. in Salt Lake City, Utah.

On February 26, 2009, Swing First Golf LLC filed a Motion to Quash Depositions. Johnson Utilities will be filing a response to the Motion to Quash within the timeframes set forth in this proceeding.

DATED this 27<sup>th</sup> day of February, 2009.

SNELL & WILMER L.L.P.

Arizona Corporation Commission

DOCKETED

FEB 27 2009

DOCKETED BY

By   
Jeffrey W. Crockett  
Bradley S. Carroll  
One Arizona Center  
400 East Van Buren  
Phoenix, Arizona 85004-2202  
Attorneys for Johnson Utilities LLC

Snell & Wilmer  
LLP

LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
(602) 382-6000

1 ORIGINAL and 13 copies filed this  
27<sup>th</sup> day of February, 2009, with:

2 Docket Control  
3 Arizona Corporation Commission  
1200 West Washington  
4 Phoenix, Arizona 85007

5  
6 Copy hand-delivered this 27<sup>th</sup> day  
of February, 2009, to:  
7 Janice Alward, Chief Counsel  
Legal Division  
8 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
9 Phoenix, Arizona 85007

10 Ernest Johnson, Director  
Utilities Division  
11 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
12 Phoenix, Arizona 85007

13 COPY sent via U.S. Mail and  
E-Mail this 27<sup>th</sup> day of February, 2009, to:

14  
15 Craig A. Marks  
CRAIG A. MARKS, PLC  
10645 N. Tatum Blvd., Suite 200-676  
16 Phoenix, Arizona 85028  
Craig.Marks@azbar.org  
17 Attorney for Swing First Golf LLC

18  
19 Rosa E. Santamaria

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24  
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26  
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**AFFIDAVIT OF SERVICE**

State of UTAH

County of SALT LAKE

Third District Court

Case Number: 090902869 Court Date: 3/13/2009 9:00 am

Plaintiff:

**SWING FIRST GOLF LLC**

vs.

Defendant:

**JOHNSON UTILITIES, LLC**

For:

Stewart O Peay

SNELL & WILMER

15 W. S. Temple

Suite 1200

Salt Lake City, UT 84101-1004

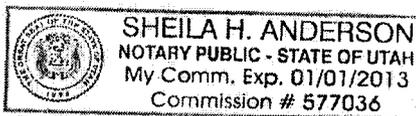
Received by ANDERSON INVESTIGATIONS, INC. on the 20th day of February, 2009 at 9:22 pm to be served on **MICHAEL LANCE WHITE, 721 EAST 830 NORTH, AMERICAN FORK, UT 84003.**

I, **STEVEN G. KIMBER**, being duly sworn, depose and say that on the **24th day of February, 2009** at **7:00 pm, I:**

**Individually Served** the within named person with a true copy of the **SUBPOENA and NOTICE OF DEPOSITION, CHECK** with the date and hour endorsed thereon by me, pursuant to state statutes.

**Military Status:** Based upon inquiry of party served, defendant is not in the military service of the United States.

I am over the age of 21 and have no interest in the above action.



Subscribed and Sworn to before me on the 25th day of February, 2009 by the affiant who is personally known to me.

Sheila Anderson  
NOTARY PUBLIC

  
\_\_\_\_\_  
**STEVEN G. KIMBER**  
Process Server

**ANDERSON INVESTIGATIONS, INC.**  
230 West 200 South  
Suite 2302  
Salt Lake City, UT 84101  
(801) 619-1110  
Our Job Serial Number: 2009000975  
Ref: 55339.0005  
Service Fee: \$118.00

Stewart O. Peay (Utah Bar # 9584)  
Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Gateway Tower West  
Salt Lake City, Utah 84101-1004  
Telephone: (801) 257-1900  
Facsimile: (801) 257-1800

Jeffrey W. Crockett (Arizona Bar #012672)  
Snell & Wilmer L.L.P.  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004-2202  
Telephone: (602) 382-6234

Attorneys for Complainant

**THIRD DISTRICT COURT, STATE OF UTAH**

**SALT LAKE COUNTY, SALT LAKE DEPARTMENT**

IN THE MATTER OF THE FORMAL  
COMPLAINT OF SWING FIRST GOLF LLC  
AGAINST JOHNSON UTILITIES LLC.

