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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

CORP COMMISSION
DOCKET CONTROL

In the matter of:)	DOCKET NO. S-20714A-09-0553
)	
THEODORE J. HOGAN & ASSOCIATES)	RESPONDENTS EXCEPTION TO
LLC a.k.a. TED HOGAN AND)	DIVISION'S EXCEPTIONS TO
ASSOCIATES, an Arizona limited liability)	RECOMMENDED OPINION AND
Company,)	ORDER
)	
THEODORE J. HOGAN a.k.a. TED KILLS)	
IN THE FOG, a married man)	
)	
And)	
)	
CHRISTINA L. DAMITIO a.k.a.)	
CHRISTINA HOGAN, a married woman)	
)	
Respondents.)	

Arizona Corporation Commission
DOCKETED

FEB 14 2011

DOCKETED BY

Pursuant to R14-3-110(B) of the Arizona Administrative Code, the Securities Division

("Division") of the Arizona Corporation Commission ("Commission") submits its exceptions to the Administrative Law Judge's January 24, 2011, Recommended Opinion and Order ("Opinion"). The Division recommends specific changes to the Opinion for the reasons set forth below.

ANALYSIS

The Opinion contains a restitution ordering paragraph (page 13, line 11) that states "...restitution in an amount not to exceed \$2,319,310 which restitution shall be made" In this case, the exact amount of restitution is not calculable. Therefore, the Respondents submits that the language reads as follows:

A dismissal of the Division's hearing and Opinion and Order should be rendered by the Corporation Commissioners in order to uphold the Constitution's of Arizona and the United States of America and not impede commerce since the loans to the respondent, Theodore J. Hogan, were legal at their inception. The question of whether loans fall within the purview of securities is res judicata. A Federal District Court was faced with this same question and held that these were loans and not proscribed securities. (See Ex 9, filed on 2/2/20011 to AZCC EXCEPTION TO AND FINDINGS OF FACTS. Case 1:06-cr-00049-JDS. Document 43, filed 1/12/2007 in the United States District Court for the District of Montana Billings, Montana.) The question of restitution is generally an administrative duty and not a complicated issue. The reason this question has become material is because the Division refused to comply with the rules of discovery, and have not permitted the respondents the right to face their accusers.

The fact that the Division refused to comply with hallmarks of litigation, namely discovery, and the right to face their accusers, have denied respondents the right to a fair and impartial hearing. The respondents have never received the data the Division utilized in determining restitution. The respondents were put into the position of having to defend themselves without the knowledge of an exculpatory evidence that may have been in the hands of the commission.

Unfortunately, the respondents are not in a position to make calculations, since they are devoid of discovery. Regretfully, the respondents have been obligated to defend themselves sans the benefit of the commissions strict compliance with the rules of discovery.

The question of restitution is merely the tip of the iceberg facing the respondents,

because the entire hearing procedure has been tainted and skewed against the respondents. There is no evidence of any securities, registered or unregistered, ever sold or offered by the respondents. There is no documentation ever produced that anyone bought securities, registered or unregistered, from the respondents.

Respectfully Submitted,



THEODORE J. HOGAN

2/14/11

DATE



CHRISTINA L. DAMITIO

2-14-11

DATE