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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

2001 JUN -6 P 2: 16

AZ CORP COMMISSION  
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IN THE MATTER OF:

Arizona Corporation Commission

DOCKET NO. S-03439A-00-0000

DOCKETED

JUN 06 2001

TOWER EQUITIES, INC.  
8141 N. Main Street  
Dayton, Ohio 45415-1747  
CRD #16195

DOCKETED BY	<i>pd</i>
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PHILIP A. LEHMAN  
Tower Equities, Inc.  
8141 N. Main Street  
Dayton, Ohio 45415-1747  
CRD # 1345038,

Respondents.

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On December 27, 2000, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Tower Equities, Inc. ("Tower") and Mr. Philip A. Lehman, (collectively the "Respondents") in which the Division alleged that the Securities and Exchange Commission ("SEC") had found the Respondents had committed multiple violations of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Adviser Act of 1940 in connection with the offer and sale of securities. As a result of the SEC's action, the Division alleges that Tower's and Lehman's registration as a securities dealer and salesman, respectively, should be revoked.

The Respondents were duly served with copies of the Notice.

On January 18, 2001, Respondents Tower and Lehman filed a request for hearing.

On January 23, 2001, by Procedural Order, a pre-hearing conference was scheduled and held on February 8, 2001 and during that proceeding the parties stipulated to a hearing on April 10, 2001.

On April 3, 2001, the parties requested a continuance of the proceeding for at least 45 days to further narrow the issues and to complete the production of documents.

On April 4, 2001, the hearing on the above-captioned proceeding was continued from April

1 10, 2001 to May 30, 2001.

2 On May 18, 2001, the Respondents filed a Motion to Extension Time ("Motion") stating that  
3 counsel for the Respondents did not receive the Commission's April 4, 2001, Procedural Order  
4 continuing the proceeding to May 30, 2001. Counsel remained unaware until May 15, 2001, that the  
5 hearing had been rescheduled and stated that she needed additional time to prepare for the hearing.

6 On May 21, 2001, the Division filed a response to the Motion of the Respondents arguing that  
7 they had failed to show good cause for any further delays. Subsequently, a teleconference was  
8 arranged to take place between the presiding Administrative Law Judge and counsel for the Division  
9 and the Respondents.

10 On May 25, 2001, a teleconference was held with counsel for the Respondents and the  
11 Division wherein the parties agreed to the following: that the hearing scheduled for May 30, 2001, be  
12 continued until June 13, 2001 as a telephonic hearing; that counsel for the Respondents would file her  
13 application for admission Pro Hac Vice for purposes of representing the Respondents in the  
14 proceeding; that on or before May 30, 2001, the parties would file a Joint Pre-Hearing Statement  
15 ("Statement") which would contain stipulations of fact and the parties' request for findings of fact,  
16 the identification of issues of law and policy and a summary of their respective positions on those  
17 issues; that on or before June 6, 2001, all exhibits and witness lists (if any) would be exchanged by  
18 the parties with copies provided to the Administrative Law Judge; and that the hearing scheduled for  
19 June 13, 2001 would be conducted telephonically with counsel for the parties arguing their respective  
20 positions on the primary issues involved in the proceeding.

21 On May 29, 2001, by Procedural Order, the hearing was continued to June 13, 2001, for the  
22 parties to present their closing arguments.

23 On June 5, 2001, counsel for the Respondents, Ms. Barbara A. Mallon, filed an Application to  
24 Appear Pro Hac Vice ("Application") and designated as local counsel Mr. Donald C. Zavala who  
25 consented to his designation for purposes of communication and service of documents.

26 Accordingly, the Application should be granted.

27 ...

28 ...

1 IT IS THEREFORE ORDERED that the Application to Appear Pro Hac Vice filed by Ms.  
2 Barbara A. Mallon in the above-captioned proceeding shall be granted to permit her to appear before  
3 the Commission.

4 DATED this 6<sup>th</sup> day of June, 2001.

  
5  
6 MARC E. STERN  
7 ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing sent via  
9 Facsimile and mailed via  
10 Certified Mail, Return Receipt Requested  
this 6<sup>th</sup> day of June, 2001 to:

11 Barbara A. Mallon  
12 MALLON & JOHNSON, P.C.  
13 19 S. LaSalle Street, Suite 1202  
14 Chicago, Illinois 60603  
15 Attorney for Respondents  
16 312-346-8896

17 Copies of the foregoing mailed/delivered  
18 this 6<sup>th</sup> day of June, 2001 to:

19 Donald C. Zavala  
20 SNELL & WILMER  
21 One Arizona Center  
22 Phoenix, AZ 85004

23 Robert A. Zumoff  
24 Assistant Attorney General  
25 ARIZONA ATTORNEY GENERAL'S OFFICE  
26 1275 West Washington Street  
27 Phoenix, Arizona 85007

28 W. Mark Sendrow, Director  
29 Securities Division  
30 ARIZONA CORPORATION COMMISSION  
31 1300 West Washington Street  
32 Phoenix, Arizona 85007

33 By:   
34 Molly Johnson  
35 Secretary to Marc E. Stern