**SUBPOENA**

Case No.: 0909102869

Judge \_\_\_\_\_

**TO: Michael Lance White**  
**721 East 830 North**  
**American Fork, Utah 84003**

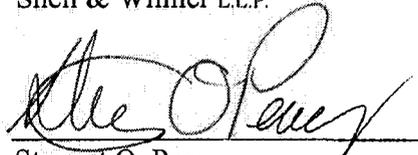
Pursuant to Rule 45 of the Utah Rules of Civil Procedure, and to Ariz. Rules of Civ. Pro. 26 and 30 and A.A.C. R14-3-109, you are hereby commanded to appear at Snell & Wilmer L.L.P., 15 West South Temple, Suite 1200, Salt Lake City, Utah 84101 on **Friday, March 13, 2009 at 9:00 a.m.** to testify at the taking of a deposition.

Server [Signature]  
Title Process Server  
Date 2.24.09 7:00pm  
P/S [Signature]

Pursuant to Rule 45(a)(1)(D) of the Utah Rules of Civil Procedure, you are advised that the Notice to Persons Served with a Subpoena is attached hereto as Exhibit "2" as required by Utah law.

DATED this 20th day of February, 2009.

Snell & Wilmer L.L.P.

A handwritten signature in cursive script, appearing to read "Stewart O. Peay", is written over a horizontal line.

Stewart O. Peay  
*Attorneys for Complainant*

## EXHIBIT 2: NOTICE TO PERSONS SERVED WITH A SUBPOENA

### *Subpoena to Appear at Trial, at Hearing, or at Deposition*

1. If this subpoena commands you to appear to give testimony at trial or at hearing, you must appear in person at the place designated in the subpoena.
2. If this subpoena commands you to appear to give testimony at deposition, you must appear in person at the place designated in the subpoena. If you are a resident of Utah, the subpoena may command you to appear only in the county where you reside, or where you are employed, or where you transact business in person, or where the court orders you to appear. If you are not a resident of Utah, the subpoena may command you to appear only in the county where you are served with the subpoena, or where the court orders.
3. If this subpoena commands you to appear to give testimony at trial, at hearing, or at deposition, but does not command you to produce or to permit inspection and copying of documents or tangible things, or inspection of premises, you have the right to object if the subpoena:
  - (I) imposes an undue burden or expense upon you;
  - (ii) does not allow you a reasonable time to comply, which may be less than 14 days, depending on the circumstances; or
  - (iii) Commands you to appear at deposition at a place in violation of paragraph 2, above.
4. To object to complying with the subpoena, you must file with the court issuing the subpoena a motion to quash or modify the subpoena. You must comply with the subpoena unless you have obtained a court order granting you relief from the subpoena.

