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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

- MARC SPITZER, Chairman
- JIM IRVIN
- WILLIAM A. MUNDELL
- JEFF HATCH-MILLER
- MIKE GLEASON
- KRISTIN K. MAYES

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In the matter of:

INTERSECURITIES, INC.
570 Carillon Parkway
St. Petersburg FL 33716-1202

GREGORY RUSSELL BROWN AND JANE
DOE RUSSELL, husband and wife
16417 South 15th Drive
Phoenix AZ 85045
CRD #2233684

Respondents.

DOCKET NO. S-03482A-03-0000

**SECURITIES DIVISION'S
RESPONSE TO
INTERSECURITIES, INC.'S
MOTION TO RECONSIDER**

Arizona Corporation Commission
DOCKETED

NOV 26 2003

DOCKETED BY	
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The Securities Division ("Division") respectfully requests that the Arizona Corporation Commission ("Commission") deny InterSecurities, Inc.'s ("ISI's") Motion to Reconsider the procedural order issued by the Administrative Law Judge ("ALJ") on November 10, 2003. An extensive record supports the ALJ's ruling denying ISI a jury trial, including the Division's Response to ISI's Motion for Jury Trial filed on September 23, 2003, Supplemental Citation of Authority filed on October 9, 2003, and the transcript of the oral argument held on October 15, 2003.

The Arizona Constitution does not guarantee ISI the right to a jury trial in this case. The right to a jury trial is not, and has never been, a right a defendant could invoke in all instances, even in charges of a criminal nature. *Rothweiler v. Superior Court of Pima County*, 100 Ariz. 37, 41, 410 P.2d 479, 482 (1966)(citing *State v. Cousins*, 97 Ariz. 105, 397 P.2d 217 (1964)).

1 The Arizona legislature enacted the Arizona Securities Act, charged the Commission with
2 its enforcement, and provided for adjudication procedures under the Act. Jury trials are not
3 available in an administrative action before the Commission. *Cf. Tull v. United States*, 481 U.S.
4 412, 418, n.4 (1987), citing *Atlas Roofing Co. v. Occupational Safety and Health Review Com'n*,
5 430 U.S. 442 (1977) (the right to a jury trial under the Seventh Amendment of the United States
6 Constitution is not applicable to administrative proceedings).

7 The Commission is the appropriate forum for this regulatory enforcement action involving
8 alleged violations of the Arizona Securities Act by a registered dealer and salesman in Arizona.
9 The procedures for Commission adjudications protect a respondent's due process rights. The ALJ
10 will determine the appropriate remedies for any proven violations of the Arizona Securities Act.

11 RESPECTFULLY SUBMITTED this 26th day of November, 2003.

12
13 By 
14 Pamela Johnson
15 Attorney for the Securities Division
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20 ORIGINAL and thirteen copies of the foregoing
hand-delivered this 26th day of November, 2003 to:

21 Docket Control
22 Arizona Corporation Commission
1200 West Washington Street
23 Phoenix AZ 85007

24 Philip J. Dion, III
25 Administrative Law Judge
Arizona Corporation Commission
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26 Phoenix AZ 85007

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2 COPY of the foregoing mailed
3 this 26th day of November, 2003 to:

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