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BEFORE THE ARIZONA CORPORATION COMMISSION

2002 FEB 22 P 3:00

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2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION
DOCUMENT CONTROL

FEB 22 2002

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6 IN THE MATTER OF:

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DOCKET NO. S-03413A-01-0000

7 CLAY EUGENE LAMBERT
3711 East Minton Place
8 Mesa, Arizona 85215
CRD No. 1959853

Respondent.

THIRD
PROCEDURAL ORDER

9
10
11 **BY THE COMMISSION:**

12 On September 26, 2001, the Securities Division ("Division") of the Arizona Corporation
13 Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding the Temporary
14 Order to Cease and Desist, for Restitution, for Administrative Penalties, and for Other Affirmative
15 Action ("Notice") against Clay Eugene Lambert ("Respondent") in which the Division alleged that
16 Respondent has engaged in acts, practices, and transactions that constitute violations of the Arizona
17 Securities Act ("Act").

18
19 On October 3, 2001, Respondent, through his attorney, filed a request for a hearing and a pre-
20 hearing conference.

21 On October 5, 2001, the Commission issued a Procedural Order that set this matter for a pre-
22 hearing on November 26, 2001.

23 On November 26, 2001, the pre-hearing was held as scheduled. Both parties appeared with
24 counsel. Counsel for Respondent argued that the bankruptcy proceeding stayed this matter and cited
25 as authority 11 U.S.C. § 362(A)(1). The Division argued that the proceedings should not be stayed as
26 this hearing is exempt pursuant to 11 U.S.C. 362(A)(4).
27

28 The Administrative Law Judge took the matter under advisement and asked both sides to

1 prepare briefs on the issue. In addition, the Administrative Law Judge directed Respondent to file
2 with the Commission a notice of the bankruptcy filing that was alluded to during the pre-hearing.

3 On December 31, 2001, Respondent filed a Notice of Filing Bankruptcy Information. The
4 Notice indicates that the Respondent filed for Chapter 13 Bankruptcy in Case No. 01-14885-PHX-
5 RTB on November 6, 2001.

6 On January 31, 2002, the Division filed a Brief Re: Applicability of Automatic Bankruptcy
7 Stay, 11 U.S.C. § 362(A). The Division argued that the administrative proceeding against
8 Respondent is exempt from the automatic stay, that the Commission can enter an order to cease and
9 desist, and order penalties and restitution against Respondent and that the Commission can suspend
10 or revoke Applicant's Arizona securities registration. The Division, however, acknowledged that any
11 order entered against Mr. Lambert for penalties and restitution would be subject to applicable
12 bankruptcy laws for purposes of collection.
13

14 On February 1, 2002, the Respondent filed its position regarding the bankruptcy issue. In that
15 filing, Respondent simply asserted that the automatic stay precludes the Commission from
16 conducting a hearing in this matter.
17

18 Based upon the review of Mr. Lambert's filing and the Memorandum of Points and
19 Authorities cited by the Division, the automatic stay is not applicable to the instant proceeding, and
20 the hearing scheduled in this matter should be affirmed.

21 IT IS THEREFORE ORDERED that the hearing in this case set for March 5, 2002 at 10:00
22 a.m. at the Commission offices, 1200 West Washington Street, Phoenix, Arizona is hereby affirmed.
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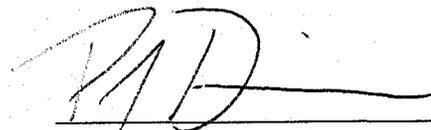
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IT IS FURTHER ORDERED that the parties shall exchange witness lists and exhibits no later than ten days before the hearing and provide a copy of the same to the presiding Administrative Law Judge, unless otherwise ordered by the Administrative Law Judge.

DATED this 22 day of February, 2002.



PHILIP J. DION III
ADMINISTRATIVE LAW JUDGE

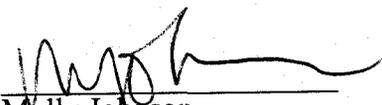
Copies of the foregoing mailed/delivered this 22 day of February, 2002.

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By: 
Molly Johnson
Secretary to Philip J. Dion III