### *Subpoena to Produce or to Permit Inspection of Documents or Tangible Things or to Permit Inspection of Premises*

5. If this subpoena commands you to produce or to permit inspection and copying of documents or tangible things, or to permit inspection of premises, but does not command you appear to give testimony at trial, at a hearing, or at a deposition:
  - (I) you need not appear in person at the place of production or inspection;
  - (ii) you must produce documents as you keep them in the ordinary course of business or organize and label them to correspond with the categories demanded in the subpoena; and
  - (iii) you need not make any copies or advance any costs for production, inspection or copying. If you agree to make copies, the party who has served the subpoena upon you must pay the reasonable costs of production and copying.
6. You have the right to object if the subpoena:
  - (I) imposes an undue burden or expense upon you;
  - (ii) does not allow you at least 14 days to comply, unless the party serving the subpoena has obtained a court order requiring an earlier response;
  - (iii) requires you to disclose a trade secret or other confidential research, development or commercial information;
  - (iv) requires you to disclose privileged communication with your attorney or privileged trial preparation materials; or
  - (v) requires you to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from expert's study made not at the request of any party.
7. To object to a subpoena for one of the reasons stated in paragraph 6, you must provide notice in writing of your objection to the party or attorney serving the subpoena before the date specified in the subpoena for you to respond. If your objection is based on either paragraph 6(iii), 6(iv), or 6(v), your written objection must describe the nature of the documents, communications or things that you object to producing with sufficient specificity to enable the party or attorney serving the subpoena to contest your objection. You must also comply with the subpoena to the extent that it commands production or inspection of materials to which you do not object.
8. After you make timely written objection, the party who has served the subpoena upon you must obtain a court order to compel you to comply with the subpoena. The party must give you a copy of its motion for a court order and notice of any hearing before the court. You have the right to file a response to the motion with the court and a right to attend any hearing. After you make a timely written objection, you have no obligation to comply with the subpoena until the party serving the subpoena has served you with a court order that compels you to comply.
9. If this subpoena commands you to produce or to permit inspection and copying of documents or tangible things, or to permit inspection of premises, *and* to appear to give testimony at trial, at a hearing, or at a deposition, you may object to the production or inspection of documents or tangible things, or inspection of premises, by following the procedure identified in paragraph 7. Even though you object to production or inspection of documents or tangible things, or inspection of premises, you must appear in person at the trial, at the hearing or at the deposition unless you obtain an order of the court by following the procedures identified in paragraph 4.

**Snell & Wilmer**  
LLP  
LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
(602) 382-6000

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Jeffrey W. Crockett (#012672)  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004-2202  
Telephone: (602) 382-6234  
Attorneys for Complainant

**FILED DISTRICT COURT**  
Third Judicial District

**FEB 20 2009**

SALT LAKE COUNTY

By \_\_\_\_\_  
Deputy Clerk

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE FORMAL  
COMPLAINT OF SWING FIRST  
GOLF LLC AGAINST JOHNSON  
UTILITIES LLC.

**DOCKET NO. WS-02987A-08-0049**  
**NOTICE OF DEPOSITION**

090907869

YOU ARE HEREBY NOTIFIED that, pursuant to Ariz. Rules of Civ. Pro. 26 and 30 and A.A.C. R14-3-109, deposition will be taken upon oral examination of the person whose name and address is stated below at the time and place stated below before an officer authorized by law to administer oaths.

PERSON TO BE EXAMINED: Michael Lance White  
721E 830 N.  
American Fork, Utah 84003

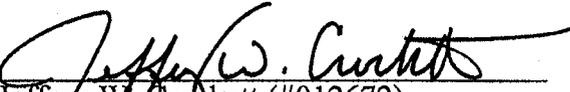
DATE AND TIME OF DEPOSITION: Friday, March 13, 2009 at 10:00 AM

PLACE OF DEPOSITION: Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101

1 Requests for reasonable accommodations for persons with disabilities must be  
2 made by the parties at least three (3) working days in advance of the scheduled deposition.  
3

4 DATED this 18 day of February, 2009.

5 SNELL & WILMER L.L.P.

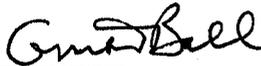
6  
7 By   
8 Jeffrey W. Crockett (#012672)  
9 One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-2202  
Attorneys for Johnson Utilities, LLC

10  
11  
12 Original plus thirteen (13)  
13 copies hand-delivered this  
18<sup>th</sup> day of February, 2009, to:

14 Docket Control  
15 ARIZONA CORPORATION COMMISSION  
1200 West Washington  
16 Phoenix, Arizona 85007

17 Copy sent by e-mail and U.S. mail on this 18<sup>th</sup> day  
18 of February, 2009, to:

19 Craig A. Marks  
CRAIG A. MARKS, PLC  
10645 North Tatum Blvd., Suite 200-676  
20 Phoenix, Arizona 85028  
Attorney for Swing First Golf, LLC  
21

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23 9522251.1  
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28

Snell & Wilmer

LLP  
LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
(602) 382-6000