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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES - CHAIRMAN
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AZ CORP COMMISSION
DOCKET CONTROL

In the matter of:

Docket No. S-20631A-08-0503

ROBERT FRANKLIN HOCKENSMITH, JR.,
CRD #1798614

**RESPONDENT ROBERT F.
HOCKENSMITH, JR.'S
FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS**

Respondent.

Pursuant to the Rules of Practice before the Arizona Corporation Commission, A.A.C. R14-3-101 et seq., Respondent Robert Franklin Hockensmith (the "Respondent" or "Hockensmith") requests that the documents or things designated in the list labeled "Documents to be Produced" be produced for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

Time: No later than twenty (20) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Place: Roshka Heyman & DeWulf, One Arizona Center, 400 East Van Buren Street, Suite 800, Phoenix, Arizona 85004.

The list labeled "Documents to be Produced" sets forth the items to be produced, either by individual item or by category; describes each item and category with reasonable particularity; and specifies the reasonable time, place and manner of making the production and performing the related acts in connection with each item.

The party upon whom this Request is served shall satisfy or object to it in writing within twenty (20) days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Arizona Corporation Commission
DOCKETED

MAR 31 2009

DOCKETED BY

1 The Response shall state, with respect to each item or category, that the documents will be
2 produced and related activities will be permitted as requested, unless the Request is objected to, in
3 which event the reasons for objection shall be stated.

4 The documents or things sought by this Request include documents, information and things
5 in the possession, custody or control of the Securities Division, their attorneys and all present and
6 former agents, servants, representatives, investigators and others who may have obtained custody of
7 the documents and things on behalf of the party or their attorneys.

8 Unless otherwise indicated, this Request covers the time frame of January 1, 2005 to the
9 present.

10 DEFINITIONS

11 For the purposes of this Request for Production of Documents, the following terms and
12 references have been abbreviated and defined as follows:

13 1. The terms "and" and "or" shall be construed conjunctively or disjunctively,
14 whichever makes the document request more inclusive.

15 2. The terms "Securities Division," "you" and "your" shall mean the Securities
16 Division of the Arizona Corporation Commission.

17 3. The term "Respondent" shall mean Robert Franklin Hockensmith.

18 4. The term "Notice" is intended to include the Notice of Opportunity for Hearing for
19 Docket No. S-20631A-08-0503.

20 5. The terms "document" or "documents" include, without limiting their generality, all
21 contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes,
22 e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone
23 messages, computer disks, hard drives, telegrams, newsletters or other publications, stock
24 certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or
25 use of real or personal property, valuation estimates of any kind, financial data, *pro formas*,
26 estimates, financial projections, statements, credit and loan applications, accounting records and
27 worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books,

1 feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences,
2 notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped
3 interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts,
4 prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone
5 records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts,
6 data card programs or other input or output of data processing systems, photographs (positive print,
7 slides or negatives), microfilm or microfiche, or other data compilations from which information
8 can be obtained or translated through detection devices into reasonably usable form, whether
9 originals or copies, altered or unaltered, made by any means. The terms "document" and
10 "documents" also include all copies which are, in any manner, not identical in content to the
11 originals. Any comment or notation appearing on any document, and not a part of the original text,
12 is to be considered a separate "document." Any draft, or any other preliminary form of any
13 document, is also to be considered a separate "document."

14 6. The term "all documents" means every document, as defined above, known to you
15 and every document which can be located or discovered by reasonably diligent efforts.

16 7. The terms "writing" or "written" are intended to include, but not necessarily be
17 limited to, the following: handwriting, typewriting, printing, photographing and every other means
18 of recording upon any tangible thing, any form of communication later reduced to a writing or
19 confirmed by a letter.

20 8. The term "communication" means any oral, written, electronic, graphic,
21 demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more
22 individuals or entities, regardless of the medium by which such communication occurred, and shall
23 include, without limitation, written contact by such means as letters, memoranda, telegrams, telex,
24 or any documents, and oral contact by such means as face to face meetings and telephone
25 conversations.

