

ORIGINAL



0000115841

BEFORE THE ARIZONA CORPORATION COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**COMMISSIONERS:**

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

2010 AUG 23 P 3:42  
AZ CORP COMMISSION  
DOCKET CONTROL

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

**MOTION FOR A PROTECTIVE ORDER**

Arizona Corporation Commission  
**DOCKETED**  
**AUG 23 2010**

DOCKETED BY	
-------------	--

Respondents.

Respondents Michael J. Sargent ("Mr. Sargent") and Peggy L. Sargent (collectively, the "Sargents") respectfully move that the Commission's Administrative Law Judge issue a Protective Order to allow the testimony of prospective witness Ms. Barbara Broyles.

Ms. Broyles was a real estate agent with Mark Bosworth and Associates (MBA). She was also an investor with MBA<sup>1</sup>, and the Division asserts that Mr. Sargent should pay her restitution.<sup>2</sup> Ms. Broyles was also mentioned during the testimony of Division witnesses Bosworth, Brokaw and Van Campen. Thus, she can provide highly relevant testimony. For example, she can testify regarding the roles of Mr. Bosworth and Mr. Sargent in MBA, particularly concerning Mr.

<sup>1</sup> See Ex. S-5.  
<sup>2</sup> See Ex. S-103 and Ex. S-103b.

**ROSHKA DeWULF & PATTEN, PLC**  
ONE ARIZONA CENTER  
400 EAST VAN BUREN STREET - SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO 602-256-6100  
FACSIMILE 602-256-6800

1 Bosworth's complete control over MBA. This testimony is especially important given the (hard-to-  
2 believe) testimony of Mr. Bosworth that he had a limited role in MBA. She can also rebut Mr. Van  
3 Campen's testimony that Mr. Sargent sold an investment to Ms. Broyles, and Mr. Brokaw's  
4 testimony that Mr. Sargent should pay restitution to Ms. Broyles.

5 This important testimony will be heard only if Ms. Broyles agrees to testify. She is, in fact,  
6 eager to testify. But she is greatly afraid that the Division will retaliate against her testimony by  
7 naming her as a respondent. Mr. Van Campen testified that Ms. Broyles was involved in sales, so  
8 this is a legitimate and realistic fear. Moreover, the Division has specifically refused to provide any  
9 assurance that they will not pursue administrative charges against her. Ms. Broyles deserves better.  
10 Division Investigator Brokaw testified that Ms. Broyles cooperated and assisted in the  
11 investigation, and was helpful to the Division. There is absolutely no indication of any kind that  
12 the Division ever considered targeting or pursuing Ms. Broyles until it learned that she wanted to  
13 provide testimony rebutting the Division's case. It is unfair to force her to choose between a threat  
14 of administrative charges and her desire to provide highly-relevant testimony to the Commission.  
15 Moreover, Mr. Sargent's ability to present witnesses in his defense should not be impeded.

16 Accordingly, the Administrative Law Judge should enter an order prohibiting the Division  
17 from naming Ms. Broyles as a respondent to facilitate her testimony in this case.

18 RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of August, 2010.

19 ROSHKA DeWULF & PATTEN, PLC

20  
21 By 

22 Paul J. Roshka, Jr.  
23 Timothy J. Sabo  
24 One Arizona Center  
25 400 East Van Buren Street, Suite 800  
26 Phoenix, Arizona 85004  
27 602-256-6100 (telephone)  
602-256-6800 (facsimile)

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

1 ORIGINAL and thirteen copies of the foregoing  
filed this 23<sup>RD</sup> day of August, 2010 with:

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

5 Copy of the foregoing hand-delivered  
this 23<sup>RD</sup> day of August, 2010 to:

6 Marc E. Stern, Administrative Law Judge  
7 Hearing Division  
8 Arizona Corporation Commission  
1200 West Washington Street  
9 Phoenix, Arizona 85007

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

13 Copy of the foregoing mailed  
this 23<sup>RD</sup> day of August, 2010 to:

14 Robert D. Mitchell, Esq.  
15 Joshua R. Forest, Esq.  
16 Julie M. Beauregard, Esq.  
Mitchell & Forest, P.C.  
17 1850 North Central Avenue, Suite 1715  
Phoenix, Arizona 85004  
18 Attorneys for Respondent Robert Bornholdt

19 Norman C. Keyt, Esq.  
Keyt Law Offices  
20 3001 E. Camelback Road, Suite 130  
Phoenix, Arizona 85016  
21 Attorneys for Respondents  
22 Stephen G. and Diane V. Van Campen

23 Mark W. and Lisa A. Bosworth  
18094 North 100th Street  
24 Scottsdale, Arizona 85255  
25 Pro Per

26   
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**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.

