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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

AZ 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 OBJECTION TO AND MOTION TO QUASH RESPONDENTS MICHAEL J. SARGENT AND PEGGY L. SARGENT'S FIRST REQUEST FOR ADMISSIONS AND NON-UNIFORM INTERROGATORIES

(Assigned to the Honorable Marc E. Stern)

Arizona Corporation Commission

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Respondent Michael J. Sargent ("Sargent") has propounded upon the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") a Request for Admissions and Non-Uniform Interrogatories ("Request"), a copy of which is attached hereto as Exhibit A, that contains 15 requests for admission and 14 non-uniform interrogatories. The Request is mostly an extension of Sargent's ongoing argument in his recently filed Motion to Sever and in his numerous, other, previously filed motions that the Division has no evidence against Sargent. The Request seeks an admission of this fact by the Division and requests that the Division provide information and answers to questions about Sargent's involvement in this case.

1 Essentially, Sargent would like the Division to put on its case against him now, before the
2 hearing, in the form of a response to the Request.

3 The Division objects to the Request and requests that it be quashed because it is not
4 supported by fact or law.¹ Sargent does not have a due process right to the discovery sought by the
5 Request and applicable law holds that the administrative law judge may order very limited
6 discovery, but only upon a showing of reasonable need.

7 “The fundamental requirement of due process is the opportunity to be heard ‘at a
8 meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 96 S. Ct. 893 (1976)
9 quoting *Armstrong v. Manzo*, 380 U.S. 545 (1965). Procedural due process requires
10 confrontation and cross-examination. *Willner v. Committee on Character and Fitness*, 83 S. Ct.
11 1175 (1963). “There is no basic constitutional right to pretrial discovery in administrative
12 proceedings.” *Silverman v. Commodity Futures Trading Commission*, 549 F.2d 28 (7th Cir.
13 1977). As such, Sargent will be afforded the hearing he requested and, at that time, he may
14 confront and cross-examine the Division’s witnesses against him, but he is not entitled to obtain
15 from the Division admissions and information/answers to questions in advance of the hearing.

16
17 1. **Respondent Has Not Complied With the Only Available Procedures for**
18 **Engaging in Reasonable Discovery in Administrative Proceedings Before the**
Commission.

19 Courts have often had occasion to consider the limits of discovery in administrative
20 proceedings. Through these deliberations, two salient points have become evident. The first of
21 these is the fact that, because they derive from an entirely distinct process, the rules of civil
22 procedure for discovery **do not** apply in administrative proceedings.² *See, e.g., Pacific Gas and*

23 ¹ The rule cited by Sargent in the Request, “A.A.C. R14-3-101.B” does not permit Sargent to obtain from
24 the Division admissions and information/answers to questions. Unless Sargent can cite to specific
25 authority in the Arizona Securities Act, in the Arizona Administrative Procedures Act, or elsewhere, the
26 Request must be quashed.

² This principle is particularly important from a policy standpoint. Indeed, merging civil discovery rules
into the administrative arena would have many deleterious results, including: 1) allowing respondents to
access confidential investigative information far removed from the witnesses and exhibits relevant to the
active case against them; 2) allowing respondents to protract the proceedings indefinitely; 3) allowing

1 *Electric Company*, 746 F.2d 1383, 1387 (9th Cir. 1984); *Silverman v. Commodity Futures*
2 *Trading Commission*, 549 F.2d. 28, 33 (7th Cir. 1977); *National Labor Relations Board v. Vapor*
3 *Blast Mfg. Co.*, 287 F.2d 402, 407 (7th Cir. 1961); *In re City of Anaheim, et al.* 1999 WL 955896,
4 70 S.E.C. Docket 1848 (the federal rules of civil procedure do not properly play any role on the
5 issue of discovery in an administrative proceeding).