26 9. The terms "concerns" or "concerning" include referring to, alluding to, responding
27 to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about,

1 regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing,
2 constituting, evidencing or pertaining to.

3 10. The term "person(s)" shall mean any natural person, corporation, partnership, sole
4 proprietorship, joint venture, association, limited liability company, governmental or other public
5 entity, or any other form of organization or legal entity, and all of their officials, directors, officers,
6 employees, representatives, attorneys and agents.

7 11. The terms "meeting" and "meetings" mean any coincidence of presence of two or
8 more persons between or among whom some communication occurs, whether or not such
9 coincidence of presence was by chance or prearranged, formal or informal, or in connection with
10 some other activity.

11 **INSTRUCTIONS FOR USE**

12 A. In producing documents and things, indicate the particular request to which a
13 produced document or thing is responsive.

14 B. In producing documents and things, furnish all documents or things known or
15 available to you, regardless of whether such documents or things are possessed directly by you or
16 your directors, officers, agents, employees, representatives and investigators or by your attorneys or
17 their agents, employees, representatives or investigators.

18 C. If any requested document or thing cannot be produced in full, produce each such
19 document to the extent possible, specifying each reason for your inability to produce the remainder
20 and stating whatever information, knowledge or belief you have concerning the unproduced portion
21 and the expected dates on which full production can be completed.

22 D. If any documents or things requested were in existence but are no longer in
23 existence, then so state, specifying for each document or thing:

- 24 (1) The type of document or thing;
25 (2) The type(s) of information contained therein;
26 (3) The date upon which it ceased to exist;
27 (4) The circumstances under which it ceased to exist;

1 (5) The identity of each person or persons having knowledge or who had
2 knowledge of the contents thereof; and

3 (6) The identity of each person or persons having knowledge of the
4 circumstances under which each document or thing ceased to exist.

5 E. This Request for Production of Documents is deemed to be continuing. If, after
6 producing documents and things, you obtain or become aware of any further documents, things or
7 information responsive to this Request for Production of Documents, you are required to produce to
8 Respondent such additional documents and things, or provide Respondent with such additional
9 information.

10 F. Documents attached to each other should not be separated.

11 G. In lieu of producing originals or copies thereof responsive to this Request, you may,
12 at your option, submit legible photographic or other reproductions of such documents, provided
13 that the originals or copies from which such reproductions were made are retained by you until the
14 final disposition of this proceeding.

15 H. In the event that you seek to withhold any documents, things or information on the
16 basis that it is properly subject to some limitation on discovery, you shall supply Respondent with a
17 list of the documents and things for which limitation of discovery is claimed, indicating:

18 (1) The name of each author, writer, sender or initiator of such document or
19 thing, if any;

20 (2) The name of each recipient, addressee or party for whom such document
21 or thing was intended, if any;

22 (3) The name of the person in custody or charge or possession of each such
23 document;

24 (4) The date of each such document, if any, or an estimate thereof and so
25 indicated as an estimate;

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- (5) The general subject matter as described in each such document, or, if no such description appears, then such other description sufficient to identify said document;
- (6) The name, business address and position of each person who has seen, or has access to or knowledge of, the contents or nature of any such document; and
- (7) The claimed grounds for limitation of discovery (e.g., "attorney-client privilege").

DOCUMENTS TO BE PRODUCED

1. The Securities Division's complete investigative file relating to and/or resulting in the commencement of Arizona Corporation Commission Docket No. S-20631A-08-0503. This should include, but not be limited to, the following:

- a. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of tapes and/or memoranda and/or notes and/or transcripts of sworn or unsworn testimony or interviews that in any way memorialize communications between the Securities Division on the one hand and (i) Respondent and (ii) employees/independent agents/representatives of Respondent, including Examinations Under Oath, and all exhibits thereto;
- b. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of sworn or unsworn testimony or interviews that that in any way memorialize communications between the Securities Division and any entity or individual interviewed and/or contacted in connection with the Securities Division's investigation of Respondent and relating to the allegations set forth in the Notice. This includes all complaints, correspondence and Examinations Under Oath, and all exhibits thereto;

