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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

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

IN THE MATTER OF:

SIR MORTGAGE & FINANCE OF ARIZONA, INC., an Arizona corporation,

GREGORY M. SIR (a/k/a "GREG SIR"), and ERIN M. SIR, husband and wife,

Respondents.

DOCKET NO. S-20703A-09-0461

THIRD PROCEDURAL ORDER

BY THE COMMISSION:

On September 24, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist ("T.O.") and a Notice of Opportunity for Hearing ("Notice") against Sir Mortgage & Finance of Arizona, Inc. ("SMFA") and Gregory M. Sir and Erin M. Sir, husband and wife (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of notes, and/or investment contracts.

The Respondents were duly served with copies of the Notice.

On September 28, 2009, a request for hearing was filed on behalf of the Respondents.

On October 2, 2009, by Procedural Order, a pre-hearing conference was scheduled on October 28, 2009.

On October 23, 2009, Respondents filed their Answer and Motion to Vacate the T.O.

On October 26, 2009, the Division filed a response to Respondents' Motion to Vacate the T.O.

On October 28, 2009, the Division and Respondents appeared with counsel at the pre-hearing conference. The Division and counsel for the Respondents discussed the status of the proceeding and

1 the issues raised by the T.O. and Notice. Respondents requested a hearing for oral argument to be
2 heard on their Motion to Vacate. It was agreed that the Division would file a supplement to its
3 response by November 13, 2009, and Respondents would have until November 25, 2009, to file their
4 reply. The parties further agreed that a hearing be scheduled to commence on February 1, 2010, with
5 the parties to exchange copies of their Exhibits and Witness Lists at the beginning of January 2010.

6 On October 29, 2009, by Procedural Order, the parties were ordered to supplement their
7 pleadings with respect to the Motion to Vacate the T.O. by November 13, 2009, as agreed and that
8 oral argument take place on December 8, 2009, and a hearing commence on February 1, 2010, and
9 the related exchange of documents occur on January 4, 2010.

10 On November 3, 2009, Respondents filed a supplement to their Motion to Vacate the T.O.

11 On November 4, 2009, Respondents filed a Request to Alter Schedules in Second Procedural
12 Order, which ordered the parties to exchange copies of their Witness Lists and copies of their
13 Exhibits by January 4, 2010. Respondents requested that the Division be ordered to provide their
14 documents by November 30, 2009, and that Respondents be given until January 6, 2010, to provide
15 their documents to the Division.

16 On November 6, 2009, Respondents filed their First Request for Production of Documents
17 which requested that the Division provide the documents 20 days from the date of service of the
18 request at the office of Respondents' attorney.

19 On November 12, 2009, the Division filed the following pleadings: Supplemental Response to
20 Respondents' Motion to Vacate the T.O.; Response to Respondents' Supplement to Motion to Vacate
21 and Request to Alter Schedules in Second Procedural Order and Motion for Motion Practice
22 Scheduling Order; and Objection to Respondents' Request for Issuance of Administrative Subpoenas
23 for Testimony and Documents.

24 On November 20, 2009, the Division filed Objection to and Motion to Quash Respondents'
25 First Request for Production of Documents. In part this was due to the overly broad nature and the
26 volume of the requested material. The Division points out the burdensome nature of Respondents'
27 extensive request for documents.

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1 On November 24, 2009, Respondents filed Respondents' Reply to Securities Division's
2 Response to Request to Alter Schedule in Second Procedural Order and Response to Motion for
3 Motion Practice Scheduling Order.

4 On November 25, 2009, Respondents' filed Respondents' Reply to the Responses to Motion
5 to Vacate Temporary Order and Supplement and Motion to Vacate Temporary Order.

6 On December 2, 2009, Respondents filed Respondents' Response to: (1) Securities Division's
7 Objection to Motion to Quash First Request for Production of Documents and; (2) Securities
8 Division's Objection to Respondents' Request for Issuance of Administrative Subpoenas for
9 Testimony and Documents in which Respondents further argued their earlier stated positions and
10 pointed out prior Commission Procedural Orders in favor of discovery. Respondents further
11 indicated their willingness to resolve issues related to their request.

