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BEFORE THE ARIZONA CORPORATION COMMISSION
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In the matter of)
)
CALUMET SLAG, INC.,)
an Arizona corporation)
13433 N. 16th Avenue)
Phoenix, Arizona 85029)
)
GARETH N. PATTON)
23769 Blue Lead Mountain Road)
Hill City, South Dakota 57745)
)
JEFFERY G. CRAWFORD)
1822 N. Barkley)
Mesa, Arizona 85203)
)
MATTHEW E. HUNZINGER)
13031 N. 59th Drive)
Glendale, Arizona 85304,)
)
Respondents.)

DOCKET NO. S-03361A-00-0000
**SECURITIES DIVISION'S
RESPONSE TO MOTION TO
CONTINUE HEARING**

Pursuant to R14-3-106(K) of the Corporation Commission Rules of Practice and Procedure ("Rules of Practice and Procedure"), the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") hereby responds to Respondent Matthew E. Hunzinger's Motion to Continue Hearing in the matter of Calumet Slag. For the reasons discussed below, the Division opposes this motion on the grounds that the ongoing settlement negotiations in this matter do not rise to the level of "good cause" necessary to warrant the granting of a continuance in this matter.

I. INTRODUCTION

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2 The Division initiated this matter with the filing of a Notice of Opportunity in April of
3 2000. Subsequently, two pre-hearing conferences were convened in May and June of 2000, in
4 large part to identify a suitable hearing date. During the latter conference, the parties labored to
5 find a single hearing date that both accommodated the various counsels' schedules and coincided
6 with the availability of witnesses and a hearing room. A manageable hearing date was ultimately
7 reached and scheduled for August 21 of 2000, approximately four months after the Notice was
8 filed.

9 Respondent Hunzinger has now requested that the court grant a continuance in this matter
10 to allow settlement negotiations to continue. The ramifications of this request are apparent: not
11 only would such a request relieve any time constraints on the respondents to seriously address
12 resolving this matter, but the continuance would also lead to another unavoidably lengthy
13 postponement of this hearing. These inevitable results serve neither the alleged victims in this
14 case nor the expedient purpose of administrative proceedings. *See, e.g.,* A.A.C. R-14-3-101(B)
15 (The purpose of administrative proceedings is to provide for the just and speedy resolution of
16 administratively justiciable matters).

II. ARGUMENT

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19 The Division has indeed entered into settlement negotiations with several named
20 respondents in this matter, and reaching a settlement with one or more of these respondents
21 remains a possibility. However, the last minute nature of these settlement negotiations is largely
22 a function of the respondents' reluctance to address settlement negotiations with the Division at a
23 more appropriate time. Indeed, the Division provided respondents with evidentiary disclosures
24 relating to the case in June of 2000, and the Division has been fully receptive to settlement
25 negotiations with each of the respondents since that time. Consequently, responsibility for any
26 settlement time constraints at this point must fall squarely with the respondents.

1 Another salient point is the simple fact that settlements with interested respondents can be
2 reached without resorting to a continuance of the trial. There is still a week prior to the
3 scheduled hearing date, and ongoing settlement negotiations can proceed at the respondents'
4 desired pace. If a respondent is truly interested in settling with the Division in this matter, the
5 respondent will have ample time to sign a mutually agreed upon consent order. Granting a
6 continuance at this point may paradoxically impede any ongoing settlement negotiations.

7 In short, respondents bear the bulk of the responsibility for the current time constraints for
8 settlement. Moreover, these time constraints are not prohibitive for respondents reaching a
9 resolution prior to the hearing. Finally, a continuance would cause further undue delay in the
10 adjudication of this matter. Based on these factors, good cause does not exist for the granting a
11 continuance of this trial. Since "good cause" is a prerequisite for the granting of a continuance
12 under R14-3-109(Q) of the Rules of Practice and Procedure, the necessary grounds for
13 continuing this matter do not exist.

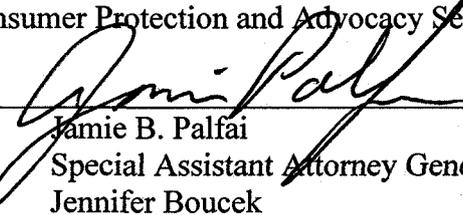
14 **III. CONCLUSION**

15 Based on the foregoing, the Division respectfully requests that the Hearing Officer in this
16 matter deny respondent Hunzinger's request for a continuance of the scheduled hearing.

17 RESPECTFULLY SUBMITTED this 14th day of August, 2000.

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JANET NAPOLITANO
Attorney General
Consumer Protection and Advocacy Section

By 
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Attorneys for the Securities Division of the
Arizona Corporation Commission

1 ORIGINAL AND TEN (10) COPIES of the foregoing
filed this 14 day of August, 2000, with

2 Docket Control, Arizona Corporation Commission
3 1200 West Washington
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4 COPY of the foregoing hand-delivered this
5 14 day of August, 2000, to:

6 Mr. Marc Stern
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9 COPY of the foregoing mailed
10 this 14 day of August, 2000, to:

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