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- c. All documents in the possession or under the control of the Securities Division relating to the Respondent;
- d. All affidavits, questionnaires and statements provided by individuals interviewed or contacted by the Securities Division relating to the allegations set forth in the Notice and/or relating to the Respondent;
- e. All correspondence regarding or referring to the Respondent;
- f. All documents or other information provided by Respondent to the Securities Division;
- g. All documents regarding or referring to James Roberts;
- h. All documents regarding or referring to FOMAC International, Inc;
- i. All documents regarding or referring to Consultores Las Tres Americas S.A.;
- j. All documents regarding or referring to H.D. Vest Advisory Services and Respondent, James Roberts, FOMAC International, Inc., Consultores Las Tres Americas, S.A. and/or Respondent's accounting and H.D. Vest customers;
- k. All documents regarding or referring to the clients of Respondent;
- l. All documents evidencing telephone calls made by the Securities Division or anyone acting on its behalf to Respondent including, but not limited to, (i) documents sufficient to identify each telephone call made by the Securities Division, (ii) who authorized each telephone call, (iii) who placed the telephone calls, (iv) the scripts or outlines used by the individuals who placed or received these calls; and (v) any notes, transcripts, tapes or other memoranda memorializing the telephone calls;
- m. Documents sufficient to identify the customer referenced in Paragraph No. 33 of the Notice;

- 1 n. All documents concerning the loan referenced in Paragraph No. 33 of the
2 Notice;
- 3 o. Documents sufficient to identify the customer referenced in Paragraph
4 No. 36 of the Notice;
- 5 p. All documents concerning the “another investment advisor firm”
6 referenced in Paragraph No. 36 of the Notice;
- 7 q. Documents sufficient to identify the “several H.D. Vest customers”
8 identified in Paragraph No. 6 of the Notice;
- 9 r. Documents evidencing, constituting, or concerning the “securities”
10 referenced in Paragraph No. 6 of the Notice;
- 11 s. Documents evidencing, constituting, or concerning the “investment
12 contracts” referenced in Paragraph No. 6 of the Notice;
- 13 t. Documents evidencing, constituting, or concerning the “commodity
14 contracts” referenced in Paragraph No. 6 of the Notice;
- 15 u. Documents sufficient to identify the customers referenced in Paragraphs
16 Nos. 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19 of the Notice;
- 17 v. Any and all documents demonstrating, showing or supporting that
18 Respondent made the statements attributed to Respondent in Paragraphs
19 Nos. 6 through 12 of the Notice;
- 20 w. Documents showing the Respondent’s own monthly profits as referenced
21 in Paragraph No. 13 of the Notice;
- 22 x. Documents demonstrating the level of knowledge (or lack thereof) of
23 Respondent’s customers regarding foreign currency trading as referenced
24 in Paragraph No. 13 of the Notice;
- 25 y. Any documents purporting to show that Respondent or his office staff
26 “filled out most of the information on the forms” as alleged in Paragraph
27 No. 22 of the Notice;

- 1 z. The letters and forms referenced in Paragraph No. 23 of the Notice;
- 2 aa. Any documents showing that Respondent received any of the fees or
- 3 funds referenced in Paragraph No. 23 of the Notice;
- 4 bb. Documents showing the non-FOMAC investments of the customers
- 5 referenced in Paragraph No. 25 of the Notice;
- 6 cc. Documents evidencing or concerning the loans referenced in Paragraph
- 7 No. 26 of the Notice;
- 8 dd. Documents sufficient to identify the customer referenced in Paragraph
- 9 No. 27 of the Notice;
- 10 ee. Documents evidencing or concerning the loan or mortgage referenced in
- 11 Paragraph No. 28 of the Notice;
- 12 ff. Documents sufficient to identify the customer referenced in Paragraph
- 13 No. 29 of the Notice;
- 14 gg. Documents showing the present financial condition of the customer
- 15 referenced in Paragraph No. 29 of the Notice;
- 16 hh. Documents sufficient to identify the customer referenced in Paragraph
- 17 No. 30 of the Notice;
- 18 ii. Documents showing the tax liabilities referenced in Paragraph No. 30 of
- 19 the Notice;
- 20 jj. Documents showing the "rules of his dealer" referenced in Paragraph No.
- 21 31 of the Notice;
- 22 kk. Documents showing that the transactions were not recorded on the
- 23 records of the dealer, as alleged in Paragraph No. 32 of the Notice;
- 24 ll. The forms referenced in Paragraph No. 35 of the Notice;
- 25 mm. Documents regarding Respondent's knowledge (or lack thereof) and
- 26 investigation of the FOMAC investments, as alleged in Paragraph Nos.
- 27 37 and 38 of the Notice;

