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AZ CORP COMMISSION
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1 Harry N. Stone (# 5281)
2 3030 N. 3rd Street
3 Phoenix, AZ 85012
4 (602) 241-8575: Fax (602) 241-8512
5 Attorney For Respondent Kathleen Whorley Sommer

**BEFORE THE ARIZONA CORPORATION COMMISSION
SECURITIES DIVISION**

6 In the matter of:)
7 KATHLEEN WHORLEY SOMMER)
8 [CRD No. 2750036],)
9 d/b/a Sommer & Associates)
10 249 W. Waltann Lane)
11 Phoenix, AZ 85023)
12 Respondent.)

DOCKET NO: S-03489A-03-0000

**ANSWER TO NOTICE OF
OPPORTUNITY FOR HEARING
DOCKETED**

APR 01 2003

DOCKETED BY

13 KATHLEEN WHORLEY SOMMER, by and through her undersigned attorney
14 hereby answers the Notice of Opportunity for Hearing served by the Securities Division of
15 the Arizona Corporation Commission as follows:

**I.
JURISDICTION**

18 1. With respect to paragraph 1, the allegations are denied for the reason that
19 Respondent denies that the pay phone were securities.

**II.
RESPONDENTS**

- 22 2. With respect to paragraph 2, the allegations are admitted.
- 23 3. With respect to paragraph 3, the allegations are denied.
- 24 4. With respect to paragraph 4, the allegations are ambiguous and are denied.

25 For example in that the term "time relevant to this Notice" is unclear.

- 5. With respect to paragraph 5, the allegations are admitted.

1 14. With respect to paragraph 14, denies knowledge or information sufficient to
2 form a belief with respect to the allegations set forth therein, and by reason thereof,
3 denies the same.

4 15. With respect to paragraph 15, denies knowledge or information sufficient to
5 form a belief with respect to the allegations set forth therein, and by reason thereof,
6 denies the same.

7 16. With respect to paragraph 16, denies the allegations contained therein in
8 the form stated and denies that Respondent sold investment contracts.

9 17. With respect to paragraph 17, denies the allegations contained therein in
10 the form stated.

11 18. With respect to paragraph 18, denies the allegations contained therein in
12 the form stated.

13 19. With respect to paragraph 19, denies the allegations contained therein in
14 the form stated and reference is made to the applicable agreements for the terms thereof.
15

16 20. With respect to paragraph 20, denies the allegations contained therein in
17 the form stated.

18 21. With respect to paragraph 21, the allegations are denied.

19 22. With respect to paragraph 22, the allegations are denied

20 23. With respect to paragraph 23, denies the allegations contained therein in
21 the form stated in that Respondent lacks knowledge sufficient to form a belief as to the
22 commissions, if any, received by others.

23 24. With respect to paragraph 24, denies the allegations contained therein in
24 the form stated. For example, Respondent denies that she sold investment contracts.
25

1
2 **V.**
VIOLATIONS OF A.R.S. §44-1991

3 34. With respect to paragraph 34, denies the allegations contained therein.

4 35. With respect to paragraph 35, denies the allegations contained therein.
5

6 **VI.**
7 **REMEDIES PURSUANT TO A.R.S. §44-1962**

8 36. With respect to paragraph 36, denies the allegations contained therein and
9 affirmatively states that Respondent is not licensed as a securities salesperson.

10 37. With respect to paragraph 37, denies the allegations contained therein.
11

12 **VII.**
RELIEF REQUESTED

13 1. Respondent objects to the relief requested in Paragraphs 1 through 7.
14

15 **VIII.**
HEARING OPPORTUNITY

16 Since this section is information regarding a hearing, no response is needed or
17 provided.

18 **IX.**
ANSWER REQUIREMENT

19 Since this section is information regarding a the answer, no response is needed or
20 provided.
21

22 **X.**
AS TO ALL ALLEGATIONS

23 Respondent denies each and every other allegations in the Notice of Opportunity
24 for Hearing not otherwise admitted.
25

**XI
AFFIRMATIVE DEFENSES**

For her affirmative defenses, Respondent alleges as follows:

1. Respondent acted in good faith and under the true belief that any information imparted to the purchasers of the payphones was true. Respondent had no scienter with regard to any alleged acts of wrongdoing.

2. The allegations are barred by the applicable statute of limitations.

3. The pay telephones were not securities. Respondent has not sold any unregistered securities. Thus the Corporation Commission does not have jurisdiction to regulate sales of non-securities.

5. Respondent also alleges laches, estoppel, lack of jurisdiction, failure to state a claim upon which relief can be granted and unreasonable reliance.

DATED: March 23, 2003


Harry N. Stone (# 5281)
3030 N. 3rd Street
Phoenix, AZ 85012
(602) 241-8575
Attorney For Respondent
Kathleen Whorley Sommer

I hereby certify that I have this day served the foregoing documents on all parties of record in this proceeding by delivering an original plus 13 copies thereof to Docket Control at the Arizona Corporation Commission and by delivery of a copy to Amy Leeson, Esq., Arizona Corporation Commission, 1300 West Washington, 3rd Floor, Phoenix, AZ 85007.

Dated: March 31, 2003.


(Signature)