6 The second of these points is that the authority to pursue discovery during the course of
7 an administrative proceeding is not conferred as a matter of right. In fact, courts have repeatedly
8 recognized that there simply is no basic constitutional right to pretrial discovery in administrative
9 proceedings. *Silverman v. Commodity Futures Trading Commission*, 549 F.2d. 28, 33 (7th Cir.
10 1977); *See also Starr v. Commissioner of Internal Revenue*, 226 F.2d. 721,722 (7th Cir. 1955),
11 cert. denied, 350 U.S. 993, 76 S.Ct. 542 (1955); *National Labor Relations Board v. Interboro*
12 *Contractors, Inc.*, 432 F.2d 854, 857 (2nd Cir. 1970); *Miller v. Schwartz*; 528 N.E.2d 507 (N.Y.
13 1988); *Pet v. Department of Health Services*, 542 A.2d 672 (Conn. 1988). The federal
14 Administrative Procedures Act echoes this point by offering no provision for pretrial discovery
15 during the administrative process. 1 Davis, *Administrative Law Treatise* (1958), § 8.15, p. 588.

16 In accordance with these findings, discovery within the confines of an administrative
17 proceeding is only authorized to the extent that it is explicitly provided for in a separate statute or
18 rule. *See, e.g., 73A C.J.S. Public Administrative Law and Procedure*, § 124 (1983)(“Insofar as
19 the proceedings of a state administrative body are concerned, only the methods of discovery set
20 forth by the pertinent statute are available, and the methods not set forth therein are excluded”);
21 *See also 2 Am.Jur.2d. Administrative Law § 327* (2d. ed. 1994)(In the context of administrative
22 law, any right to discovery is grounded in the procedural rules of the particular administrative
23 agency).

24 Following these precepts, the state of Arizona has enacted both statutes and agency rules
25
26 respondents to excessively consume scarce but vital resources better expended on other matters necessary
for the protection of the public; and 4) allowing respondents to force the agency into the position of a civil
litigant rather than into its proper role as a governmental regulatory authority.

1 to address the issue of discovery in the context of administrative proceedings. Indeed, both the
 2 Arizona Revised Statutes and the Arizona Rules of Practice and Procedure before the Commission
 3 contain explicit provisions addressing discovery procedures in contested administrative
 4 adjudications. A party may engage in reasonable discovery in an administrative proceeding before
 5 the Commission only through these procedures.

6 The statute setting forth the parameters of discovery in administrative proceedings is found
 7 in the chapter on Administrative Procedure, A.R.S. § 41-1001, *et seq.* Under Article 6 of this
 8 chapter, covering “Adjudicative Proceedings,” Arizona law provides as follows:

9 *A.R.S. § 41-1062: Hearings; evidence; official notice; power to require testimony and*
 10 *records; Rehearing*

11 A. Unless otherwise provided by law, in contested cases the following shall apply:

- 12 ...
- 13 4. The officer presiding at the hearing may cause to be issued
 14 subpoenas for the attendance of witnesses and for the production of
 15 books, records, documents and other evidence and shall have the
 16 power to administer oaths.... *Prehearing depositions and*
 17 *subpoenas for the production of documents may be ordered by the*
 18 *officer presiding at the hearing, provided that the party seeking*
such discovery demonstrates that the party has reasonable need of
the deposition testimony or materials being sought....
Notwithstanding the provisions of section 12-2212, no subpoenas,
depositions or other discovery shall be permitted in contested
cases except as provided by agency rule or this paragraph.

19 (emphasis added). The plain import of this provision is that, in Arizona, the only forms of pre-
 20 trial discovery permitted in administrative proceedings are: (a) subpoenas, based on a showing of
 21 need and authorized by the administrative hearing officer; (b) depositions, based on a showing of
 22 need and authorized by the administrative hearing officer; and (c) any other discovery provision
 23 specifically authorized under the individual agency’s rules of practice and procedure.

24 The Rules of Practice and Procedure, *R14-3-101, et seq.*, serve to augment the available
 25 means of pre-trial discovery in administrative proceedings before the Commission. Under these
 26 rules, the presiding administrative law judge may convene pre-hearing conferences regarding

1 proposed exhibits, witness lists, and/or expert testimony and may order the parties to exchange
2 copies of exhibits prior to a hearing. *See Arizona Administrative Code, Title 14, R-14-3-108(A) and*
3 *R-14-3-109(L).*

4 The Request does not comply with these, above-described procedures for engaging in
5 reasonable discovery in administrative proceedings before the Commission because it does not
6 contain a showing of reasonable need for the discovery it seeks, namely admissions and
7 information/answers to questions by the Division. Furthermore, the discovery it seeks goes
8 beyond the scope of the very limited discovery that the administrative law judge could, but not
9 necessarily would, order if Sargent had shown reasonable need. As such, the Request should be
10 quashed.