- 1 mn. All disclosures provided by Respondent to his clients regarding the
2 FOMAC investments;
- 3 oo. Documents showing that Respondent had “no financial information” as
4 alleged in Paragraph No. 41 of the Notice;
- 5 pp. Any and all documents showing that the statement attributed Respondent
6 in Paragraph No. 45(a) of the Notice was not true or was misleading;
- 7 qq. Any and all documents showing that the statement attributed Respondent
8 in Paragraph No. 45(b) of the Notice was not true or was misleading;
- 9 rr. Any and all documents showing that the statement attributed Respondent
10 in Paragraph No. 45(c) of the Notice was not true or was misleading;
- 11 ss. Any and all documents showing that the statement attributed Respondent
12 in Paragraph No. 45(d) of the Notice was not true or was misleading;
- 13 tt. Any and all documents showing that the statement attributed Respondent
14 in Paragraph No. 45(e) of the Notice was not true or was misleading;
- 15 uu. Any and all documents showing that the statement attributed Respondent
16 in Paragraph No. 45(f) of the Notice was not true or was misleading;
- 17 vv. Any and all documents showing that the statement attributed Respondent
18 in Paragraph No. 45(g) of the Notice was not true or was misleading;
- 19 ww. Any and all documents showing that the statement attributed Respondent
20 in Paragraph No. 45(h) of the Notice was not true or was misleading;
- 21 xx. Documents concerning the civil and criminal cases referenced in
22 Paragraph Nos. 50 and 51 of the Notice;
- 23 yy. Documents showing that Respondent actually sold any of the contracts
24 referenced in Paragraph No. 52;
- 25 zz. Documents demonstrating the “device, scheme or artifice to defraud”
26 referenced in Paragraph No. 55 of the Notice;
- 27

- 1 aaa. Documents demonstrating the “untrue statements of material fact” or
2 omissions of material facts referenced in Paragraph No. 55 of the Notice;
- 3 bbb. Documents demonstrating the “transactions, practices, or courses of
4 business that operated or would operate as a fraud or deceit” as referenced
5 in Paragraph No. 55 of the Notice;
- 6 ccc. Documents demonstrating Respondent’s “own personal knowledge,
7 experience, and training relating to forex securities or forex trading” as
8 referenced in Paragraph No. 55(a) of the Notice;
- 9 ddd. Documents demonstrating the misrepresentation referenced in Paragraph
10 No. 55(b) of the Notice;
- 11 eee. Documents demonstrating the misrepresentation referenced in Paragraph
12 No. 55(c) of the Notice;
- 13 fff. Documents demonstrating the failure to disclose referenced in Paragraph
14 No. 55(d) of the Notice;
- 15 ggg. Documents demonstrating the failure to disclose referenced in Paragraph
16 No. 55(e) of the Notice;
- 17 hhh. Documents demonstrating the failure to disclose referenced in Paragraph
18 No. 55(f) of the Notice;
- 19 iii. Documents demonstrating the failure to disclose referenced in Paragraph
20 No. 55(f) of the Notice;
- 21 jjj. All subpoenas issued by the Securities Division in connection with the
22 investigation of Respondent in Docket No. S-20631A-08-0503 and all
23 responses thereto.
- 24 2. Copies of all other documents obtained during the Securities Division’s investigation that
25 are not specifically referred to in Request Nos. 1(a – jjj) above.
- 26 3. Copies of all documents in the possession or under the control of the Securities Division
27 relating to the investments or accounts of the “investors” or “customers” referred to in the Notice.

