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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS:
GARY PIERCE – Chairman
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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF:)
MARK W. BOSWORTH and LISA A.)
BOSWORTH, husband and wife;)
STEPHEN G. VAN CAMPEN and DIANE V.)
VANCAMPEN, 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, LLC,)
An Arizona limited liability company;)
3 GRINGOS MEXICAN INVESTMENTS, LLC;)
An Arizona limited liability company)

Docket No. S-20600A-08-0340

Respondent

LISA A. BOSWORTH

ANSWER

MOTION FOR CONTINUANCE

RESPONSE TO
PROFESSIONAL FEE

Arizona Corporation Commission
DOCKETED

JUL 27 2011

Respondents.

DOCKETED BY [Signature]

Respondent Lisa A. Bosworth respectfully requests that the Administrative Law Judge continue the hearing dates currently set in this case pursuant to the Commission's new 18th and 19th Procedural Orders in this docket. A continuance is warranted because of the following: (1) The last dealing I had-Lisa A. Bosworth- with the Commission/Division was at their office where I fully executed-signed and notarized- a settlement agreement. I was told personally by the Division's own Aaron Ludwig the agreement could not be reversed or refused in any manner unless the actual "Commissioners" personally voted in majority not to accept it in an open meeting. This conversation is well documented and undisputed by the Commission. My husband

1 Mark Bosworth carefully gave testimony of Mr. Ludwig's assertions of this in the hearing with
2 Aaron Ludwig there, on the record. Mark did this based on advise from legal counsel to get it
3 "on the record" while Mr. Ludwig was on the record and could dispute the claim. If Mark
4 Bosworth's testimony was not truthful, Mr. Ludwig had a legal responsibility to speak up then,
5 in the courtroom and on the record. I believe the record clearly shows Mr. Ludwig did not
6 dispute the claim/testimony in any way. Is there some form or record of the Commissioner's OR
7 the Division formally withdrawing that agreement with me? I have not been provided with that
8 notice. The Commission has NEVER notified me of ANYTHING to the contrary of our executed
9 and fully performed on agreement!

10
11 The Commission is fully aware I never even received my box of documents/exhibits from the
12 Commission. Any claims of notice by the Commission are false. The Commission has the ability
13 to provide notice any time that is their true intent. I have not heard from them since executing my
14 settlement agreement in person, at their office, until July 15, 2011 when I signed for a certified
15 mailing from them. They somehow for the first time since signing my settlement agreement,
16 corresponded with me directly and sent me an email yesterday July 27, 2011. They have always
17 had full access to me, including copying my email, and suddenly now they use it. If they did not
18 agree with Mark's representation they should have been communicating directly with me during
19 the entire process. They made the choice not to communicate.

20
21 I am aware there are ongoing proceedings. Despite conversations with my husband, I have
22 intentionally stayed uninvolved until I receive a proper legal notice that re-involves me in the
23 case I settled long ago. Until July 15th, 2011 I had no legal notice. There are three distinct legal
24 entities here. Mark Bosworth sole and separate, Lisa Bosworth sole and separate, and Mark and
25 Lisa Bosworth marital community. If the Commission had any concerns they had the legal
26 obligation to deal with me personally. They were certainly great at this, without any issues, when
27 they wanted papers signed and notarized to obtain my husbands testimony.

28

1 (2) Critical New Evidence. It appears even though Mark Bosworth has been the only
2 party representing Three Gringos in any fashion in the hearings, the Commission has been
3 negotiating secretly with only one of the three parties of Three Gringos llc – the Sargents- on
4 demands it is seeking for restitution offsets worth millions of dollars. The Sargents and their
5 counsel have been receiving critical information that affects millions of dollars of potential and
6 realistic offsets while the Commission intentionally keeps The Bosworth's in the dark on the
7 entire matter. How can we fix issues we are unaware of worth millions of dollars?

8
9 The 14th Amendment clearly allows equal treatment under the law and this violates my
10 constitutional rights under the 14th Amendment. My last correspondence with the Commission-
11 my settlement agreement- says I am not liable for those amounts, now secret dealings with only
12 one member of the llc. This appears illegal and one sided.