11
12 **2. The Rules and Procedures Governing Discovery in Administrative Proceedings Before the Commission Comport with Principles of Due Process.**

13 As discussed above, there is no constitutional right to discovery in administrative
14 proceedings. Nor does the Constitution require that a respondent in an administrative proceeding
15 be aware of all evidence, information and leads to which opposing counsel might have access.
16 *Pet v. Dep't of Health Serv.*, 207 Conn. 346, 542 A.2d 672 (1988) quoting *Federal Trade*
17 *Comm'n v. Anderson*, 631 F.2d 741, 748 (D.C.Cir. 1979); *Cash v. Indus. Comm'n of Arizona*, 27
18 *Ariz. App.* 526, 556 P.2d 827 (App. 1976). Despite this, the concept of due process is still
19 germane to the procedures of governmental actions such as the administrative proceeding at
20 issue. As the Supreme Court noted in *Willner v. Comm. on Character and Fitness*, 373 U.S. 96,
21 107 (1963), a respondent must be adequately informed of the evidence against him and be
22 afforded an adequate opportunity to rebut this evidence. For instance, a denial of pre-hearing
23 depositions is not a denial of due process because respondent had ample opportunity to cross-
24 examine the witnesses at a full hearing. *Electomec Design & Dev. Co. v. NLRB*, 409 F.2d 631
25 (9th Cir. 1969).

26 Courts have already considered what types of procedures do in fact comply with due

1 process in the context of administrative proceedings. It is well-settled that procedures designed
2 to ensure “rudimentary requirements of fair play” are sufficient to meet the due process
3 requirements in administrative adjudications. *Mitchell v. Delaware Alcoholic Beverage Control*
4 *Comm’n*, 193 A.2d 294, 313 (Del.Super. 1963), *rev’d on other grounds*, 196 A.2d 410 (Del.Supr.
5 1963); *see also Matthews v. Eldridge*, 424 U.S. 319, 333 (1976), quoting *Armstrong v. Manzo*,
6 380 U.S. 545, 552 (1965)(“the fundamental requirement of due process is the opportunity to be
7 heard at a meaningful time and in a meaningful manner”); *Swift & Co. v. U.S.*, 308 F.2d 849, 851
8 (7th Cir. 1962)(“due process in an administrative proceeding, of course, includes a fair trial,
9 conducted in accordance with fundamental principles of fair play and applicable procedural
10 standards established by law”); 73A C.J.S. *Public Administrative Law and Procedure*, § 60
11 (1983); *see also Adamchek v. Board of Educ.*, 387 A.2d. 556 (Conn. 1978)(although the Uniform
12 Administrative Procedures Act does not expressly provide for pre-trial discovery, the procedures
13 required for the UAPA still exceed the minimal procedural safeguards mandated by the due
14 process clause).

15 These cases demonstrate that, in order to comport with procedural due process in the
16 context of an administrative proceeding, an agency need only enforce the guidelines of applicable
17 administrative statutes and rules while using the discretion inherent in these guidelines to ensure
18 a level of fundamental fairness. *See Pacific Gas and Elec. Co. v. Federal Energy Regulatory*
19 *Comm’n*, 746 F.2d 1383 (9th Cir. 1984)(“If an agency has adopted rules providing for discovery
20 in its proceedings, **the agency is bound by those rules** and must ensure that its procedures meet
21 due process requirements.”)(emphasis added). The extent of discovery to which a party to an
22 administrative proceeding is entitled is primarily determined by the particular agency; the rules
23 of civil procedure are inapplicable. *See, e.g., Pacific Gas and Elec. Co.*, 746 F.2d at 1387; *see*
24 *also LTV Steel Co. v. Indus. Comm’n*, 748 N.E.2d 1176 (Ohio 2000) (discovery as generally
25 provided by the rules of civil procedure in court proceedings is not available in administrative
26 proceedings). This point is particularly obvious in light of the fact that the Arizona legislature

1 and Commission have enacted and adopted specific statutes and rules, respectively, to govern
2 discovery procedure in this administrative forum.