12 Under the circumstances, it is premature to address the issues raised by the Motion to Vacate
13 the T.O. and related filings since oral argument is scheduled for December 8, 2009. With respect to
14 Respondents' request to alter the schedule for the exchange of documents as set forth in the Second
15 Procedural Order, an adjustment which will provide the Division's materials to Respondents on an
16 earlier date is not unreasonable, and if the Respondents require until January 6, 2010, to provide their
17 documents to the Division, this slight delay is not excessive. Further, the subpoenas for depositions
18 of the witnesses and production of their documents are reasonable and should not be quashed, if these
19 individuals are to be called as witnesses during the hearing. Additionally, there is no need to deny
20 the modification of the dates upon which the Division will provide copies of its Witness List and
21 Exhibits to Respondents, and for Respondents to provide their documents to the Division. With
22 respect to the Respondents' request for the production of documents, while Respondents' request is
23 broad and burdensome, the Commission has permitted such discovery in the past and this request by
24 Respondents should not be quashed. Lastly, the Division's request that a motion deadline be
25 established is reasonable and will be set forth hereinafter.

26 IT IS THEREFORE ORDERED that that **oral argument** on Respondents' Motion to Dismiss
27 the T.O. shall be held on **December 8, 2009**, at 9:30 a.m. at the Commission's offices, 1200 West
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1 Washington Street, Room 100, Phoenix, Arizona, as previously ordered.

2 IT IS FURTHER ORDERED that a **hearing** shall be held on **February 1, 2010**, at 10:00 a.m.
3 at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona, as
4 previously ordered.

5 IT IS FURTHER ORDERED that the parties shall also reserve **February 2, 3, 4 and 5, 2010**,
6 **for additional days of hearing**, if necessary, as previously ordered.

7 IT IS FURTHER ORDERED that the **Division shall provide copies of their Exhibits and**
8 **Witness List to Respondents**, with courtesy copies provided to the presiding Administrative Law
9 Judge, by **December 18, 2009**.

10 IT IS FURTHER ORDERED that the **Respondents shall provide copies of their Exhibits**
11 **and Witness List to the Division**, with courtesy copies provided to the presiding Administrative
12 Law Judge, by **January 6, 2010**.

13 IT IS FURTHER ORDERED that the Division's request to quash subpoenas of witnesses and
14 their documents is hereby denied, if they are to testify during the hearing.

15 IT IS FURTHER ORDERED that that the Division's request to quash Respondents' First
16 Request for Production of Documents is hereby denied.

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized
18 Communications) applies to this proceeding as the matter is now set for public hearing.

19 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
20 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
21 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
22 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
23 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
24 Administrative Law Judge or the Commission.

25 IT IS FURTHER ORDERED that any motions which are filed with the Commission in this
26 matter and which are not ruled upon within 25 calendar days of the filing date of the motion shall be
27 deemed denied.

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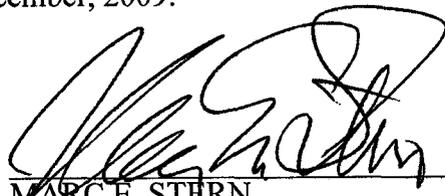
1 IT IS FURTHER ORDERED that any responses to motions shall be filed within ten calendar
2 days of the filing date of the motion.

3 IT IS FURTHER ORDERED that any replies to responses shall be filed within five calendar
4 days of the filing date of the response.

5 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
6 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
7 *pro hac vice*.

8 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
9 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
10 ruling at hearing.

11 DATED this 2nd day of December, 2009.

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14 
15 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

16 Copies of the foregoing mailed/delivered
17 this 2nd day of December, 2009 to:

18 Paul J. Roshka, Jr.
19 Timothy J. Sabo
20 ROSHKA, DEWULF & PATTEN, PLC
400 E. Van Buren, Suite 800
Phoenix, AZ 85004
Attorney for Respondents

21 Matt Neubert, Director
22 Securities Division
23 ARIZONA CORPORATION COMMISSION
1300 West Washington Street
Phoenix, AZ 85007

24 By: 
25 Debra Broyles
26 Secretary to Marc E. Stern

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