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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

COMMISSIONERS

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

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AZ CORP COMMISSION
DOCUMENT CONTROL

In the matter of:)
KATHLEEN WHORLEY SOMMER)
[CRD No. 2750036],)
d/b/a Sommer & Associates,)
and JOHN DOE, wife and husband,)
249 W. Waltann Lane)
Phoenix, Arizona 85023)
Respondents.)

DOCKET NO. S-03489A-03-0000

LIST OF WITNESSES AND EXHIBITS

Arizona Corporation Commission
DOCKETED

DEC 18 2003

DOCKETED BY *CR*

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") submits the following list of witnesses and exhibits that may be presented at the hearing in this matter:

WITNESSES

1. Robert Griffiths: Mr. Griffiths is expected to testify regarding his purchase of Alpha Telcom, Inc. ("Alpha") investment contracts from Respondent Kathleen Whorley Sommer ("Sommer").
2. Flora Hill: Ms. Hill is expected to testify regarding her purchase of Alpha investment contracts from Sommer.
3. Andrew Coyle: Mr. Coyle is expected to testify, by telephone from New Jersey, regarding his purchase of Alpha investment contracts from Sommer.
4. Lisa Busse: Ms. Busse, a Division investigator, is expected to testify regarding her investigation of the sale of Alpha investment contracts by Sommer.

...

1 **EXHIBITS**

- 2 1. Certificate of Registration for Sommer.
- 3 2. Certifications of Non-Registration of a security, dealer, or investment adviser for:
- 4 a. Alpha Telcom, Inc.,
- 5 b. American Telecommunications, Inc.

6 (The foregoing original documents were admitted as exhibits 2a and 2b in Docket No. S-03508A-
7 02-0000, *In the matter of Global Trusts, L.L.C., et al.* and are contained in the Docket Control file
8 for that matter)

- 9 3. Sommer investment contracts provided to the Division by the receiver for Alpha
10 Telcom:
- 11 a. Telephone Service Agreement and other documents for Harriet M. Beard,
- 12 b. Telephone Service Agreement and other documents for Donald Theodore Hill,
- 13 c. Telephone Service Agreement and other documents for George L. and Katherine
14 Wagner,
- 15 d. Telephone Service Agreement and other documents for Joan M. Groettum,
- 16 e. Telephone Service Agreement and other documents for Ronald E. and Carol D.
17 Fix,
- 18 f. Telephone Service Agreement and other documents for Edwin W. Clark,
- 19 g. Telephone Service Agreement and other documents for Ralph E. Endersby
20 Family Trust,
- 21 h. Telephone Service Agreement and other documents for Chateau Royale
22 Ventures, Inc.,
- 23 i. Telephone Service Agreement and other documents for Carl B. Sanford,
- 24 j. Telephone Service Agreement and other documents for Carl B. and Shirley C.
25 Sanford,
- 26

- k. Telephone Service Agreement and other documents for Peter R. and Virginia A. Dindy,
- l. Telephone Service Agreement and other documents for Charles L. Cazer,
- m. Telephone Service Agreement and other documents for Mary K. Fitzgerald – Griffiths,
- n. Telephone Service Agreement and other documents for Dennis J. Gilbert,
- o. Telephone Service Agreement and other documents for Robert C. Knuppel Revocable Trust,
- p. Telephone Service Agreement and other documents for Dorothy Hespelt,
- q. Telephone Service Agreement and other documents for Kathleen Sommer,
- r. Telephone Service Agreement and other documents for Edgar N. McClain,
- s. Telephone Service Agreement and other documents for James V. and Mary D. Powers,
- t. Telephone Service Agreement and other documents for Gordon and Joan Zane,
- u. Telephone Service Agreement and other documents for Donald L. Tolliver,
- v. Telephone Service Agreement and other documents for Lolita Parise,
- w. Telephone Service Agreement and other documents for Carlos E. Meza,
- x. Telephone Service Agreement and other documents for Joseph A. Powers,
- y. Telephone Service Agreement and other documents for Donald Theodore Hill,
- z. Telephone Service Agreement and other documents for The Gondek Trust,
- aa Telephone Service Agreement and other documents for Bette L. Ryan,
- ab Telephone Service Agreement and other documents for Edgar N. McClain,
- ac Telephone Service Agreement and other documents for Marc and Robin Douglas,
- ad Telephone Service Agreement and other documents for Robert V. Griffiths,
- ae Telephone Service Agreement and other documents for Bette L. Ryan,