3 Despite these explicit rules on discovery, Sargent cites Rules 33, 33.1, and 36 of the
4 Arizona Rules of Civil Procedure (“ARCP”) as authority for the Request. However, as pointed
5 out above, the discovery procedures available to Sargent are more than adequate in satisfying any
6 due process concerns and there is neither need nor justification to charge into the civil rules of
7 procedure for guidance on discovery.

8 Sargent states that the ARCP are “incorporated” into this case through R14-3-101 – the
9 “default” provision regarding the ARCP contained in the Commission rules. However, R14-3-
10 101 does not mean that the discovery section of the ARCP is applicable to an administrative
11 action. A.A.C. R14-3-101 states: “In all cases in which procedure is set forth neither *by law, nor*
12 *by these rules, nor by regulations or orders* of the Commission, the Rules of Civil Procedure for
13 the Superior Court of Arizona as established by the Supreme Court of the state of Arizona shall
14 govern.” (Emphasis added.) The “default” provision does not apply to discovery because
15 discovery in an administrative action is addressed by administrative law, the Arizona
16 Administrative Procedures Act, and the Commission rules. Nothing in R14-3-101 implies that
17 the ARCP provide substantive rights in an administrative action, only that the procedures
18 contained in the ARCP may be used in an administrative action in the appropriate circumstance,
19 as stated in R14-3-101.

20 The ARCP do not “abridge, enlarge or modify substantive rights.” A.R.S. § 12-109(A).
21 The fact that the ARCP do not apply is not an anomaly or unique to Arizona. “[T]he Federal
22 Rules of Civil Procedure for discovery do not apply to [federal] administrative proceedings.”
23 *Silverman v. Commodity Futures Trading Commission*, 549 F.2d 28 (7th Cir. 1977) citing to
24 *NLRB v Vapor Blast Manufacturing Company*, 287 F.2d 402 (7th Cir. 1961). See also *NLRB v.*
25 *Interboro Contractors, Inc.*, 432 F.2d 854 (2d Cir. 1970) cert. denied 402 US. 915 (1971).
26 Generally state court procedural rules do not apply to state agencies. See e.g. *LTV Steel Co. v.*

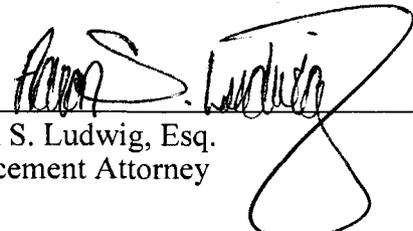
1 *Industrial Commission*, 748 N.E.2d 1176 (Ohio 2000); *Beaver County v. Utah State Tax*
2 *Commission*, 916 P.2d 344 (Utah 1996); *Pet v. Dept. of Health Services*, 542 A.2d 672 (Conn.
3 1988); *Miller v. Schwartz*, 128 A.D.2d 783 (N.Y. App. Div. 1987).

4 Sargent's unsupported attempt to invoke far-reaching civil discovery rules in this
5 administrative forum is misplaced and must be denied. Furthermore, Sargent has failed to
6 comply with the only available procedures for engaging in reasonable discovery in administrative
7 proceedings before the Commission. Simply put, Sargent does not have a right to the discovery he
8 seeks through the Request and due process will be served at the hearing when he will have the
9 opportunity to confront and cross-examine the Division's witnesses against him.

