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BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**  
KRISTIN K. MAYES - CHAIRMAN  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2009 MAY - 1 P 12: 45  
ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
**DOCKETED**  
MAY - 7 2009  
DOCKETED BY [Signature]

In the matter of:

ROBERT FRANKLIN HOCKENSMITH, JR.,  
CRD #1798614

Respondent.

Docket No. S-20631A-08-0503

**RESPONDENT ROBERT F.  
HOCKENSMITH, JR.'S**  
**MOTION TO QUASH  
GONZINI SUBPOENA**  
**(Oral Argument Requested)**

Respondent moves that the subpoena issued by the Securities Division ("Division") to Marilyn Gonzini be quashed. The subpoena was not served on Respondent, as required by Commission rules, and the subpoena does not include the required witness fees.

The subpoena – an order from the State bearing the formal seal of the Commission – is the epitome of a "formal document." The Commission's Procedure Rules require that all formal documents be "filed with the Commission" and that they "shall be served upon any person who is a party to the proceeding." A.A.C. R14-3-107.A. In the case of persons represented by counsel, service must be made upon counsel. A.A.C. R14-3-105.A. The Division failed to comply with these requirements because it did not serve the subpoena upon the Respondent's counsel.

The Commission's subpoena rule provides that "Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the state of Arizona, such fees to be paid by the party at whose instance the witnesses is subpoenaed." A.A.C. R14-3-109.O. The "same fees" referenced in the rule are specified in A.R.S. § 12-303. The Division has not proffered the required witness fees; and accordingly the subpoena should be quashed.

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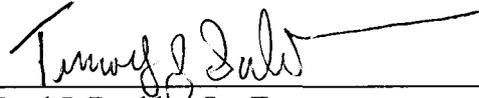
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RESPECTFULLY SUBMITTED this 1<sup>st</sup> day May, 2009.

ROSHKA DeWULF & PATTEN, PLC

By 

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ORIGINAL and thirteen copies of the foregoing  
filed this 1<sup>st</sup> day May, 2009 with:

Docket Control  
Arizona Corporation Commission  
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Phoenix, Arizona 85007

Copy of the foregoing hand-delivered  
this 1<sup>st</sup> day May, 2009 to:

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