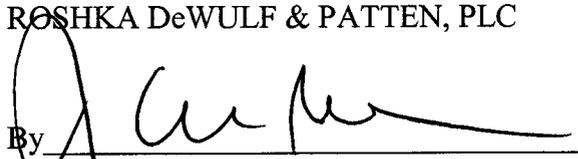
- 1 4. Copies of all documents provided by the Securities Division to other state securities
2 agencies, other state regulatory agencies (including without limitation the Arizona Board of
3 Accountancy), law enforcement organizations (including without limitation the Arizona Attorney
4 General's office, the FBI, and the United States Department of Justice) regarding the Respondent,
5 his independent agents, employees and other representatives, FOMAC, Consultores Las Tres
6 Americas S.A., or James Roberts.
- 7 5. Copies of all documents provided to the Securities Division by other state securities
8 agencies, other state regulatory agencies (including without limitation the Arizona Board of
9 Accountancy), law enforcement organizations (including without limitation the Arizona Attorney
10 General's office, the FBI, and the United States Department of Justice) regarding the Respondent,
11 its independent agents, employees and other representatives, FOMAC, Consultores Las Tres
12 Americas S.A., or James Roberts.
- 13 6. Copies of any documents that concern or reflect any contacts or communications with other
14 state securities agencies, other state regulatory agencies (including without limitation the Arizona
15 Board of Accountancy), law enforcement organizations (including without limitation the Arizona
16 Attorney General's office, the FBI, and the United States Department of Justice) regarding the
17 Respondent, his independent agents, employees and other representatives, FOMAC, Consultores
18 Las Tres Americas S.A., or James Roberts.
- 19 7. Copies of all documents reviewed by or prepared by any expert the Securities Division
20 intends to call as a witness at the hearing and all drafts of those documents.
- 21 8. Any documents demonstrating that Respondent had scienter with respect to the allegations
22 of Paragraph 55 of the Notice.
- 23 9. Any documents showing any funds received by any of the customers referenced in the
24 Complaint, with respect to their investment in FOMAC, from: (1) FOMAC, (2) Consultores Las
25 Tres Americas S.A., (3) James Roberts, (4) the Receiver appointed in the cases referenced in
26 Paragraphs Nos. 50 and 51 of the Notice, (5) as restitution deriving from any criminal proceeding
27 including that referenced in Paragraph No. 50 of the Notice, (6) as damages, restitution, or other

ROSHKA DEWULF & PATTEN, PLC
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FACSIMILE 602-256-6800

1 money judgment in any civil, administrative, or arbitration proceeding; (7) from any source of
2 insurance; or (8) from any other source.

3 RESPECTFULLY SUBMITTED this 31st day of March, 2009.

4 **ROSHKA DeWULF & PATTEN, PLC**

5
6 By 

7 Paul J. Roshka, Jr., Esq.

8 Jeffrey D. Gardner, Esq.

9 Timothy J. Sabo, Esq.

10 One Arizona Center

11 400 East Van Buren Street, Suite 800

12 Phoenix, Arizona 85004

13 602-256-6100 (telephone)

14 602-256-6800 (facsimile)

15 Attorneys for Respondent

16 Robert F. Hockensmith, Jr.

17 ORIGINAL and thirteen copies of the foregoing
18 filed this 31st day of March, 2009 with:

19 Docket Control
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 Copy of the foregoing hand-delivered
24 this 31st day of March, 2009 to:

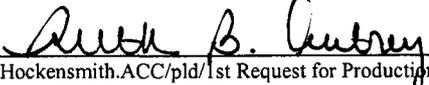
25 Marc E. Stern, Administrative Law Judge
26 Hearing Division
27 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Matthew J. Neubert
Director of Securities
Securities Division
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