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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY 24 2010

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AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

COMMISSIONERS:

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

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, LLC, an
Arizona limited liability company;

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

Respondents.

Docket No. S-20600A-08-0340

RESPONDENTS

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

**MOTION FOR EXPEDITED
PROCEDURAL CONFERENCE**

and

**CONDITIONAL MOTION FOR
CONTINUANCE**

Respondents Michael J. Sargent ("Mr. Sargent") and Peggy L. Sargent (collectively, the "Sargents") respectfully move for an expedited procedural conference. The hearing in this docket is scheduled to begin in eight business days, but numerous motions are pending that have the potential of significantly impacting the conduct of the hearing. In addition, if the Sargent's motion to sever is denied, the Sargents' move for a continuance of the hearing.

The most significant motion is the Sargent's motion to sever, which was filed nearly a month ago. It has been fully briefed. If the motion is granted, the Sargents will not participate in the upcoming hearing, and they will have a separate hearing later. If it is denied, they will have to go to hearing in eight days. It is imperative that this issue be resolved. Until the motion is ruled on, counsel must assume that the hearing is going forward, and the Sargents' will incur significant

1 legal expenses for that preparation, due to the massive number of witnesses and exhibits that the
2 Securities Division (“Division”) and the Bosworth Respondents¹ intend to present. Moreover, it is
3 difficult to prepare for the hearing (for example, scheduling witnesses) when the Sargents’ do not
4 know if they will participate in the hearing. In short, the Sargents’ need to know if they will be
5 included in the upcoming hearing, or not.

6 In addition, the Division has refused to respond to the Sargents’ discovery requests, and
7 instead the Division has moved to quash those requests. Today, the Sargent’s are filing a response
8 to the Division’s motion to quash. If the Sargents are included in the upcoming hearing, it is
9 critical that they obtain the discovery responses in sufficient time to review them and incorporate
10 them into their trial strategy. Again, the hearing is only eight business days from today.

11 Moreover, several other discovery motions are pending. The Division has moved to quash
12 Mr. Bosworth’s requested subpoenas, and the Division has objected to the Bosworth Respondents’
13 list of witnesses and exhibits, and it has moved to compel voluminous information regarding those
14 witnesses and exhibits. In the alternative, the Division seeks to bar the admission of those
15 witnesses and exhibits.

16 At this point, the Sargents:

- 17 (1) Do not know if they will be included in the upcoming hearing;
- 18 (2) Have not received discovery from the Division;
- 19 (3) Do not know what evidence, if any, the Division believes applies to them;
- 20 (4) Have no explanation of the legal or factual basis of the Division’s new “indirect
21 violation” theory, which the Division did not plead in its Notice of Opportunity;
- 22 (5) Do not know which of the Division’s listed witnesses it intends to call, or in what
23 order;
- 24 (6) Do not know if the Division disputes any of the Sargent’s listed exhibits (this was
25 one of the discovery questions);

26 _____
27 ¹ Mr. Mark A. Bosworth, Lisa A. Bosworth, Mark Bosworth & Associates, LLC and 3 Gringos Mexican Investments, LLC (collectively, the “Bosworth Respondents”).

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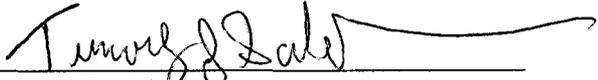
- 1 (7) Do not know which witnesses and exhibits the Bosworth Respondents will be
2 allowed to submit;
3 (8) Do not have copies of many of the Bosworth Respondents' listed exhibits;
4 (9) Have had little or no opportunity to interview or depose the Bosworth Respondents'
5 listed witnesses, due to the late submission of their list of witnesses and exhibits;
6 (10) Do not know in what order the Bosworth Respondents will present their witnesses.

7 Thus, the Sargents' ability to prepare for the hearing has been severely compromised. The
8 Sargents have no idea what witnesses will be heard, or in what order. Moreover, the Sargents have
9 not been able to review the Division's responses to discovery (because they refuse to respond), or
10 many of the Bosworth Respondents' exhibits (which have not been provided), or the responses to
11 Mr. Bosworth's subpoenas (if they are not quashed). In this situation, it is virtually impossible to
12 prepare for hearing.

13 For these reasons, the Sargents' request an expedited procedural conference be convened at
14 the earliest opportunity. In addition, to the extent that the Sargents' motion to serve is denied, the
15 Sargents request a continuance in the hearing.

16 RESPECTFULLY SUBMITTED this 24th day of May, 2010.

17 ROSHKA DeWULF & PATTEN, PLC

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19 By 

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1 ORIGINAL and thirteen copies of the foregoing
filed this 24th day of May, 2010 with:

2 Docket Control
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1200 West Washington Street
4 Phoenix, Arizona 85007

5 Copy of the foregoing hand-delivered
this 24th day of May, 2010 to:

6
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13 Copy of the foregoing mailed
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