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August 19, 2002

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Anthony B. Bingham
Arizona Corporation Commission
Securities Division
1300 West Washington, 3rd floor
Phoenix, AZ 85007-2996

Arizona Corporation Commission
DOCKETED

AUG 19 2002

Re: Phil Merrill, Docket No. S-03450A-02-0000

DOCKETED BY	<i>car</i>
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Dear Mr. Bingham:

On August 8, 2002 I visited your office and you allowed me to examine documents concerning my client and his customers that you had obtained from Morgan Stanley Dean Witter.

At that time you advised me that you would provide me with your exhibits by Monday, August 12, 2002. Today you advised me that maybe I would get the exhibit book late today or tomorrow. Additionally, there are documents that you have recently been able to locate through Morgan Stanley that you have not received yet. These are copies of my client's records concerning the customers involved in the charges. You did not know if those exhibits would be in the exhibit book nor exactly when you would receive them. I was quite surprised at the revelation that these exhibits had been found since you originally advised me that they had been shipped to the World Trade Center by Morgan Stanley and destroyed in the September 11, 2001 attack.

For some time you have understood and agreed that my exhibit list would have to wait until I received your book. There are compilations of data that we are preparing and we need your exhibits to annotate the exhibits we are creating. I cannot be sure when this work will be completed since I do not know when we will have your material that is needed to do the work.

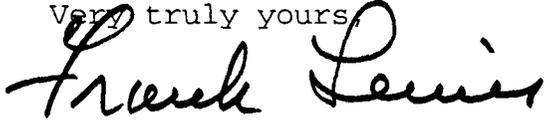
Other than Mr. Merrill we have no other witnesses other than those you have listed. The process server has been unable to locate Janet Mayfield although multiple trips have been made to her residence.

I hereby request that you have at the hearing of this matter all of the documents you allowed me to examine in your office on August 8, 2002. I cannot tell you which of those documents I will be using, if any, since I cannot determine which of the exhibits might be needed for cross-examination until I hear the testimony of your witnesses. It would save a considerable amount of time if the exhibits were readily available at the hearing.

I wish to remind you that I have advised you that I will object to any hearsay testimony concerning Janet Mayfield or any other of Mr. Merrill's former customers. You have told me that you will present evidence based on statements Janet Mayfield made to her daughter and to an investigator. I had hoped to avoid the hearsay problem by having Janet Mayfield present. It is more and more looking like we will not be able to serve her with the subpoena that was issued. We will keep trying. If you have nay information as to her whereabouts I would appreciated receiving it.

You are aware of my objections to the telephonic testimony and we await the ruling of the presiding officer.

Very truly yours,


Frank Lewis

cc: Philip J. Dion III