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 11 *Berta Walder, Howard Walder, Harish P. Shah, Madhavi H. Shah and Horizon Partners, LLC*

BEFORE THE ARIZONA CORPORATION COMMISSION

In the matter of:

DOCKET NO. S-20660A-09-0107

RADICAL BUNNY, L.L.C., an Arizona
limited liability company,

HORIZON PARTNERS, L.L.C., an
Arizona limited liability company,

MOTION IN LIMINE

TOM HIRSCH (aka TOMAS N.
HIRSCH) and DIANE ROSE HIRSCH,
husband and wife;

Arizona Corporation Commission

DOCKETED

OCT 7 2010

BERTA FRIEDMAN. WALDER (aka
BUNNY WALDER, a married person,

DOCKETED BY

HOWARD EVAN WALDER, a
married person,

HARISH PANNALAL SHAH and
MADHAVI H. SHAH, husband and
wife,

Respondents.

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1 The Arizona Corporation Commission will call certain lawyers and others
2 to testify about Radical Bunny and Mortgages Limited's manner of doing
3 business. Many of them and their present or former law firms have been sued in a
4 Federal Class action suit alleging that they were complicit in the Mortgages
5 Limited's manner of raising funds, both directly and through Radical Bunny. Not
6 surprisingly, they are eager to testify that they had nothing to do with it and that
7 they told all concerned not to obtain funds in the manner now under scrutiny.

8 Respondents here will, if necessary, refute that testimony. But the
9 subject of this Motion is whether this tribunal should admit that evidence.

10 The Arizona Corporation Commission contends that to prove an Arizona
11 Securities violation, the Arizona Corporation Commission does not need to prove
12 scienter (any wrongful intent to violate the statute). It cites cases such as State v.
13 Gunnison, 127 Ariz. 110, 618 P.2d 604 (1980) and Garvin v. Greenback, 856 F.2d
14 1392 (9th Cir. 1988) to support that contention. But if scienter is irrelevant, so is
15 all evidence that Respondents had knowledge or warnings that they were
16 operating in violation of the law. Under the Arizona Corporation Commission's
17 view, the only question is whether the law was violated. The Respondents'
18 knowledge is not an element in that analysis.

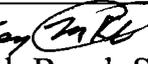
19 All evidence going to Respondents' notice that their conduct might
20 violate the law should be excluded. Besides being a correct ruling on the law, it
21 will vastly shorten the hearing, preventing tedious cross examination about
22 whether each witness had the background to offer such an opinion and whether
23 each witness in fact correctly understood a complex statute and an even more
24 complex body of case law.

25 This Motion does not seek to exclude any witness, but no witness should
26 be allowed to testify about notice claimed to be given to Respondents that they
27 might be in violation of something as vague as "the law." Under the cases
28

1 excluding scienter as an element of a violation of the Arizona Statutes, the
2 testimony would be irrelevant and prejudicial.

3
4 RESPECTFULLY SUBMITTED this 7th day of October, 2010.

5 **LAVELLE & LAVELLE, PLC**

6
7 By: 
8 Michael J. LaVelle 
9 2525 East Camelback Road, Suite 888
10 Phoenix, Arizona 85016

11 *Attorneys for Respondents Tom Hirsch, Diane Rose Hirsch, Berta Walder,*
12 *Howard Walder, Harish P. Shah, Madhavi H. Shah and Horizon Partners,*
13 *LLC*

14 ORIGINAL and 13 COPIES filed this
15 7th day of October, 2010 with:

16 **ARIZONA CORPORATION COMMISSION**
17 Securities Division
18 1300 West Washington, Third Floor
19 Phoenix, Arizona 85007

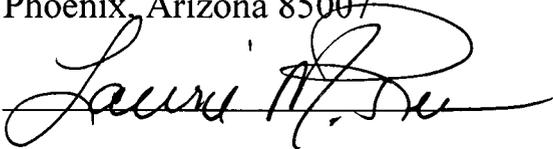
20 COPY of the foregoing MAILED this
21 7th day of October, 2010 to:

22 Lyn Farmer
23 Chief Administrative Law Judge
24 **ARIZONA CORPORATION COMMISSION**
25 1200 West Washington
26 Phoenix, Arizona 85007

27 Jordan A. Kroop
28 Thomas J. Salerno
SQUIRE SANDERS & DEMPSEY, LLP
1 East Washington Street, Suite 2700
Phoenix, Arizona 85004

1 COPY of the foregoing MAILED and EMAILED this
2 6th day of October, 2010 to:

3 Julie Coleman
4 ARIZONA CORPORATION COMMISSION
5 Securities Division
6 1300 West Washington, Third Floor
7 Phoenix, Arizona 85007

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