13
14 Additionally, continuance is warranted because important new evidence is expected. The
15 Settlement Agreement regarding the Three Gringos investments (Exhibit S-100b) calls for title to
16 certain condominium units to be transferred to the investors. In the Consent Orders for Mr. Van
17 Campen and Mr. Bornholdt, the Securities Division proposed, and the Commission agreed, that
18 there should be no award of restitution for the Three Gringos investments based on the
19 Settlement Agreement. Likewise, the Division's memorandum submitting the proposed consent
20 order with the Bosworth's it is stated that the Three Gringos investors "have been satisfied in
21 full." Mid-way through the hearing, AFTER full performance by the Bosworth's, the Division
22 has now completely reversed course, and has demanded that the final Mexican title paperwork be
23 presented before it will consider the Three Gringos Settlement. The lack of this paperwork has
24 apparently caused the Division to seek over \$1 million in restitution for the Three Gringos
25 investments (See Exhibit S-103b0.

26
27 The division clearly makes the claim in section #16 of their "Cease and Desist" order
28 "Respondent's did not purchase (and later sell) the buildings or Rocky Point condos and the

1 investor's received neither the 30-100% return nor their initial investment, despite having
2 requested the same from respondents". Clearly, this Order is not just about whether the
3 investment is a security. The actual ownership of the condominiums is part of the commission's
4 claims against the respondents.

5
6 This is all new information (I heard about it less than a week ago) that indicates that the final
7 Mexican title paperwork will be completed in the near future, but likely after the hearing.
8 Moreover, the Division has demanded a translation of the final title documents by a qualified
9 translator, further delaying the process. The paperwork is in process, and is close to completion,
10 per the attached email from Mr. Robert May, representative of the Three Gringos Investors. Mr.
11 May does admit being in full use, care and control of the real estate and its income generated.
12 Because the issuance of the final title paperwork appears to be a key settlement issue (for the
13 Commission-not the consumers) for both the Sargents and the Bosworth's, it makes little sense
14 to expend the resources necessary to proceed with the hearing at this time, when the hearing may
15 become unnecessary if the settlements are reached once the final Mexican title paperwork is
16 completed.

17
18 The Commission is now apparently regulating purchasing real estate in another country. Under
19 what statute are they basing these new requirements and authority? Most importantly, I have the
20 right to be made aware of and investigate this new discovery worth millions in restitution offsets
21 and maybe more importantly why it was hidden from the Bosworth's.

22
23 Further, practicality counsels in favor of continuance. At this point, the record at best is
24 jumbled. Under prior counsel, the Division added, revised, and renumbered various exhibits.
25 The case is clearly setting new legal precedence. I have not found another case where after full
26 performance the Division was allowed to revoke an in place signed, notarized and fully
27 performed on settlement agreement. I will certainly challenge the revocation of the settlement
28 agreement when I receive a written copy with an explanation. Significant questions also exist

1 regarding the foundation and sufficiency of the evidence upon which the Division bases its
2 restitution amounts. According to Division Special Investigator Brokaw, the complete absence
3 of any forensic accounting evidence was the reason the Attorney General's Office did not pursue
4 a prosecution (9June 25, 2010 tR. AT 813). The testimony of Brokaw fails to fully disclose there
5 was a forensic accounting AND a forensic accountant that worked the case, the forensic
6 accountant just refused to validate the Divisions claims.

7
8 The record regarding Mrs. Bosworth is unclear and contradictory. The 18th Procedural
9 Order states that Mr. Bosworth appeared on behalf of the Bosworth Respondents" (p. 8), a term
10 that included Mrs. Bosworth (p. 6). Yet the 19th Procedural Order states that the Division has
11 established that "a familial relationship does not allow a husband to represent a wife in a legal
12 proceeding despite their joint interest in their community property", and thus rules that Mr.
13 Bosworth may not represent Mrs. Bosworth. The same court and ALJ Stern had already
14 previously ruled in open court Mr. Bosworth could continue his previous work on behalf of the
15 couples marital estate. Mrs. Bosworth was NOT aware that she had to appear separately, before
16 the 19th Order.

17
18 There are still open procedural issues concerning the Division's unresolved objections to the
19 Bosworth's List of Witnesses and exhibits. At this point, none of the parties know what
20 witnesses and exhibits Mr. Bosworth will be allowed to present. In light of all these issues, it is
21 not sensible or in good faith to proceed with the hearing now.

