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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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DOCKET NO. S-03280A-00-0000

IN THE MATTER OF:

JOSEPH MICHAEL GUESS, SR.
2911 E. Calavar Road
Phoenix, Arizona 85032

PROGRESSIVE FINANCIAL MANAGEMENT
2911 E. Calavar Road
Phoenix, Arizona 85032

JAMES DOUGLAS SHERRIFFS
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RICHARD GORDON DAVIS
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RGD
4330 North 30th Street
Phoenix, Arizona 85016

RGD ENTERPRISES, INC.
4330 North 30th Street
Phoenix, Arizona 85016

IRA JOE PATTERSON
4330 North 30th Street
Phoenix, Arizona 85016

RANDALL WAYNE SMITH, JR.
1905 Springlake Court
Birmingham, Alabama 35215

BALLY OVERSEAS TRADING INC.
1905 Springlake Court
Birmingham, Alabama 35215,

Respondents.

**SIXTH
PROCEDURAL ORDER**

BY THE COMMISSION:

On April 6, 2000, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order

1 for Relief ("Notice") against Joseph Michael Guess, Sr., Progressive Financial Management, James
2 Douglas Sherriffs, Richard Gordon Davis, RGD, RGD Enterprises, Inc., Ira Joe Patterson, Randall
3 Wayne Smith, Jr., and Bally Overseas Trading, Inc., ("Bally") (collectively the "Respondents") in
4 which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection
5 with the offer and sale of securities in the form of investment contracts.

6 All Respondents with the exception of Respondents Smith and Bally were duly served with
7 copies of the Notice.

8 On April 17, 2000, counsel for Respondent Richard G. Davis filed a request for hearing.

9 On April 21, 2000, Respondents, Joseph Michael Guess, Sr. and Ira J. Patterson, filed requests
10 for hearing.

11 On April 24, 2000, Respondent, James D. Sherriffs, filed a request for hearing.

12 On May 11, 2000, a pre-hearing conference was held. Respondent Davis and the Division
13 were present with counsel. Respondents Guess, Patterson and Sheriffs were not present, Respondents
14 Guess and Patterson had also requested continuances. After a discussion of certain procedural
15 matters, it was agreed that an additional pre-hearing conference would be scheduled.

16 On May 25, 2000, the Commission scheduled a pre-hearing conference on June 7, 2000.

17 On June 7, 2000, a pre-hearing conference was held with the Division, and Respondents
18 Guess and Patterson in attendance. A discussion was conducted on scheduling the hearing when
19 witnesses and parties could be available.

20 On July 25, 2000, the hearing commenced with evidence presented by the Division and again
21 on July 26 and July 27. The hearing was recessed at that point and was to be rescheduled at a later
22 date.

23 On August 10, 2000, counsel for the Division and Mr. Davis contacted the presiding
24 Administrative Law Judge stipulating that the proceeding should resume on August 31, 2000 at 9:00
25 a.m. , at the Commission's offices. It was agreed that if any party to the proceeding did not attend the
26 hearing on August 31, that they could participate telephonically, provided that they provided their
27 names and telephone numbers with area codes to the Commission's Hearing Division by August 28,
28 2000, so they could be telephonically connected to the August 31, 2000 hearing.

1 On August 31, 2000, the hearing concluded with closing briefs to be filed in 30 days.

2 On September 14, 2000, the Division filed a request to admit three post-hearing Exhibits,
3 S138a, S138b, and S138c, which are related to Respondents Smith and Bally, Exhibit R1, and other
4 uncontested evidence. The Division has obtained certified copies from the Clerk of the U.S. District
5 Court for the Northern District of Alabama of the following three case documents in United States of
6 America v. Randall Wayne Smith, Docket CR-00-S-0296-S: the court "Criminal Docket" in this case
7 as of September 7, 2000 (Exhibit S138a); the "Plea Agreement and Conditions" executed and filed
8 with the court on August 10, 2000 (Exhibit S138b); and the "Information" filed with the court by the
9 United States Attorney on August 10, 2000 (Exhibit S138c).

10 On September 18, 2000, Respondents Smith and Bally requested hearings in response to the
11 Notice.

12 On September 19, 2000, pursuant to A.A.C. R14-3-109(Q), Exhibits S138a, S138b, and
13 S139c were admitted into evidence by Procedural Order.

14 On September 22, 2000, the Division filed a response in opposition to the request of
15 Respondents Smith's and Bally's requests for hearing. The Division also requested a stay of the
16 deadline for the filing of post-hearing memoranda due to the resulting delays brought about by the
17 preparation of its response to Mr. Smith's and Bally's untimely requests for hearing.

18 Accordingly, the requests for hearing filed by Mr. Randall Wayne Smith and Bally were not
19 timely filed and the requests should be denied. Further, because of the problems brought about by
20 these untimely requests, the parties should have an additional two weeks in which to file their closing
21 memoranda, until October 16, 2000.

22 IT IS THEREFORE ORDERED that requests for hearing filed by Mr. Randall Wayne Smith
23 and Bally Overseas Trading, Inc. shall be denied.

24 ...

25 ...

26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that closing memoranda shall be filed by October 16, 2000.

DATED this 26th day of September, 2000.


MARC E. STERN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
this 26th day of September, 2000 to:

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By: 
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Secretary to Marc E. Stern