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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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ARIZONA CORPORATION COMMISSION  
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COMMISSIONERS:  
KRISTIN K MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

Docket No. S-20600A-08-0340

IN THE MATTER OF: )  
MARK W. BOSWORTH and LISA A. )  
BOSWORTH, husband and wife; )  
STEPHEN G. VAN CAMPEN and DIANE V. )  
VANCAMPEN, husband and wife; )  
MICHAEL J. SARGENT and PEGGY L. )  
SARGENT, husband and wife; )  
ROBERT BORNHOLDT and JANE DOE )  
BORNHOLDT, husband and wife; )  
MARK BOSWORTH & ASSOCIATES, LLC, )  
An Arizona limited liability company; )  
3 GRINGOS MEXICAN INVESTMENTS, LLC; )  
An Arizona limited liability company )  
Respondents. )

RESPONDENTS  
MARK W. BOSWORTH  
MARK BOSWORTH & ASSOCIATES, LLC  
3 GRINGOS MEXICAN INVSTMENTS, LLC  
RESPONSE TO THE SARGENTS RESPONSE  
TO RESPONDENTS OBJECTION TO MOTION  
TO SET HEARING

Respondents Mark W. Bosworth, Mark Bosworth & Associates, LLC and Three Gringos Mexican Investments, LLC respectfully objects to the Securities Division's (Division) motion to set a hearing.

The Division's claim and the Sargents support of it make no claim on fact of law. No, claim under the rules of Administrative Law OR the Rules of Civil Procedure. All parties were advised these were in effect for this hearing. This burden is on the Division and the Sargents and certainly applies to this absurd AND unheard of request.

1 The division was at all times BEFORE Mark Bosworth gave testimony perfectly aware of  
2 the question regarding 3GMI and the transfer of real property and ANY alleged problems it  
3 created. They not only had a right but an obligation to investigate the circumstances and realities  
4 of what had transpired. Mr. Sargent in an unusual move of complying with his subpoena, had  
5 Mr. Sabo parade around a letter about how satisfied all the investors are now. The investors are  
6 certainly all adults able to execute a voluntary agreement. Problems arising from Mr. Sabo and  
7 Mr. Sargent's now apparently false allegations should certainly not now benefit the perpetrators.  
8

9 Mr. Sabo's assertions that the hearing has been against the Sargents only are false.  
10 The Division has made no such claim. Mr. Sabo has not been appointed to represent the  
11 Division. It makes no sense for the Division to discredit or go after their own key witness. The  
12 Bosworth's were never removed from this hearing. The Division and Mr. Sabo have been free to  
13 put on their case as they see prudent. I am sure with two years of planning and decades of  
14 experience on their teams they planned on all potential bumps in the road.  
15

16 Mr. Sabo's unfounded speculation on the settlement agreement is not only  
17 comical it is unprofessional. Mr. Sabo could have invested a few minutes in a phone call to get  
18 clear, if that was his goal. Instead, he chose to make up pure fabrications out of thin air. He then  
19 rides in on his white horse with the perfect answer to his made up story that just happens to  
20 benefit his client, if only it were true.  
21

22 The division had NO problems or complaints with Mr. Bosworth and/or his testimony.  
23 They will not make any such claim. The Division was fully satisfied despite Mr. Sabo's  
24 numerous false assertions and speculations.  
25

26 Mr. Sabo then vaguely alleges Mr. Bosworth's testimony was not consistent with  
27 other witnesses without any specificity. The most remarkable part of Mr. Bosworth's testimony  
28

1 was just how little of it Mr. Sabo wanted. The Divisions main witness and Mr. Sabo had only a  
2 handful of questions. Are you kidding me and now Mr. Sabo wants to load up on false  
3 statements and summations of what he wants the court to remember? All the time Mr. Sabo  
4 wanted to cross- examine and Mr. Sabo spent how much time on the key witness Mr. Bosworth?

5 Even more remarkable is Mr. Sabo's untruthful summations of Mr. Bosworth's  
6 testimony on his role in the business. Mr. Sabo is the one who attempted to squeeze in a partial  
7 sentence to make a false claim to mislead the court on the AzDRE matter.  
8

9 Is Mr. Sabo pretending he knows how to run a business with hundreds of millions of  
10 dollars in sales and half a billion dollars of assets under management? He did not ask how the  
11 head of that type of organization does it with the 70+-employees/independent contractors. Mr.  
12 Sabo had his opportunity and did almost nothing with it. Mr. Sabo's only defense seemed to  
13 attack the character of a witness the State of Arizona had no problem with as his or her own main  
14 witness. The Division had no problem with the character and ethics when presenting Mr.  
15 Bosworth as their key witness. What is the saying; if you cannot make a case just throw stones?  
16

17 Mr. Sabo makes a valid point that Mr. Bosworth went on the record under oath  
18 and testified that Mr. Ludwig had represented in order to achieve a settlement that the restitution  
19 would be dischargeable. Mr. Ludwig did not then, or since then, go on the record disputing this  
20 assertion by Mr. Bosworth. The Bosworth's feel confident Mr. Ludwig will not go on the record  
21 to dispute this claim.  
22

23 There are no fraudulent transfer cases filed against Mr. or Mrs. Bosworth by the  
24 U.S. Trustee as Mr. Sabo alleges. Mr. Sabo failed to mention one case was filed for paying over  
25 \$100,000.00 in tithes to his church as he was legally allowed to do. Mr. Sabo does not even  
26  
27  
28

1 mention if the cases moved forward and process was served. The Trustee was merely protecting  
2 the rights of the estate's 2-year limit in case there was liability later.

