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THE ARIZONA CORPORATION COMMISSION RECEIVED

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- 3 MARC SPITZER, Chairman
- 4 WILLIAM A. MUNDELL
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Arizona Corporation Commission

DOCKETED

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AZ CORP COMMISSION DOCUMENT CONTROL

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7 IN THE MATTER OF THE.

DOCKET NO. S-03489A-03-0000

8 KATHLEEN WHORLEY SOMMER  
 [CRD No. 27500361],  
 9 dba Sommer & Associates  
 249 W. Waltann Lane  
 10 Phoenix, AZ 85023

11 and JOHN DOE, husband and wife,

12 Respondents.

EIGHTH PROCEDURAL ORDER

13 **BY THE COMMISSION:**

14 On February 25, 2003, the Securities Division ("Division") of the Arizona Corporation  
 15 Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Kathleen  
 16 Whorley Sommer and John Doe ("Respondents"), in which the Division alleged multiple violations  
 17 of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of  
 18 investment contracts.

19 The Respondents were duly served with a copy of the Notice.

20 On March 25, 2003, a request for hearing and Motion to Dismiss ("Motion") was filed for  
 21 Respondents.

22 On March 26, 2003, the Division filed a response to Respondent's Motion and requested a  
 23 pre-hearing be set.

24 On April 1, 2003, by Procedural Order, a pre-hearing conference was scheduled.

25 On April 10, 2003, the pre-hearing conference was held with the Division and Respondent  
 26 represented by counsel. Discovery and scheduling of the proceeding were discussed. Counsel for the  
 27 Division indicated a planned absence from April 11, 2003 until early July, 2003 that would require  
 28 the matter be held in abeyance until that time. It was agreed that an additional pre-hearing

1 conference be scheduled in July, 2003.

2 On April 10, 2003, by Procedural Order, a further pre-hearing conference was scheduled for  
3 July 15, 2003.

4 On July 8, 2003, an attorney for the Division filed a notice of substitution of counsel and a  
5 Motion for a Continuance ("Motion"). Respondents did not oppose the Motion.

6 On July 14, 2003, by Procedural Order, the pre-hearing conference scheduled for July 15, 2003 was  
7 continued to July 30, 2003.

8 On July 17, 2003, Respondent's counsel requested a brief continuance due to scheduling  
9 conflict. The Division did not object to this request.

10 On July 21, 2003, by Procedural Order, the proceeding was continued to August 5, 2003.

11 On August 5, 2003, the Division and Respondent appeared through counsel who requested  
12 that a status conference be scheduled in approximately 60 days while they attempt to settle the issues  
13 raised in the Notice.

14 On August 6, 2003, by Procedural Order, a status conference was scheduled for October 23,  
15 2003.

16 On October 23, 2003, counsel for the parties appeared and agreed that the proceeding be  
17 scheduled for hearing on January 6, 7 and 8, 2004.

18 On October 24, 2003, by Procedural Order, the proceeding was scheduled for hearing on  
19 January 6, 2004.

20 On January 5, 2004, Respondent filed a Motion to continue the hearing. Respondent's  
21 counsel requested at least a 30 day continuance and indicated a settlement was being negotiated with  
22 the Division. The Division agreed to the requested continuance pending the conclusion of the  
23 settlement.

24 On January 6, 2004, by Procedural Order, the proceeding was rescheduled for hearing on  
25 March 9, 2004.

26 On March 4, 2004, the Division filed an executed Consent Order for the Commission's  
27 approval at its March 17, 2004 Open Meeting.

28 Accordingly, the hearing should be vacated.

1 IT IS THEREFORE ORDERED that the hearing on the above-captioned matter scheduled on  
2 March 9, 2004 shall be vacated.

3 IT IS FURTHER ORDERED that the Securities Division shall request the proceeding be  
4 rescheduled for hearing if the Consent Order is not approved.

5 DATED this 5<sup>TH</sup> day of March, 2004.

6  
7  
8   
9 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

10 Copies of the foregoing mailed/delivered  
11 this 5 day of March, 2004 to:

12 Harry N. Stone  
13 3030 N. 3<sup>rd</sup> Street  
14 Phoenix, AZ 85012  
Attorneys for Respondent

15 Matt Neubert, Acting Director  
16 Securities Division  
17 ARIZONA CORPORATION COMMISSION  
18 1300 West Washington Street  
19 Phoenix, AZ 85007

20 By:

21   
22 Molly Johnson  
23 Secretary to Marc E. Stern  
24  
25  
26  
27  
28