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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF:	)	
	)	
ELLIOT CROSBY	)	DOCKET NO.
dba ADVANCE SENIOR ESTATE	)	S-03510A-02-0000
PLANNING	)	
10253 East Jerome	)	
Mesa, Arizona 85208	)	PREHEARING CONFERENCE
	)	
MARSHA CROSBY	)	
2145 East Juanita	)	
Mesa, AZ 85204	)	
	)	

At: Phoenix, Arizona

Date: April 28, 2003

Filed: **MAY 16 2003**

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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Prepared for: ACC

By: CECELIA BROOKMAN, RPR  
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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in Hearing Room No. 1 of  
4 said Commission, 1200 West Washington Street, Phoenix,  
5 Arizona, commencing at 10:00 a.m. on the 28th day of  
6 April, 2003.

7  
8 BEFORE: PHILIP J. DION III, Administrative Law Judge

9  
10 APPEARANCES:

11 For the Securities Division:

12 Ms. Kathleen Coughenour DeLaRosa  
13 Attorney  
13 1300 West Washington  
14 Phoenix, Arizona 85007

15 For Mr. Crosby:

16 JONES, SKELTON & HOCHULI  
17 By Mr. A. Melvin McDonald  
17 2901 North Central Avenue, Suite 800  
18 Phoenix, Arizona 85012

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CECELIA BROOKMAN, RPR  
Certified Court Reporter  
Certificate No. 50154

1 ALJ DION: Good morning, everyone, welcome to  
2 the Arizona Corporation Commission. My name is Phil Dion  
3 and I'll be presiding over this prehearing today in the  
4 matter of Elliot Crosby dba Advance Senior Estate  
5 Planning. The docket number is S-03510A-02-0000.

6 I'll start by taking appearances, and I'll  
7 begin with the Division.

8 MS. DELAROSA: Kathleen Coughenour DeLaRosa,  
9 attorney for the Division.

10 MR. MCDONALD: Mel McDonald on behalf of  
11 Elliot Crosby.

12 ALJ DION: Good morning, everybody.

13 On April 14th of 2003, Mrs. Crosby filed a  
14 motion pro per. Actually, it wasn't a motion, it was an  
15 answer and a request for hearing. The Commission issued a  
16 procedural order on the 18th of April setting this matter  
17 for a prehearing for today's date, at 10:00. It's now a  
18 little after five after 10, and Mrs. Crosby has not  
19 appeared.

20 We've held a prior prehearing in this matter  
21 and at that time, we had scheduled the hearing in this  
22 case for June. I believe it was June 23rd, if I read it  
23 correctly. That prehearing took place on March 3rd, 2003.

24 This prehearing essentially would have cleaned  
25 up the other respondent, meaning Mrs. Crosby, and informed

1 her of the hearing date in June. However, she's not  
2 present, but we'll go ahead and take this opportunity to  
3 clear up a couple of things on the record.

4 Mr. McDonald, it's my understanding you were  
5 able to talk to your client about the situation which you  
6 had represented the City of Phoenix, we talked about it on  
7 the record last time, that you had represented the City of  
8 Phoenix, and then a family member of mine had filed a Bar  
9 complaint against some of the attorneys over there, and  
10 you represented them and you were unsure if your client  
11 wanted to, well, to put it bluntly, if your client wanted  
12 me to hear the case and you wanted to have some time to  
13 talk to him and determine whether or not you needed to  
14 file any specific motions. Have you had the opportunity  
15 to talk to your client?

16 MR. MCDONALD: Your Honor, I mentioned it to  
17 him. I'll be honest, as I'm sitting here thinking, I  
18 don't know if he got back to me, but I'm meeting him at  
19 lunch today and I'm going to recommend that we keep you on  
20 with him. I really don't believe it would have any effect  
21 anyway. Why don't we leave you would stay on unless I  
22 were to notify you before the close of business today.  
23 I'm meeting him for lunch, and I will discuss that with  
24 him then. I know we discussed it. I thought it was no  
25 problem, then I've been thinking, I better make absolutely

1 certain that it's not.

2 ALJ DION: That's fine. If at any point -- it  
3 doesn't have to be at close of business. If at any point  
4 there's something that you feel is important then you can  
5 file the appropriate motions then I can review those.  
6 Obviously, not the day of the hearing.

