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BEFORE THE ARIZONA CORPORATION COMMISSION

1
2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

Arizona Corporation Commission

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MAR 11 2002

AZ CORP COMMISSION
DOCUMENT CONTROL

6 IN THE MATTER OF:

DOCKETED BY

DOCKET NO. S-03413A-01-0000

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

Respondent.

FOURTH
PROCEDURAL ORDER

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 referenced during the pre-hearing.

3 On December 31, 2001, Respondent filed a Notice of Filing Bankruptcy Information.

4 On January 31, 2001, the Division filed a Brief Re: Applicability of Automatic Bankruptcy
5 Stay, 11 U.S.C. § 362(A).

6 On February 1, 2002, the Respondent filed its position regarding the bankruptcy issue.

7
8 On February 22, 2002, the Commission issued a Procedural Order that ruled the automatic
9 stay is not applicable to the instant proceeding and affirmed the March 5, 2002 hearing date.

10 On March 1, 2002, Respondent filed a Motion to Continue. Subsequently, the parties and the
11 Administrative Law Judge held a telephonic conference to discuss the Motion to Continue.
12 Respondent indicated that his client recently filed an Amended Notice of Bankruptcy that changed
13 the bankruptcy proceedings from Chapter 7 to Chapter 11. Counsel for Respondent indicated that in
14 order for him to represent Mr. Lambert in this proceeding, he needed to be appointed by the
15 Bankruptcy Court. Counsel for the Securities Division argued that such application should have been
16 made to the Bankruptcy Court during the prior Chapter 7 bankruptcy proceeding, and objected to
17 continuing the hearing. Counsel for Respondent argued that, without such an appointment, his client
18 would be denied due process as Mr. Lambert would be required to proceed without the assistant of
19 counsel.
20

21 Based upon the arguments made at the telephonic conference, a continuance is appropriate in
22 this matter.

23
24 IT IS THEREFORE ORDERED that the hearing set for March 5, 2002 at 10:00 a.m. shall be
25 vacated and reset for April 10, 2002 at 10:00 a.m., at the Commission offices, 1200 West Washington
26 Street, Phoenix, Arizona.

27 IT IS FURTHER ORDERED that the Respondent shall obtain an affidavit or other Minute
28

1 Entry filing from the bankruptcy court that states the position of the Bankruptcy Court regarding the
2 Commission's ability to proceed in this case, order restitution, order a fine and/or suspend or
3 terminate Mr. Lambert's securities license.

4 IT IS FURTHER ORDERED that the parties shall exchange witness lists and exhibits no later
5 than ten days before the hearing and provide a copy of the same to the presiding Administrative Law
6 Judge, unless otherwise ordered by the Administrative Law Judge.

7
8 DATED this 11 day of March, 2002.

9
10
11 
12 PHILIP J. DION III
13 ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered
15 this 11 day of March, 2002.

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17 GUST ROSENFELD PLC
18 201 N. Central Avenue, Suite 3300
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20 Attorneys for Respondent

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27 
28 By: Molly Johnson
Secretary to Philip J. Dion III