1 af Telephone Service Agreement and other documents for Cindy Ann Garrett,
2 ag Telephone Service Agreement and other documents for Flore A. Hill,
3 ah Telephone Service Agreement and other documents for Larry C. and Cheryl E.
4 Henry,
5 ai Telephone Service Agreement and other documents for Joseph A. Powers Trust,
6 aj Telephone Service Agreement and other documents for James O. Seamans,
7 ak Telephone Service Agreement and other documents for Robert C. Knuppel
8 Trust.

9 4. Certified copies issued by Pennsylvania Securities Commission, *In the Matter of*
10 *Alpha Telcom, Inc., et al.*, No. 9812-06:

- 11 a. February 22, 1999, Summary Order to Cease and Desist
12 b. August 2, 2001, Order to Show Cause

13 5. Certified copies of: November 17, 1999, Cease and Desist Order issued by North
14 Carolina Secretary of State, Administrative Petition, Notice of Rights, and March 15, 2001,
15 Consent Order *In the Matter of the North Carolina Securities Division v. Alpha Telcom, Inc., et al.*,
16 No. 99-038-CC.

17 6. Certified copy of June 30, 1999, Temporary Order of Prohibition issued by Illinois
18 Secretary of State, *In the Matter of Alpha Telcom, Inc.*, No. 9900201.

19 7. Certified copy of January 18, 2000, Consent Order of Prohibition issued by Illinois
20 Secretary of State, *In the Matter of Alpha Telcom, Inc.*, No. 9900201, in which Alpha agreed to
21 offer rescission to all Illinois purchasers.

22 8. Certified copy of November 24, 1999, Order of Prohibition and Revocation
23 (Summary) issued by Wisconsin Department of Financial Institutions, *In the Matter of Alpha*
24 *Telcom, Inc. a/k/a ATC, Inc.*, and Petition for Order dated November 18, 1999, for *Alpha Telcom*
25 *Inc. et al.*, No. S-99225(EX).
26

1 9. Certified copy of March 7, 2000, Temporary Cease and Desist Ordered issued by
2 Rhode Island Department of Business Regulation, *In the Matter of Alpha Telcom, Inc. and ATC,*
3 *Inc.* [This exhibit will be produced at a later date.]

4 10. Certified copy of July 17, 2000, Administrative Complaint and Notice of Rights
5 issued by the Florida *Department of Banking and Finance vs. Alpha Telcom, Inc. et al.*, seeking a
6 Cease and Desist Order.

7 11. Certified copies of October 23, 2000, Desist and Refrain Orders issued by
8 California Department of Corporations *To: Paul Rubera et al.*

9 12. Certified copies issued by Ohio Commissioner of Securities *In Re: Alpha Telcom,*
10 *Inc.:*

- 11 a. July 26, 2001, Final Order to Cease and Desist
- 12 b. November 28, 2000, Notice of Opportunity for Hearing
- 13 c. June 27, 2001, Report and Recommendation of Hearing Officer.

14 13. Pleadings from *SEC v. Alpha Telcom, Inc., et al.*, No. CV 01-1283 PA, United
15 States District Court, District of Oregon:

- 16 a. Certified copy of Complaint for Violations of the Federal Securities Laws
17 dated August 27, 2001;
- 18 b. Certified copy of August 27, 2001, Temporary Restraining Order;
- 19 c. Certified copy of September 6, 2001, Preliminary Injunction;
- 20 d. Certified copy of Alpha Telcom consent to entry of Final Judgment of
21 Permanent Injunction, dated October 19, 2001;
- 22 e. Certified copy of February 7, 2002, Final Judgment of Permanent
23 Injunction;
- 24 f. Opinion dated February 7, 2002, 187 F. Supp. 2d 1250 (D. Or. 2002).
- 25 g. *SEC v. Paul S. Rubera, _ F3d _*, 2003 WL 22870967 (9th Cir. (Or)
26 December 5, 2003).