10 Based on the foregoing, the Division respectfully requests that the Request be quashed.

11 RESPECTFULLY SUBMITTED this 18th day of May 2010.

12
13 **SECURITIES DIVISION of the**
ARIZONA CORPORATION COMMISSION

14
15 
16 _____
Aaron S. Ludwig, Esq.
Enforcement Attorney
17

18 **ORIGINAL and 8 COPIES** of the foregoing filed
19 this 18th day of May 2010 with:

20 Docket Control
21 Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

22 **COPY** of the foregoing mailed/delivered
23 this 18th day of May 2010 to:

24 The Honorable Marc E. Stern
25 Hearing Division
Arizona Corporation Commission
1200 W. Washington St.
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EXHIBIT A

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS:

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

In the matter of:

Docket No. S-20600A-08-0340

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, LLC, an
Arizona limited liability company;

3 GRINGOS MEXICAN INVESTMENTS, LLC, an
Arizona limited liability company;

Respondents.

**RESPONDENTS
MICHAEL J. SARGENT AND
PEGGY L. SARGENT'S**

**FIRST REQUEST FOR
ADMISSIONS**

AND

**NON-UNIFORM
INTERROGATORIES**

Pursuant Rules 33, 33.1 and 36 of the Arizona Rules of Civil Procedure, as incorporated by reference in A.A.C. R14-3-101.B, Respondents Michael J. Sargent and Peggy L. Sargent (the "Respondents" or the "Sargents") request that the Securities Division of the Arizona Corporation Commission answer in writing and under oath the following Requests for Admission and Non-Uniform Interrogatories. The following Definitions and General Instructions apply to these Requests for Admission and Non-Uniform Interrogatories

DEFINITIONS

For the purposes of this Request for Admission and Non-Uniform Interrogatories, the following terms and references have been abbreviated and defined as follows:

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

- 1 2. The terms "Securities Division," "you" and "your" shall mean the Securities
2 Division of the Arizona Corporation Commission.
- 3 3. The term "Mr. Sargent" shall mean Michael J. Sargent.
- 4 4. The term "Respondents" shall mean collectively, Michael J. Sargent and Peggy L.
5 Sargent.
- 6 5. The term "Other Respondents" shall mean and include collectively, Mark W.
7 Bosworth, Lisa Bosworth, Stephen G. Van Campen, Diane Van Campen, Robert Bornholdt, Mark
8 Bosworth & Associates, LLC and 3 Gringos Mexican Investments, LLC.
- 9 6. The term "Related Entities" shall mean and include any or all of the following:
- 10 1) 3 Gringos Mexican Investments, LLC;
- 11 2) Bosworth Commercial, Inc.
- 12 3) gorenter.com, LLC
- 13 4) Home American Corporate Leasebacks, LLC
- 14 5) G5Rainbow Valley Development, LLC
- 15 6) www.gorenter.com, LLC
- 16 7) Bosnel Properties, LLC
- 17 8) Home American Property Management, LLC
- 18 9) Property Masters of America 401K, LLC
- 19 10) Property Masters Real Estate Trust, LLC
- 20 11) Mark Bosworth Residential, LLC
- 21 12) B.F.E. Properties, LLC
- 22 13) Leverage & Acquire, LLC
- 23 14) WYD Investments, LLC
- 24 15) The Mark Bosworth Companies, Inc.
- 25 16) Pinnacle Investment Partners, LLC
- 26 17) YDD Investments, LLC
- 27 18) Team Boz Marketing, LLC

- 1 19) Lisa Boz Marketing, LLC
- 2 20) Spud Buddies
- 3 21) Bosworth Broker Escrow

4 7. The term "Notice" is intended to include the Notice of Opportunity for Hearing
5 Regarding Proposed Order to Cease and Desist, for Restitution, for Administrative Penalties, and
6 for Other Affirmative Relief in Arizona Corporation Commission Docket No. S-20600A-08-0340.

7 8. The terms "document" or "documents" include, without limiting their generality, all
8 contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes,
9 e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone
10 messages, computer disks, hard drives, telegrams, newsletters or other publications, stock
11 certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or
12 use of real or personal property, valuation estimates of any kind, financial data, *pro formas*,
13 estimates, financial projections, statements, credit and loan applications, accounting records and
14 worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books,
15 feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences,
16 notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped
17 interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts,
18 prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone
19 records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts,
20 data card programs or other input or output of data processing systems, photographs (positive print,
21 slides or negatives), microfilm or microfiche, or other data compilations from which information
22 can be obtained or translated through detection devices into reasonably usable form, whether
23 originals or copies, altered or unaltered, made by any means. The terms "document" and
24 "documents" also include all copies which are, in any manner, not identical in content to the
25 originals. Any comment or notation appearing on any document, and not a part of the original text,
26 is to be considered a separate "document." Any draft, or any other preliminary form of any
27 document, is also to be considered a separate "document."