3 Mr. Sabo continues to allege financial hardship on the Sargents for this  
4 proceeding. Mr. Sargent alleges nothing but financial stability to his prospective clients at  
5 Homelovers-his carbon copy of Mr. Bosworth's businesses. If the Sargents are in such financial  
6 peril, why are they paying Mr. Sabo to represent and protect a witness Barbara Broyles? Are they  
7 really going to maintain she is just friends with the Sargents?  
8

9 There is nothing-new here and no surprises, except by the Division. In an unusual move  
10 of compliance with the Divisions subpoena, Mr. Sargent is the one that introduced the settlement  
11 letter from Mr. May claiming all is well! At the request of Mr. Sargent and some investors, Mr.  
12 Bosworth was requested not to participate in the settlement process with the investors.  
13

14 In the division's own motion of September 11, 2008, they claim on page 4 #C "The  
15 division's interest in proceeding expeditiously is great"! They continue with "ANY delay in  
16 prosecuting this matter will adversely affect the division's interests" and "ANY delay would  
17 have a detrimental effect on the public confidence in the enforcement efforts of the division".  
18 They make the SAME EXACT claim on their September 5, 2008 filing in response to the  
19 Sargent's motion. They prevailed on those hard fought motions they are now attempting to  
20 completely abandon them for their own ease and convenience. The Division's feet must be held  
21 to the fire, they and they alone created it!  
22

23  
24 The Division is fully aware of respondent's inability to retain counsel and that self-  
25 representation is the only reluctant choice available to Bosworth". Respondents are the only  
26 Respondent not able to afford an attorney. During any and every hearing Mr. Bosworth is the  
27 only person in the room not being paid for being there and in fact losing wages. It would be an  
28

1 unfair and unbearable burden for Respondent's to now attend this hearing AND another separate  
2 hearing months or years later. This would create an unfair and unjustified expense in an  
3 administrative hearing where Respondents have no ability to recover costs, expenses, lost wages  
4 or fees-even if Respondent's prevail. This also gives an unfair advantage to the Division with a  
5 free practice run, hardly a level playing field of equality.  
6

7 The Division has known for many months they had a red herring to deal with and  
8 did nothing. Now that they have Mr. Bosworth's testimony, they are wholesale changing their  
9 story. There will be substantial evidence introduced to document the Division's actions.

10 Mr. Sargent was allowed a voluminous amount of time under the pretense he  
11 would prepare to testify and not merely take the fifth on all his testimony. The Honorable  
12 Administrative Law Judge Marc E. Stern saw fit to allow respondent Sargent all the time needed  
13 to make the hearing fair and equitable. The Bosworth's deserve the same fair, equitable and  
14 courteous treatment that Mr. Sabo's clients received.  
15

16 Respondents have not read the transcripts, which appear to be quickly obtainable, that  
17 may influence Respondent's decisions. At this point Respondents only anticipate calling  
18 witnesses that work for the Division/State of Arizona and Respondent's that were compensated  
19 millions of dollars each in exchange for their testimony, Bornholdt and VanCampen's  
20

21 The Division insisted there could not be separate hearings and the respondent's  
22 must be heard together. Sargent and Bosworth both vigorously sought separate hearings. Does  
23 the Division now get to do a complete flip-flop its position because it serves them better? Does  
24 the Division get to willingly impose the unheard of undue and unnecessary additional  
25 monumental burdens of time and valuable financial resources two years later of preparing  
26 differently for ANOTHER HEARING? There is no need to speculate, I believe even on  
27  
28

1 extremely short notice Mr. Bosworth has proven he was well prepared for the hearing and ready  
2 to move forward.

3           The Division has the burden of proving the legality under Arizona Administrative  
4 Law and/or The Rules of Civil Procedure and the absolute necessity of "setting a hearing" during  
5 the middle of that same existing hearing. The Division has NOT. The Divisions motion is illegal,  
6 untimely and inappropriate. There is no motion for new trial. There is no motion for a mistrial.  
7 There is no motion dismiss the case with or without prejudice and re-file if successful. There is  
8 no motion to separate the Bosworth's and leave the Three Gringos llc or Mark Bosworth and  
9 Associates llc in this hearing. The llc's are separate legal entities with their own legal rights.  
10

11           The Honorable Administrative Law Judge Marc E. Stern has already ruled on the  
12 Division's motion to set a hearing in open court, ruling, "Mr. Bosworth has every legal right to  
13 be here"! The division has not filed a new motion to set a hearing and this one has been ruled on.  
14 Certainly, the Division and Mr. Sabo have provided no legal basis to overturn that existing  
15 ruling! Ease and convenience at that expense of the law and legal process and of other  
16 Respondent's has no merit.  
17

18           Accordingly, Mark W. Bosworth, Mark Bosworth & Associates llc & 3 Gringos  
19 Mexican Investments llc vigorously oppose the Division's motion to set a hearing during the  
20 middle of that same existing hearing already in progress. Respondent's respectfully plea to and  
21 leave standing the existing ruling that Respondent's have every legal right to participate in this  
22 hearing. Thank you for your consideration of this objection.  
23  
24

25  
26  
27           RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of September 2010  
28

1 By \_\_\_\_\_  
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