**AFFIDAVIT OF  
BARBARA BROYLES**

BARBARA BROYLES, having been duly sworn, deposes and says:

1. My name is Barbara Broyles. I a resident of Maricopa County, Arizona, and I am over 18 years old.
2. I was employed with Mark Bosworth & Associates (“MBA”) as a real estate agent from mid-April, 2006 until November 2007.
3. I was an investor in the Raintree project and in Three Gringos Mexican Investments, LLC.

1           4.     I have very serious concerns about testifying without a grant of immunity. I am very  
2 concerned that if I testify, the Securities Division will pursue charges against me. I will not testify  
3 without a grant of immunity, but I am willing to testify if immunity is granted.

4           5.     I cooperated with the Securities Division's investigation, and I spoke several times  
5 with Securities Division Investigator Michael Brokaw. During my cooperation, at no time did the  
6 Securities Division ever indicate that I was a "target" of their investigation, or that they might  
7 pursue charges against me. Thus, I was surprised and concerned when I learned that the Securities  
8 Division may pursue charges against me if I testify.

9           6.     If I testify, I would testify about the matters described in the following paragraphs.

10          7.     Mr. Mark Bosworth had total control over the Bosworth companies. It was very  
11 evident that he was in charge. Before things went bad, Bosworth was in the office quite frequently;  
12 often he was the first person there. He even controlled details such as the placement of magazines  
13 in the reception area, and the brand of bottled water offered to customers. Once, Mr. Bosworth told  
14 me that "it doesn't mater if I have integrity, as long as I can sell."

15          8.     Mike Sargent did not have authority to make decisions without Mr. Bosworth's  
16 approval. It was not Mr. Sargent's job to recruit investors. Mr. Sargent took care of administrative  
17 matters.

18          9.     Steve Van Campen was the sales manager for the Bosworth companies. He was  
19 responsible for training new salespeople to sell. He also mentored the top salespersons, and he  
20 earned the most commissions.

21          10.    Mr. Van Campen often used high-pressure sales tactics. He had no concerns about  
22 selling people properties they could not afford. Examples of this include Camille Evans and Diana  
23 & Dallas Dixon. He also set up inappropriate mortgages for those investors, such as negative  
24 amortizing loans.

25          11.    Mike Sargent did not sell me the Raintree investment.

26          12.    I attended a number of the Bosworth sales seminars. The seminars were focused on  
27 residential real estate sales, but investments in commercial properties were mentioned. Mr.

ROSEKA DEWULF & PATTEN, PLC  
ONE ARIZONA CENTER  
400 EAST VAN BUREN STREET - SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO 602-256-6100  
FACSIMILE 602-256-6800

1 Bosworth did the vast majority of the speaking. Mr. Sargent spoke very little at the seminars; at a  
2 two-and-a-half hour seminar, Mr. Sargent would speak for perhaps three minutes. Mr. Sargent was  
3 not at the sales tables.

4 13. I was an investor in Three Gringos Mexican Investments, Inc. I signed and fully  
5 support the Three Gringos settlement agreement. I agree with the statements Mr. Robert C. May  
6 made in his July 30, 2009 letter.

7 14. I have known Mike Sargent for many years and I can attest to his character and  
8 integrity.

9 FURTHER AFFIANT SAYETH NOT.

10  
11   
12 BARBARA BROYLES

13  
14  
15 SUBSCRIBED AND SWORN to me before this 23rd day of August, 2010.

16  
17   
18 Notary Public

19  
20 My Commission Expires: 06/25/2013