1 9. The term “all documents” means every document, as defined above, known to you
2 and every document which can be located or discovered by reasonably diligent efforts.

3 10. The terms “writing” or “written” are intended to include, but not necessarily be
4 limited to, the following: handwriting, typewriting, printing, photographing and every other means
5 of recording upon any tangible thing, any form of communication later reduced to a writing or
6 confirmed by a letter.

7 11. The term “communication” means any oral, written, electronic, graphic,
8 demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more
9 individuals or entities, regardless of the medium by which such communication occurred, and shall
10 include, without limitation, written contact by such means as letters, memoranda, telegrams, telex,
11 or any documents, and oral contact by such means as face to face meetings and telephone
12 conversations.

13 12. The terms “concerns” or “concerning” include referring to, alluding to, responding
14 to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about,
15 regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing,
16 constituting, evidencing or pertaining to.

17 13. The term “person(s)” shall mean any natural person, corporation, partnership, sole
18 proprietorship, joint venture, association, limited liability company, governmental or other public
19 entity, or any other form of organization or legal entity, and all of their officials, directors, officers,
20 employees, representatives, attorneys and agents.

21 14. The terms “meeting” and “meetings” mean any coincidence of presence of two or
22 more persons between or among whom some communication occurs, whether or not such
23 coincidence of presence was by chance or prearranged, formal or informal, or in connection with
24 some other activity.

25 15. “Identify” as used herein with respect to any individual or person shall be read to
26 require a statement of all of the following information pertaining to such individual:

27 (a) Present home address;

- 1 (b) Present home telephone number;
- 2 (c) Employer;
- 3 (d) Present or last known business address;
- 4 (e) Business telephone number;
- 5 (f) Job description;
- 6 (g) Title.

7 16. "Identify" as used herein with respect to any entity other than an individual shall be
8 read to require a statement of all of the following information relating to such entity:

- 9 (a) Full name or title;
- 10 (b) Principal place of business or other activity;
- 11 (c) Place of incorporation (if applicable);
- 12 (d) Date of formation;
- 13 (e) Names of predecessor or successor corporations or other business entities;
- 14 (f) Nature or type of entity;
- 15 (g) Principal business or other activity.

16 17. "Identify" as used herein with respect to any action, allegation, assertion,
17 circumstance, and communication, including any oral, electronic or written conversation, shall be
18 read to require a statement of all of the following:

- 19 (a) The date on which it occurred;
- 20 (b) The mode of communication (oral, face-to-face, telephonic, electronic, etc.);
- 21 (c) The identity of each and every person who was present or who participated;
- 22 (d) The place at which it occurred or, in the case of an electronic or telephonic
23 communication, the location of each party.

24 18. "Identify" as used herein with respect to any document shall be read to require:

- 25 (a) For a document that the Division has already produced to the Respondents, a
26 reference to the name of the document, the bates numbers for the document,
27 and the exhibit number of the document (if any);

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(b) For a document that the Division has not yet produced to the Respondents, a reference to (i) the name of the document, (ii) the date of the document, (iii) the person who prepared the document, (iv) the present custodian of the document.

(c) As an alternative to (b) above, you may provide Respondents with a copy of the document.

18. "Security" or "Securities" has the meaning given in A.R.S. § 44-1801.

INSTRUCTIONS FOR USE

1. You are hereby required to admit or deny the Requests for Admission set forth below.

2. If objection is made, the reasons therefore shall be stated. The Answer shall specifically deny the matter or set forth in detail the reason why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify an answer or deny only a part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder, setting forth in detail the reasons specifically as requested herein. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you include a statement that you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny the matter in question.

