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Arizona Corporation Commission

AZ CORP COMMISSION
DOCUMENT CONTROL

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BEFORE THE ARIZONA CORPORATION COMMISSION

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 10 WILLIAM A. MUNDELL, Chairman; JIM)
 11 IRVIN, Commissioner; MARC L. SPITZER,)
 12 Commissioner;)
 13 In the Matter of:)
 14 THE CHAMBER GROUP, INC.; CHAMBER)
 15 FINANCIAL GROUP, CHAMBER FINANCIAL,)
 16 JOSEPH L. HILAND, TYSON J. HILAND AND)
 17 TRAVIS D. HILAND,)
 18 Respondents.)

DOCKET NO. S-03438A-00-0000

**RESPONDENTS' RESPONSE IN
OPPOSITION TO THE
DIVISION'S MOTION TO
PRECLUDE ADMISSION OF
RESPONDENTS' EXHIBIT R-3**

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18 The real agenda behind the motion to preclude Respondents' Exhibit R-3 is quite plain. The
 19 Securities Division's case regarding the certificates of deposit fell apart during the testimony of David
 20 Greene, the NASD rebuttal witness, and the Division now seeks to keep out the evidence that
 21 validates Mr. Greene's testimony. As it turns out, the CDs that were sold by The Chamber Group
 22 were completely different than the CDs that were attacked by the Division.

23 The attacks against Exhibit R-3 are not well taken. While it is true that the documents differ in
 24 nature, this could not be helped since Respondents were forced to subpoena several different
 25 companies to try to assemble the documents. Those companies kept the records in different ways and
 26

1 produced them in different ways. To expect that different companies would keep identical types of
2 records is unreasonable.

3 The Division argues, without support, that the documents do not back up Respondents'
4 Exhibit R-2. This is simply not true. For example, Respondents' Exhibit R-2 states that Vernon Fass
5 received the full value of his CD back—\$8,000. Respondents' Exhibit R-3 corrects the amount of Mr.
6 Fass' investment, it was actually \$10,000, and verifies that he received the full amount back. *See*
7 CG0003. Respondents Exhibit R-2 states that Norman Marks received the full amount of his CD
8 back—\$14,000. Respondents' Exhibit R-3 verifies that in fact Mr. Marks received the full \$14,000
9 back. *See* CG0004. Respondents' Exhibit R-2 states that James Weisend received the full amount of
10 his CD back—\$11,000. Respondents' Exhibit R-3 provides documentation that in fact he did receive
11 \$11,000 back. *See* CG0005.

12 In Respondents' Exhibit R-2, Mr. Patel is shown as having received his full CD back—
13 \$30,000. Respondents' Exhibit R-3 proves that the full amount was received. *See* CG0007.
14 Respondents' Exhibit R-2 states that Robert Fuller received the full amount of his CD back—\$30,000.
15 Respondents' Exhibit R-3 proves that Mr. Fuller did in fact receive the full amount of that CD back
16 into his family trust. *See* CG0014.

17 Certain of the documents actually back up to documents provided by the Division. For
18 example, the Division provided evidence that the Brownfield Family Trust invested \$50,000 into a
19 CD. *See* Exhibit S-70. Exhibit R-3 demonstrates that the Brownfield Family received the full amount
20 of their CD back. *See* CG0013.

21 The documents produced by Bear Stearns, clearing broker for Capstone Investments, are,
22 admittedly, difficult to understand. They were produced as part of Exhibit R-3 because Bear Stearns
23 personally assured the undersigned's office that these represented statements of clients whose
24 certificates of deposit had been fully redeemed. Although it is not necessarily clear to the undersigned
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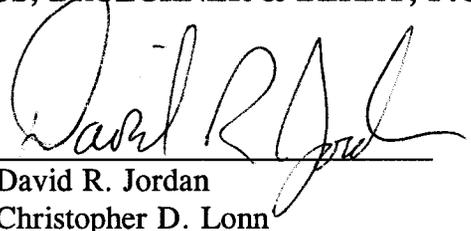
1 that the statements provide that information, the documents were produced in Exhibit R-3 for
2 whatever assistance they may render to the Administrative Law Judge.

3 Perhaps in a perfect world Bear Stearns would have kept its record using precisely the same
4 forms that Correspondent Services Corporation used. Nevertheless, given the limited time allowed to
5 compile these documents, it is clear that several of the individuals in Exhibit R-2 received the full
6 amount of their CD returned to them. As Mr. Greene of the NASD testified, they were sold a CD
7 quite different than the CD that the Securities Division spent the week attacking.

8 Preclusion of Exhibit R-3 would be severely prejudicial to Respondents. The Division has
9 only itself to blame for directing its attack against certificates of deposit cleared by companies other
10 than CIBC World Markets. Exhibit R-3 should be admitted.

11 RESPECTFULLY SUBMITTED this 28th day of June, 2001.

12 **TITUS, BRUECKNER & BERRY, P.C.**

13
14
15 By 

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23 this 28th day of June, 2001, with:

24 Docket Control
25 Arizona Corporation Commission
26 1300 W. Washington
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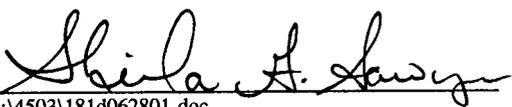
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COPY of the foregoing mailed
this 28th day of June, 2001 to:

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Mark Stern, Administrative Law Judge
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