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Arizona Corporation Commission
BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKET #

AZ CORP COMMISSION

AUG 16 2000

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CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

DOCKETED BY [Signature]

DOCUMENT CONTROL

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 RESPONDENT
PATTON'S JOINDER IN MOTION
TO CONTINUE HEARING**

Pursuant to R14-3-106(K) of the Corporation Commission Rules of Practice and Procedure, the Securities Division ("Division") of the Arizona Corporation Commission hereby responds to the Joinder motion filed by Respondent Garreth N. Patton ("Patton) in support of the previously filed Motion to Continue Hearing by Respondent Hunzinger. For the reasons discussed below, the Division vigorously opposes Patton's Joinder motion as it is misleading, disingenuous and has no basis in fact.

...

ARGUMENT

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2 On Friday, August 11, 2000, undersigned counsel placed a call to counsel for Patton to
3 discuss matters relating to this case and to establish a date on which the parties would exchange
4 exhibits. At the time of this call, the Division was in a position to make its exhibits available at
5 any time the following week. Presented with the option for selecting the date of exchange,
6 Patton's counsel explicitly chose Wednesday, August 16, 2000 as the date to exchange exhibits
7 in this matter. Undersigned counsel agreed to accommodate Patton's counsel's request.
8 Remarkably, Patton subsequently filed a Joinder motion on Tuesday, August 15, 2000, the day
9 before the scheduled exchange date, to argue that Patton would suffer prejudice by going forward
10 with the hearing because he had yet to receive the Division's exhibits.

11 In light of the fact that Patton's counsel selected the dated to exchange exhibits, Patton's
12 current claim of prejudice is both hollow and disingenuous. The alleged prejudice of which
13 Patton now complains is a direct result of his own choosing. If Patton required the exhibits
14 earlier in the week to avoid suffering the alleged prejudice, Patton could have simply asked for
15 an earlier exchange date. By engineering his own alleged prejudice, Patton has misled the
16 hearing officer assigned to this matter and has forfeited any right in raising this issue as a form of
17 support for continuing this hearing.

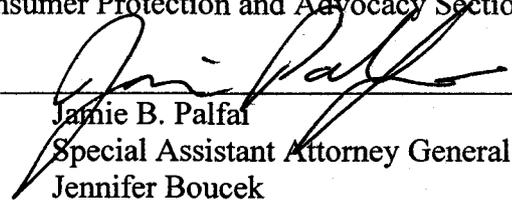
18 Patton's prejudice plea is illusory on still other grounds. By receiving the Division's
19 exhibits five days before hearing rather than seven, Patton will experience no cognizable form of
20 prejudice. The Division has assembled thirty-four exhibits in preparation for this hearing, with
21 many of these exhibits constituting documents created, disseminated, endorsed or prepared by
22 Patton himself. Further, Patton has previously received documents through discovery which now
23 make up many of the Division's exhibits. Under such circumstances, Patton will have ample
24 time to examine and review the Division's exhibits prior to the scheduled hearing date.

25 As a final note, the Division has notified all respondents that its exhibits for the Calumet
26 Slag hearing have been completed and are presently ready for collection. Ironically, Patton has

1 failed to make any of his own exhibits available to the Division on this date as was previously
2 agreed upon.

3 RESPECTFULLY SUBMITTED this 16th day of August, 2000.

4
5 JANET NAPOLITANO
6 Attorney General
7 Consumer Protection and Advocacy Section

8 By 
9 Jamie B. Palfai
10 Special Assistant Attorney General
11 Jennifer Boucek
12 Assistant Attorney General
13 Attorneys for the Securities Division of the
14 Arizona Corporation Commission

13 ORIGINAL AND TEN (10) COPIES of the foregoing
14 filed this 16 day of August, 2000, with

15 Docket Control, Arizona Corporation Commission
16 1200 West Washington
17 Phoenix, AZ 85007

17 COPY of the foregoing hand-delivered this
18 16 day of August, 2000, to:

19 Mr. Marc Stern
20 Hearing Officer
21 Arizona Corporation Commission/Hearing Division
22 1200 West Washington
23 Phoenix, AZ 85007

22 COPY of the foregoing faxed or mailed
23 this 16 day of August, 2000, to:

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