3. If you fail to admit the truth of any matter requested herein and that matter is thereafter proved upon the trial of this action or otherwise, you may be required to pay to Respondents the reasonable expenses, including attorneys' fees, incurred in proving the truth of such matter. If you consider that a matter as to which an admission has been requested presents a genuine issue for trial, you may not, on that ground alone, object to the request. You may, subject to the provisions of Rule 37(e), Arizona Rules of Civil Procedure, deny the matter or set reasons why you cannot admit or deny such matter.

4. You must divulge all information that is in the possession, custody or control of the

1 Division, the Division's attorneys, investigators, agents or other representatives. In answering, the
2 Division must furnish all information available.

3 5. If you cannot answer an interrogatory in full and you have exercised thorough
4 diligence in an attempt to secure the information requested, then you must so state. You must also
5 explain to the fullest extent possible the specific facts concerning your inability to answer the
6 interrogatory and supply whatever information or knowledge you have concerning any unanswered
7 portion of an interrogatory.

8 6. If your answer to any interrogatory is "unknown," "not applicable" or any similar
9 phrase or answer, state the following:

- 10 (a) Why the answer to that interrogatory is "unknown";
11 (b) The efforts made to obtain answers to the particular interrogatory; and
12 (c) The name and address of any person who may know the answer.

13 7. Where an interrogatory requires you to state facts you believe support a particular
14 allegation, contention, conclusion or statement, set forth with particularity:

- 15 (a) All facts relied upon;
16 (b) The identity of all lay witnesses who will or may be called to testify.

17 8. In the event that you seek to object to any request or interrogatory on the basis that it
18 is properly subject to some limitation on discovery, you shall supply Respondents with a list of the
19 documents and things for which limitation of discovery is claimed, indicating:

- 20 (A) The name of each author, writer, sender or initiator of such
21 document or thing, if any;
22 (B) The name of each recipient, addressee or party for whom such
23 document or thing was intended, if any;
24 (C) The name of the person in custody or charge or possession of each
25 such document;
26 (D) The date of each such document, if any, or an estimate thereof and
27 so indicated as an estimate;

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

9 9. A space has been provided on the form of interrogatories for your answer. In the
10 event the space provided is not sufficient for your answer to any of the questions, please attach a
11 separate sheet of paper setting forth the questions followed by the additional answering
12 information.

13 10. Where an individual interrogatory calls for an answer which involves more than one
14 part, each part of the answer should be clearly set out so that it is understandable.

15 11. The original and one (1) copy are served herewith. Please complete the original and
16 one (1) copy, return the original to the undersigned attorney and attach a verification thereto. You
17 may keep the copy for your records.

18 12. These interrogatories are intended as continuing interrogatories which require that
19 you supplement your answers setting forth any information within the scope of the interrogatories
20 as may be acquired by you, your agents, attorneys, or other representatives following the service of
21 your original answers.

22 **REQUESTS FOR ADMISSION**

23 1. Admit that the Division has no evidence that Mr. Sargent personally offered
24 securities.

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Admit _____

Deny _____

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2. Admit that the Division has no evidence that Mr. Sargent personally offered securities within or from the State of Arizona.

Admit _____ Deny _____

3. Admit that the Division has no evidence that Mr. Sargent personally sold securities.

Admit _____ Deny _____

4. Admit the Division has no evidence that Mr. Sargent personally sold securities within or from Arizona.

Admit _____ Deny _____

5. Admit that the Division has no evidence that Mr. Sargent offered or sold securities.

Admit _____ Deny _____

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6. Admit that the Division has no evidence that Mr. Sargent offered or sold securities from or within the State of Arizona.

Admit _____ Deny _____

7. Admit that on or about July 2009, the investors in 3 Gringos Mexican Investments, LLC (3GMI) entered into a Settlement and Release Agreement releasing Respondents from all claims and damages related to 3GMI or investments therein.

Admit _____ Deny _____

8. Admit that Puerto Peñasco, Mexico is not within the State of Arizona.

Admit _____ Deny _____

9. Admit that the "Rocky Point condos" (as defined in the Notice) are not within the State of Arizona.

Admit _____ Deny _____

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1 10. Admit that the Division has not specified the amount of Restitution it seeks against
2 Respondents.

