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BEFORE THE ARIZONA CORPORATION COMMISSION

2011 JUL 26 P 3:07

AZ CORP COMMISSION
DOCKET CONTROL

COMMISSIONERS

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

In the matter of:)
MARK W. BOSWORTH and LISA A. BOSWORTH, husband and wife;)
STEPHEN G. VAN CAMPEN and DIANE V. VAN CAMPEN, 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, L.L.C., an Arizona limited liability company;)
3 GRINGOS MEXICAN INVESTMENTS, L.L.C., an Arizona limited liability company;)
Respondents.)

DOCKET NO. S-20600A-08-0340

SECURITIES DIVISION'S RESPONSE TO RESPONDENTS MICHAEL J. SARGENT AND PEGGY L. SARGENT'S MOTION FOR CONTINUANCE

(Assigned to the Honorable Marc E. Stern)

Arizona Corporation Commission
DOCKETED

JUL 26 2011

DOCKETED BY *[Signature]*

On July 22, 2011, the Sargent Respondents filed a Motion to Continue the scheduled administrative hearing that is set to resume on August 1, 2011. The basis of the Sargent Respondents' request is two-fold. First, allegedly there is "critical new evidence . . . expected to be available in the near future." The Motion to Continue represents that this "new evidence" is a "key issue in the settlement discussions between the Division and the Sargents." This is simply not true. Contrary to the Sargent Respondents' assertion, the "new evidence" has little to do with settling this case. Whether it appears sometime in the future or not will not help resolve this proceeding.

1 Second, the Sargent Respondents raise a concern that Lisa Bosworth only recently received
2 notice that Respondent Mark Bosworth cannot represent her. To the Securities Division's
3 knowledge, Roshka DeWulf & Patten does not represent Lisa Bosworth and no Notice of
4 Appearance has been filed indicating representation. There is no legal basis to seek a continuance
5 on behalf of a party that the firm does not represent.

6 As outlined below, neither of these assertions provide a basis to continue the pending
7 administrative hearing. The Sargent Respondents' Motion to Continue should be denied.

8 **There Is No "New Evidence" That Supports A Continuation Of The Pending Proceeding.**

9 The "new evidence" mentioned throughout the Sargent Respondents' Motion to Continue
10 is the same evidence that has been repeatedly discussed throughout this proceeding. *See* transcript
11 dated November 30, 2010, page 24 lines 9 – 10 and transcript dated June 1, 2011, page 979 line 9
12 – 21. The "new evidence" is, presumably, the final documents allegedly showing that a group of
13 investors¹ will receive title to some condominiums in Mexico as part of some settlement agreement
14 that may reduce the Sargents Respondents' restitution obligation related to the Three Gringos
15 Investment.² This "new evidence" does not address the underlying violations of the Arizona
16 Securities Act. If the Commission approves a restitution order, then the issues raised by this "new
17 evidence" will be able to be used to address any claimed offset the restitution amount owed.³ *See*
18 A.A.C. R14-4-308. Therefore, the "new evidence" is not a basis to support a Motion to Continue.

19 **The Division Requests That Any Evidence Presented At Hearing Be In English.**

20 The Sargent Respondents have provided documents to the Securities Division that are in
21 Spanish. It appears that the "new evidence" will also be in Spanish. On February 15, 2011, the
22 Securities Division notified the Sargent Respondents that any evidence they plan to use, must be
23 translated into English or the Securities Division will object to its use. *See* attached Exhibit 1.

24 ¹ Not all of the Three Gringos investors are part of the Settlement Agreement discussed in the Sargent Respondents'
25 Motion to Continue.

26 ² Respondents have not provided a copy of the "new evidence" to the Securities Division and it is not attached to their
Motion to Continue.

³ Pursuant Commission Rule, A.A.C. R14-4-308, Respondents may be entitled to a legal offset even after a restitution
order is in place.

