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ARIZONA CORPORATION COMMISSION  
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AZ CORP COMMISSION  
Arizona Corporation Commission

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1  
2 WILLIAM A. MUNDELL  
Chairman  
3 JIM IRVIN  
Commissioner  
4 MARC SPITZER  
Commissioner  
5

6 **In the matter of:** )

7 **THE CHAMBER GROUP, INC.,** )  
an Arizona Corporation, a/k/a )  
8 **CHAMBER FINANCIAL GROUP** and )  
9 **CHAMBER FINANCIAL** )  
1060 Sandretto Drive, Suite A )  
10 Prescott, Arizona 86305; and )  
11 1550 South Alma School, Suite #103 )  
Mesa, Arizona 85210 )

12 **JOSEPH L. HILAND** )  
13 135 South Summit )  
Prescott, Arizona 86304 )

14 **TYSON J. HILAND** )  
15 3094 Shoshone Place )  
16 Prescott, Arizona 86301 )

17 **TRAVIS D. HILAND** )  
18 4801 North Meixner Road )  
Prescott Valley, Arizona 86314, )

19 Respondents. )  
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Docket No. S-~~004380~~ 000000

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**MOTION TO ALLOW FOR  
TELEPHONIC TESTIMONY**

21 The Securities Division ("Division") of the Arizona Corporation Commission hereby  
22 moves for leave to present the telephonic testimony of prospective Division witnesses Nancy Del  
23 Valle ("Del Valle") and Kenton Johnson ("Johnson") during the hearing of the above-referenced  
24 matter, scheduled to begin on March 19, 2001.

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**I.**  
**FACTS**

3           The Division anticipates calling both Del Valle and Johnson as central witnesses to this  
4 hearing. Del Valle, a frequent investor with The Chamber Group during 1999, can provide  
5 probative testimony as to several of the Division's allegations in this case. Specifically, Del  
6 Valle may testify as to the circumstances surrounding The Chamber Group's offer and sale of  
7 various "investment products" as well as her subsequent experiences with these investments.  
8 Because Del Valle currently resides in northern California and has ongoing personal obligations,  
9 however, her physical appearance at the hearing in Phoenix presents logistical problems.

10           Johnson is a partner with the California asset management firm of Robb Evans &  
11 Associates ("Evans"). Evans is the court-appointed receiver for an entity formerly known as  
12 TLC, an alleged tax lien investment program for whom The Chamber Group sold investments.  
13 Through his receivership role, Johnson can provide probative testimony as to the authenticity of  
14 certain exhibits submitted by the Division in this matter. His testimony may involve the  
15 authentication of sales and commission records of The Chamber Group in connection with the  
16 company's sales agent functions for TLC. Johnson's out-of-state residence and demanding work  
17 schedule again present obstacles for attending this hearing.

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**II.**  
**ARGUMENT**

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21           The purpose of administrative proceedings is to provide for the fair, speedy and cost  
22 effective resolution of administratively justiciable matters. To effectuate that purpose, the  
23 legislature provided for streamlined proceedings and relaxed application of the formal rules of  
24 evidence. Specifically, A.R.S. § 41-1062(A)(1) provides for informality in the conduct of  
25 contested administrative cases. The evidence submitted in an administrative hearing need not  
26 rise to the level of formality required in a judicial proceeding, as long as it is "substantial, reliable

1 and probative.” In addition, the Commission promulgated rules of practice and procedure to  
2 ensure just and speedy determination of all matters presented to it for consideration. *See, e.g.,*  
3 A.A.C. R14-3-101(B); R14-3-109(K). Allowing Del Valle and Johnson to testify by telephone  
4 retains all indicia of reliability and preserves Respondents’ right to cross-examination.

5 Courts in other states have acknowledged that telephonic testimony in administrative and  
6 civil proceedings is permissible and consistent with the requirements of procedural due process.  
7 *See Babcock v. Employment Division*, 72 Or. App. 486, 696 P.2d 19 (1985) (court approved  
8 Oregon Employment Division’s procedure to conduct entire hearing telephonically); *W.J.C. v.*  
9 *County of Vilas*, 124 Wis. 2d 238, 369 N.W. 2d 162 (1985) (court permitted telephonic expert  
10 testimony in commitment hearing). Both of these courts concluded that fundamental fairness  
11 weighed in favor of permitting telephonic testimony.

12 Public policy considerations also militate towards allowing Del Valle and Johnson to  
13 testify telephonically. Through this form of testimony, the Division can better allocate its limited  
14 resources to better serve and protect the Arizona investing public.

15  
16 **III.**  
**CONCLUSION**

17 Permitting Del Valle and Johnson to testify telephonically at the hearing allows the  
18 Division to present relevant witness evidence that is expected to be reliable and probative, is  
19 fundamentally fair, and does not compromise Respondents’ due process rights. Therefore, the  
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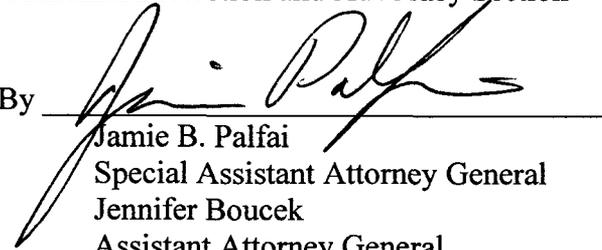
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23 ...  
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25 ...  
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1 Division respectfully requests that its motion for leave to present the telephonic testimony of Del  
2 Valle and Johnson be granted.

3 RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of March, 2001.

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  
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1 ORIGINAL AND TEN (10) COPIES of the foregoing  
2 filed this 8<sup>th</sup> day of March, 2001, with

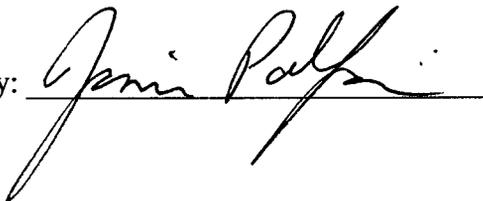
3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington  
6 Phoenix, AZ 85007

7 COPY of the foregoing hand-delivered this  
8 8<sup>th</sup> day of March, 2001, to:

9 Mr. Marc Stern  
10 Hearing Officer  
11 Arizona Corporation Commission/Hearing Division  
12 1200 West Washington  
13 Phoenix, AZ 85007

14 COPY of the foregoing faxed and mailed  
15 this 8<sup>th</sup> day of March, 2001, to:

16 David Jordan, Esq.  
17 TITUS BRUECKNER & BERRY, P.C.  
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21 By:   
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