7 MR. MCDONALD: No, I agree.

8 ALJ DION: But in any event, I just wanted to  
9 find out where we were. So it appears that may not be a  
10 problem, but if it is you'll certainly file the  
11 appropriate motions; correct?

12 MR. MCDONALD: Correct.

13 ALJ DION: It's also my understanding that the  
14 parties are going to get together and speak to each other,  
15 but also to Mrs. Crosby. Is that correct? I'll start  
16 with the Division.

17 MS. DELAROSA: Yes.

18 ALJ DION: Mr. McDonald, that's also correct?

19 MR. MCDONALD: Yes.

20 ALJ DION: Mr. McDonald, I believe, before we  
21 went on the record today, you mentioned that you would be  
22 able to assist the Division if they needed her phone  
23 number.

24 MR. MCDONALD: Yes.

25 ALJ DION: And you seem to have -- you stated

1 that it appears that Mrs. Crosby may be in the process of  
2 retaining an attorney; is that also correct?

3 MR. MCDONALD: I don't know. I assume that  
4 she would be getting an attorney, but I have absolutely no  
5 inside information. I haven't spoken to her. I just  
6 heard when she made an appearance. I'd assume that she  
7 did see to an attorney although I didn't get any pleading  
8 from her, so I don't know what her position has been than  
9 what we informally discussed today.

10 ALJ DION: Assuming that she was going to  
11 retain the service of an attorney, you and the Division,  
12 through your negotiations, would be able to talk to her  
13 and if something either bears fruit or if there's a need  
14 for a continuance in this matter, you'd be able to work  
15 that out and get in contact with, besides the Division,  
16 Mrs. Crosby so that any motions, such as a motion to  
17 continue, would essentially involve all parties so that I  
18 would be able to rule on that at that time?

19 MR. MCDONALD: Right.

20 ALJ DION: Anybody else have anything to add  
21 from the Division?

22 MS. DELAROSA: Nothing from the Division.

23 ALJ DION: Mr. McDonald, anything?

24 MR. MCDONALD: No, other than we'll be filing  
25 a motion to continue asking this to go in late August, if

1 we could.

2 ALJ DION: And that's based upon the current  
3 situation, discovery and the fact that Mrs. Crosby has  
4 kind of now made a formal -- excuse me, has formally  
5 entered this matter, representing herself now as pro per,  
6 but there certainly is a likelihood that another attorney  
7 would be engaged.

8 MR. MCDONALD: Correct.

9 ALJ DION: Go ahead and file that motion.  
10 Until then, I'll just affirm the date of June 23rd, so  
11 we're still set for the hearing on June 23rd, and if the  
12 parties are going to file the motion to continue, I would  
13 just simply ask that you contact Mrs. Crosby and/or her  
14 attorney, if she has one at that time, to find out her  
15 position as we're unable to do so today. I'm unsure as  
16 the reason why Mrs. Crosby did not show up this morning.  
17 However, I am treating her filing as an answer. It was  
18 titled answer and motion for hearing, so I'm certainly  
19 going to treat it that way and for due process.

20 I want to make sure that we had this hearing  
21 today and we set the matter for hearing. Again, it will  
22 be set for June 23rd with the understanding the motion to  
23 continue will be filed and will be decided sometime after  
24 the filing.

25 MR. MCDONALD: Correct.

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ALJ DION: Good morning, everyone, thank you.

(The prehearing conference concluded at  
10:12 a.m.)

1 STATE OF ARIZONA )  
 2 COUNTY OF MARICOPA ) ss.  
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7 I, CECELIA BROOKMAN, Certified Court Reporter  
 8 No. 50154 for the State of Arizona, do hereby certify that  
 9 the foregoing printed pages constitute a full, true and  
 10 accurate transcript of the proceedings had in the  
 11 foregoing matter, all done to the best of my skill and  
 12 ability.

13  
 14 WITNESS my hand this 12th day  
 15 of May, 2003.  
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19 *Cecelia Brookman*  
 20 \_\_\_\_\_  
 21 CECELIA BROOKMAN, RPR  
 22 Certified Court Reporter  
 23 Certificate No. 50154  
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