1 **Lisa Bosworth's Due Process Rights Have Not Been Violated.**

2 The Sargent Respondents state that Lisa Bosworth has only known since July 15, 2011, that
3 Respondent Mark Bosworth would be unable to represent her. That is incorrect. Lisa Bosworth has
4 known since the start of this matter that she was a named party in this case. On July 16, 2008, Lisa
5 Bosworth was personally served the Notice of Opportunity and she filed a request for hearing on
6 July 28, 2008. On February 24, 2009, Lisa Bosworth filed an Answer. All pleadings and
7 communications (both via U.S. Postal Service and email) from the Securities Division have been
8 sent separately to Lisa Bosworth. Therefore, Lisa Bosworth cannot claim that she had no
9 knowledge of the proceeding.

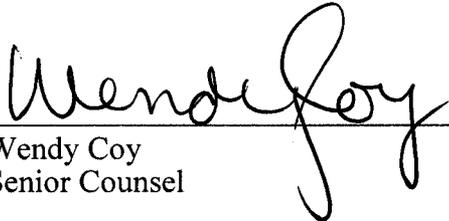
10 All evidence has been made available to Lisa Bosworth separate and apart from
11 Respondent Mark Bosworth. Lisa Bosworth has received notice and has been given an opportunity
12 to be heard in this proceeding.

13 **Conclusion**

14 The Sargent Respondents have provided no reason that the hearing in this matter be
15 continued. The Motion to Continue should be denied.

16 RESPECTFULLY SUBMITTED this 26th day of July 2011.

17
18 ARIZONA CORPORATION COMMISSION
19 SECURITIES DIVISION

20
21 
22 Wendy Coy
23 Senior Counsel

1 **ORIGINAL** and **8 COPIES** of the foregoing filed
2 this 26th day of July 2011 with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 W. Washington St.
6 Phoenix, AZ 85007

7 **COPY** of the foregoing hand delivered
8 this 26th day of July 2011 to:

9 The Honorable Marc E. Stern
10 Hearing Division
11 Arizona Corporation Commission
12 1200 W. Washington St.
13 Phoenix, AZ 85007

14 **COPY** of the foregoing mailed and e-mailed
15 this 26th day of July 2011 to:

16 Timothy J. Sabo, Esq.
17 Paul J. Roshka, Jr., Esq.
18 ROSHKA DeWULF & PATTEN, PLC
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20 400 E. Van Buren St., Ste. 800
21 Phoenix, AZ 85004
22 Attorneys for Michael J. Sargent and
23 Peggy L. Sargent

24 Mark W. Bosworth
25 18094 N. 100th St.
26 Scottsdale, AZ 85255

Lisa A. Bosworth
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Scottsdale, AZ 85255

Mark Bosworth
10115 E. Bell Road
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22 By: 

EXHIBIT 1

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

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EXECUTIVE DIRECTOR



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ARIZONA CORPORATION COMMISSION

February 15, 2011

Mr. Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, AZ 85004

Re: In the Matter of Mark W. Bosworth, et al. S-20660A-08-0340

Dear Mr. Sabo:

In reviewing the file, you apparently provided Mr. Ludwig three documents that are on Laguna Shores letterhead and appear to be dated May 24, 2010. These documents are all in Spanish. In speaking with Mr. Ludwig, he indicated that you provided these documents to him in relation to Mr. May's possible testimony. I have reviewed Mr. Sargent's list of exhibits and do not see these documents listed. Nor, do I see any certified translations of the documents listed on Mr. Sargent's list of exhibits. In addition, you indicated at the last status conference that you might be receiving additional documents related to the condominiums located in Mexico.

Please let me know if you plan to introduce the Laguna Shores documents into evidence at the upcoming hearing. If so, please provide me with certified translations of the documents prior to the hearing. If you obtain additional documents related to the condominiums in Mexico that are also in Spanish, those documents should also be accompanied by certified translations. If there are no certified translations for the Spanish documents, the Securities Division will object to the documents. I would like to avoid any further continuances on this matter.

Thank you in advance for your cooperation. If you have any questions, please let me know. I may be reached at 602-542-0633.

Sincerely,


Wendy Coy
Senior Counsel