1 14. Certified Copy of September 5, 2001, Cease and Desist Order issued by Arkansas
2 Securities Department, *In the Matter of Alpha Telcom, Inc., et al.*, No. 01-36-S.

3 15. Certified copy of January 25, 2002, Order to Cease and Desist and Notice of Right
4 to Hearing issued by Connecticut Department of Banking, *In the Matter of Alpha Telcom, Inc.*
5 *a/k/a Alpha Tel-Com, Inc., et al.* No. CD-2001-6421-S, which became permanent on February 19,
6 2002.

7 16. Certified copy of Administrative Complaint and May 7, 2001, Cease and Desist
8 Order issued by Indiana Office of the Secretary of State, *In the Matter of Alpha Tel-Com, Inc., et*
9 *al.*, No. 01-0091.

10 17. Certified Copy of March 13, 2002, Entry of Findings of Fact and Conclusions of
11 Law and Final Order to Cease and Desist issued by Washington Department of Financial
12 Institutions, *In the Matter of Alpha Telcom, Inc., et al.*, No. SDO-21-02.

13 18. Certified Copy of Alpha Tel-com, Inc. bankruptcy petition, filed in Southern
14 District of Florida on August 24, 2001.

15 19. Printout of investor information received from court-appointed receiver for Alpha
16 Telcom. (original document admitted as exhibit 3 in Docket No. S-03508A-02-0000, *In the matter*
17 *of Global Trusts, L.L.C., et al.* and contained in the Docket Control file therein)

18 20. Printout of specific information regarding Sommer investors extracted from
19 information received from court-appointed receiver for Alpha Telcom.

20 21. Summary of Sommer Commission Checks.

21 22. Printout of salesperson compensation information received from court-appointed
22 receiver for Alpha Telcom (original document admitted as exhibit 5 in Docket No. S-03508A-02-
23 0000, *In the matter of Global Trusts, L.L.C., et al.* and contained in the Docket Control file
24 therein).

25 23. Printout of specific information regarding Sommer compensation extracted from
26 information received from court-appointed receiver for Alpha Telcom.

1 24. Copies of commission checks and deposit records relating to sales of Alpha Telcom
2 investment contracts, produced pursuant to Division subpoena.

3 25. Request to Engage in Independent Activities dated October 9, 2000, signed by
4 Kathleen Sommer and by Gary P. Duffey, OSJ Manager for SunAmerica Securities.

5 26. Letter from Associate General Counsel of SunAmerica Securities to Kathleen
6 Sommer dated September 16, 2002.

7 27. Certified copy of August 4, 2003, NASD Decision for Docket/case number
8 C3A030009, In the Matter of Kathleen Sommer. **[This exhibit will be produced at a later date.]**

9 RESPECTFULLY SUBMITTED this 18th day of December, 2003.

10 **ARIZONA CORPORATION COMMISSION**
11 **SECURITIES DIVISION**

12 
13 By Kathleen Coughenour DeLaRosa
14 Kathleen Coughenour DeLaRosa (#012670)
15 1300 West Washington, Third Floor
16 Phoenix, Arizona 85007
17 Attorney for Arizona Corporation Commission

18 **ORIGINAL** and 13
19 copies filed this 18th
20 day of December, 2003, with:

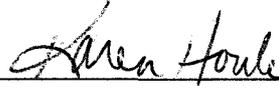
21 Docket Control
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 AND

26 **COPY** of the foregoing
mailed/delivered this 18th
day of December, 2003, to:

Hon. Marc Stern, Hearing Officer
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 Harry N. Stone, Esq.
3030 N. 3rd Street
2 Phoenix, Arizona 85012
Attorney for Respondent
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6 2003-12-01 Sommer List of Witnesses & Exhibits.doc
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