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5 Admit _____ Deny_____

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8 11. Admit that the Division has provided Respondents with a calculation of the
9 restitution sought by the Division against the Respondents.

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12 Admit _____ Deny_____

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16 12. Admit that the Division has no evidence that Peggy L. Sargent participated in any of
17 the events described in the Notice.

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20 Admit _____ Deny_____

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24 13. Admit that Mark A. Bosworth exercised control over the Other Respondents.

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27 Admit _____ Deny_____

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14. Admit that Mark A. Bosworth locked Respondents out of the offices of the Other Respondents and changed the locks on those offices on or about February 7, 2008.

Admit _____ Deny _____

15. Admit the genuineness of Exhibits 1 to 14 identified by Respondents in their List of Witnesses and Exhibits dated January 19, 2010.

Admit _____ Deny _____

NON-UNIFORM INTERROGATORIES

Non-Uniform Interrogatory No. 1:

If you responded to any of the foregoing Requests for Admission with anything other than an unqualified admission, for each such response:

- (a) State the basis for such denial or qualification.
- (b) State all facts that support your denial or qualified admission; and
 - (i) Identify each person having knowledge of each such fact; and
 - (ii) Identify every document which refers to, relates to, or evidences such fact.
- (c) Set forth a complete and detailed exposition of what you contend to be the true statement of fact respecting the subject matter of each such denied or qualified request for admission.

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Non-Uniform Interrogatory No. 2:

Identify each person you contend that Mr. Sargent personally offered securities to.

Non-Uniform Interrogatory No. 3:

Identify the date of each offer identified in response to Non-Uniform Interrogatory No. 2.

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Non-Uniform Interrogatory No.4:

Identify the location of Mr. Sargent at the time of each offer identified in response to Non-Uniform Interrogatory No. 2.

Non-Uniform Interrogatory No. 5:

Identify the location of the purported offerree at the time of each offer identified in response to Non-Uniform Interrogatory No. 2.

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Non-Uniform Interrogatory No. 6:

Identify each person you contend Mr. Sargent personally sold securities to.

Non-Uniform Interrogatory No. 7:

Identify the date of each sale disclosed in response to Non-Uniform Interrogatory No. 6.

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Non-Uniform Interrogatory No. 8:

Identify the dollar value of each sale disclosed in response to Non-Uniform Interrogatory No. 6.

Non-Uniform Interrogatory No. 9:

Identify the location of Mr. Sargent at the time of each sale disclosed in response to Non-Uniform Interrogatory No. 6.

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Non-Uniform Interrogatory No. 10:

Identify the location of the purchaser at the time of the sale for each sale disclosed in response to Non-Uniform Interrogatory No. 6.

Non-Uniform Interrogatory No. 11:

Identify each document that you believe establishes that Mr. Sargent offered or sold securities.

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Non-Uniform Interrogatory No. 12:

Identify each document that you believe establishes that Mr. Sargent offered or sold securities from or within Arizona.

Non-Uniform Interrogatory No. 13:

Identify each document that the Division contends was a security offered or sold by Mr. Sargent.

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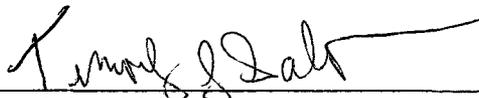
Non-Uniform Interrogatory No. 14:

For each document identified by the Division in response to Non-Uniform Interrogatory No. 4, describe why the Division believes the document is a security.

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RESPECTFULLY SUBMITTED this 3rd day of May, 2010.

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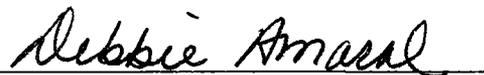
By 

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602-256-6100 (telephone)

Attorneys for Respondents
Michael J. Sargent and Peggy L. Sargent

Copy of the foregoing hand-delivered
this 3rd day of May, 2010 to:

Aaron S. Ludwig, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington Street, 3rd Floor
Phoenix, Arizona 85007



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