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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2010 MAY 28 P 4:52

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAY 28 2010

DOCKETED BY [Signature]

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. SARGENT AND PEGGY L. SARGENT'S MOTION FOR EXPEDITED PROCEDURAL CONFERENCE and CONDITIONAL MOTION FOR CONTINUANCE

(Assigned to the Honorable Marc E. Stern)

The Securities Division ("the Division") of the Arizona Corporation Commission ("the Commission") hereby responds to Respondents Michael J. Sargent and Peggy L. Sargent's (collectively, the "Sargents") Motion for Expedited Procedural Conference and Conditional Motion for Continuance ("Motion") and requests that it be denied.

The Motion is a cleverly disguised request for an expedited ruling on the Sargents' motion to sever. As the Sargents' point out in the Motion, the hearing in this matter is set to begin in days. The Division has a full schedule preparing for that hearing and a last minute procedural conference to discuss an issue that has already been fully briefed is not the best use of that limited time. In fact, the Sargents could easily have requested severance a year or two ago. The fact that they

1 waited, apparently for strategic reasons, until days before the hearing, is not a good reason to  
2 continue the hearing.

3 In the Motion, the Sargents make the statement that "Until the motion is ruled on, counsel  
4 must assume that the hearing is going forward..." Since the hearing date has been set since March  
5 5, 2010, the Sargents can only blame themselves if they are not prepared for it. As for their legal  
6 expenses, the Sargents have requested a hearing in this matter and any expenses they incur are  
7 entirely of their own choosing.

8 The Sargents also state that they have not received discovery from the Division. This is  
9 not true. The Sargents were provided with a copy of the Division's list of witnesses and its  
10 proposed exhibits consisting of over one hundred pages of documents. In fact, Respondents have  
11 alluded several times to the massive number of exhibits they received from the Division.  
12 Similarly, the Sargents claim to not know what evidence the Division believes applies to Sargent.  
13 Many of these exhibits have Sargent's name on them. Others refer to the investment activities and  
14 programs that Sargent participated in.

15 Regarding the Sargents' assertion that they "have no explanation of the legal or factual  
16 basis of the Division's new 'indirect violation' theory, which the Division did not plead in its  
17 Notice of Opportunity," the Division refers the Sargents to A.R.S. § 44-1991 that was indeed  
18 included in the Notice. It states, in relevant part, that "it is a fraudulent practice and unlawful for a  
19 person, in connection with a transaction or transactions within or from this state involving an offer to  
20 sell or buy securities, or a sale or purchase of securities,...directly or indirectly to do any of the  
21 following:" (emphasis added).

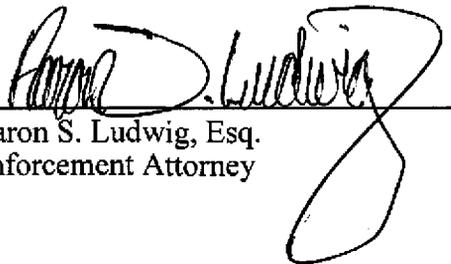
22 The Division would like to re-urge a point it made in response to a Motion to Stay filed by  
23 the Sargents earlier in this case on August 21, 2008. The Division argued that "there is a pressing  
24 need to determine the liability of parties involved in this tragic situation. As a regulatory body, the  
25 Division is keenly aware of the need to reassure the public that it is seeking a determination of  
26 responsibility. See, Keating, 45 F.3d at 326. It would be completely unacceptable to allow this

1 case to drag on unprosecuted for months, years even." Ironically, even though the Sargents lost  
2 that motion, this case has dragged on for years.

3 If the Sargents' motion to sever is denied, the Sargents are then requesting a continuance of  
4 the hearing. The Notice of Opportunity was filed almost two years ago. The Sargents requested a  
5 hearing on July 24, 2010 and it has already been continued once, from March 15, 2010 to June 7,  
6 2010. After the last continuance, the Sargents agreed that the hearing may begin on June 7, 2010.  
7 It is time to have this hearing as scheduled and this case resolved. Accordingly, the Sargents'  
8 Motion should be denied.

9 RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of May 2010.

10  
11 **SECURITIES DIVISION of the**  
**ARIZONA CORPORATION COMMISSION**

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13   
14 Aaron S. Ludwig, Esq.  
15 Enforcement Attorney

16 **ORIGINAL and 8 COPIES** of the foregoing filed  
17 this 28<sup>th</sup> day of May 2010 with:

18 Docket Control  
19 Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

20 **COPY** of the foregoing mailed/delivered  
21 this 28<sup>th</sup> day of May 2010 to:

22 The Honorable Marc E. Stern  
23 Hearing Division  
Arizona Corporation Commission  
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