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BEFORE THE ARIZONA CORPORATION COMMISSION

2010 MAY 12 P 3:20

COMMISSIONERS

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

ARIZONA CORP COMMISSION
DOCKET CONTROL

In the matter of:

MARK W. BOSWORTH and LISA A. BOSWORTH, husband and wife;
STEPHEN G. VAN CAMPEN and DIANE V. VAN CAMPEN, husband and wife;
MICHAEL J. SARGENT and PEGGY L. SARGENT, husband and wife;
ROBERT BORNHOLDT and JANE DOE BORNHOLDT, husband and wife;
MARK BOSWORTH & ASSOCIATES, L.L.C., an Arizona limited liability company;
3 GRINGOS MEXICAN INVESTMENTS, L.L.C., an Arizona limited liability company;
Respondents.

DOCKET NO. S-20600A-08-0340

SECURITIES DIVISION'S RESPONSE TO RESPONDENTS MICHAEL J. AND PEGGY L. SARGENT'S MOTION TO SEVER

(Assigned to the Honorable Marc E. Stern)

Arizona Corporation Commission
DOCKETED

MAY 12 2010

DOCKETED BY [Signature]

The Securities Division ("the Division") of the Arizona Corporation Commission hereby responds and objects to Respondents Michael J. and Peggy L. Sargent's ("Sargent") Motion to Sever because a hearing for Sargent separate and apart from one concerning Mark A. Bosworth, Lisa A. Bosworth, Mark Bosworth & Associates, L.L.C., and 3 Gringos Mexican Investments, L.L.C. (collectively, the "Bosworth Respondents") would not serve judicial economy. On the contrary, it would be duplicative and wasteful because the Division's cases against Sargent and the Bosworth Respondents arise out of the same facts and circumstances and the Division would be forced to put on the same evidence at two, virtually identical hearings. Also, Commission precedent does not support separate hearings.

1 Sargent's assertions that the Division's hearing witnesses and exhibits are irrelevant to the  
2 claims against Sargent are simply not true. The testimony of the 13 investor witnesses, two of the  
3 respondent witnesses, and the Division's investigator will show that Sargent violated the Securities  
4 Act ("Act") directly and/or indirectly. Also, the majority (if not all) of the documentary evidence  
5 will show that Sargent violated the Act directly and/or indirectly. Of course, if severance were  
6 granted and two hearings were held, over ten witnesses would testify and over 100 exhibits would  
7 be introduced at each hearing.

8 Sargent's assertions that the Division has not disclosed any evidence that Sargent violated  
9 the Act directly and/or indirectly are also not true. As discussed above, the majority (if not all) of  
10 the documentary evidence will show that Sargent violated the Act directly and/or indirectly. Also,  
11 one simple example of the falsehood of Sargent's statements about the Division's evidence can be  
12 found in Sargent's own Motion to Sever. Sargent discusses an exhibit, a letter from an investor to  
13 the Commission, in the context that it is "unique to Sargent" and a ground for severance. This  
14 letter not only evidences Sargent's violation of the Act, it is the opposite of "unique to Sargent" in  
15 that it is relevant to the claims against the Bosworth Respondents.

16 The cost and effectiveness of Sargent's defense are not grounds for severance. Sargent  
17 complains about the relatively short Notice of Opportunity for Hearing ("the Notice") and the  
18 wealth of evidence disclosed by the Division to prove the allegations. Even though Sargent would  
19 like it, it is not the Division's responsibility to specify which exhibits prove which allegations  
20 against which respondents. The Notice clearly spells out what Sargent and the Bosworth  
21 Respondents did that violates the Act and, Sargent having requested a hearing and the Division  
22 having disclosed its hearing exhibits, Sargent must now incur the expense of reviewing the exhibits  
23 and preparing for the hearing. Sargent's argument that he may end up spending all of his money  
24 on his defense, leaving nothing to pay restitution and penalties, must fail as a ground for severance  
25 because Sargent knows what he did, yet he requested a hearing, and the evidence to prove what  
26

1 Sargent did has been disclosed for all to see, yet he has chosen not to resolve this matter without a  
2 hearing, enter into a consent, and save his defense money to pay restitution and penalties.

3 While the Division acknowledges that the Commission has severed a handful of cases  
4 throughout its history, it must be noted that Sargent cites to five, non-securities related, utilities matters  
5 and two, 20-year old, securities matters in which the facts and circumstances are very different than  
6 this case. In Decision No. 55213 (October 1, 1986), the Division requested and was granted  
7 severance only to allow the Commission to enter default orders against those respondents who  
8 failed to request hearings and who, as a result, admitted the Division's allegations. Today, the  
9 Division does not request severance in cases wherein some respondents default and others request a  
10 hearing that would be free of the admissions by the defaulted respondents. The Division simply  
11 provides the Commission with forms of default orders that contain verbiage regarding the  
12 inapplicability of the findings of fact and conclusions of law to the answering respondents. The  
13 Commission then considers the default orders at an Open Meeting.

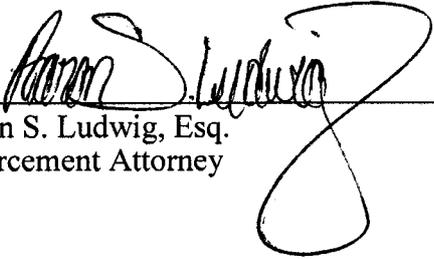
14 In Decision No. 56449 (April 5, 1989), the second securities matter cited by Sargent, the  
15 Commission granted severance of two entity respondents, namely Holliday Securities, Inc. and  
16 Cornell Securities, Inc. because "their only nexus to [the] matter is that their dealer registrations  
17 may be revoked/denied if the Commission finds that Mr. [Ronald Carroll] Holliday and Mr.  
18 [Kenneth Edwin] Crowl violated the Act." Mr. Holliday and Mr. Crowl were the individual  
19 respondents who controlled and/or acted on behalf of Holliday Securities, Inc. and Cornell  
20 Securities, Inc.

21 The cited matter is different from this case in that Sargent's nexus is not simply the  
22 revocation/denial of a securities registration if one or all of the Bosworth Respondents violated the  
23 Act. Here, the Division intends to prove that Sargent violated the Act directly and/or indirectly. In  
24 other words, Sargent's involvement in this case is more like Mr. Holliday's or Mr. Crowl's  
25 involvement in Decision No. 56449, not like that of Holliday Securities, Inc. and Cornell  
26 Securities, Inc.

1 Based on the foregoing, the Division respectfully requests that Sargent's Motion to Sever  
2 be denied.

3 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of May 2010.

4  
5 **SECURITIES DIVISION of the**  
6 **ARIZONA CORPORATION COMMISSION**

7   
8 Aaron S. Ludwig, Esq.  
9 Enforcement Attorney

10 **ORIGINAL and 8 COPIES** of the foregoing filed  
11 this 12<sup>th</sup> day of May 2010 with:

12 Docket Control  
13 Arizona Corporation Commission  
14 1200 W. Washington St.  
15 Phoenix, AZ 85007

16 **COPY** of the foregoing mailed/delivered  
17 this 12<sup>th</sup> day of May 2010 to:

18 The Honorable Marc E. Stern  
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By: 