22
23 Moreover, given the Division's position on the importance of the Mexican paperwork to
24 the amount of restitution it seeks, the final paperwork will be key evidence if the hearing does go
25 forward. Clearly, ownership of the condominiums is part of what the hearing is about. That
26 evidence can only be considered in full light when the final title paperwork is completed to the
27 Commissions own newly devised requirements.

28

1 **Due Process.** Mrs. Lisa Bosworth is named in this case as a respondent, only so that an
2 order may be issued against the community property of Mr. and Mrs. Bosworth. The
3 Commissions 19th Procedural Order (July 15, 2011) dramatically alters Mrs. Bosworth's
4 situation. The 19th Procedural Order specifically orders "Respondent Mark Bosworth shall not
5 represent Respondent Lisa Bosworth in the proceeding." (19th Procedural Order at page 6, lines
6 3-4). Thus, if Mrs. Bosworth's interests are to be preserved and represented in this case, I must
7 appear in person, or obtain counsel.

8
9 The 14th Amendment to the United States Constitution, and Article II, Section 4 of the Arizona
10 Constitution both grant a right to due process before the state may deprive a person of a property
11 interest. Due process requires a "Notice and an opportunity to be heard (that) must be provided
12 at a meaningful time and in a meaningful manner...as provided by the regular and established
13 rules of procedure." *Morrison v. Shanwick International Corp.*, 167 Ariz. 39, 42, 804 P.2d 768,
14 771 (1990)(Ct. App. 1990). This right extends to state administrative proceedings. *Webb v.*
15 *State of Arizona by the Arizona Board of Medical Examiners*, 202 Ariz. 555, 558 p, 48 P.3d 505,
16 508 (Ct App. 2002)("Procedural due process requires notice and an opportunity to be heard in a
17 meaningful manner and at a meaningful time."). Going forward with the hearing at this time will
18 not afford Mrs. Bosworth with a meaningful time and manner to be heard. This is a very
19 complex case, with an extensive record. Mrs. Bosworth has only been on notice since July 15
20 that if her rights are to be protected, she (or her attorney) must be present and participate in these
21 hearings. In other words, Mrs. Bosworth has had NO REAL TIME to prepare for a hearing
22 involving complex legal issues of securities law, and involving complex facts and numerous
23 exhibits.

24
25 The Division has had over 1,100 days and decades of combined legal experience to prepare for
26 the hearing along with full support staffs, endless resources, and Police powers I do not have.

27 I am a working mother with four children at home. I do not know why the consent order was
28 revoked, OR my legal rights on that unusual action by the Commission. I have not heard

1 testimony. I have not had any access or adequate time to review the record or even this matter. I
2 have not had adequate time to prepare to present evidence and cross-examine witnesses. Thus, if
3 the hearing goes forward as scheduled, I will not have "a meaningful time and in a meaningful
4 manner..." to be heard under regular and established rules of procedure." *Morrison, supra*.
5 Accordingly, due process requires a continuance.

6
7 Further, given the extraordinarily convoluted procedural posture of this case, Mrs.
8 Bosworth may well have viable grounds to seek a mistrial, or to strike the transcripts and
9 evidence accumulated to this point. I have not participated in the lengthy proceedings to date.
10 First, the Commission approved consent orders with Mr. Van Campen and Mr. Bornholdt. Then
11 the Division entered into a consent order with Mr. and Mrs. Bosworth. When Mr. Bosworth
12 testified the proposed consent order still appeared to be going forward. Mr. Bosworth thus
13 testified as a cooperating witness for the government. It now appears Mr. Bosworth was
14 fraudulently coerced into giving testimony by the Commission, including the actions of Aaron
15 Ludwig and Julie Coleman. Mrs. Bosworth was also a party to that settlement, and therefore she
16 had the reasonable expectation to receive proper legal notice when and if it was revoked. No
17 reason to attend any hearings.

18
19 After Mr. Bosworth testified, it appears the Division withdrew the consent order with Mr.
20 and Mrs. Bosworth without notifying Mrs. Bosworth. There was an attempt then by the Division
21 to separate the hearings. The ALJ Stern ruling was clear, with the division seeking separate
22 hearings, and the legal factors have not changed. Just as Mr. Bosworth was still a part of this
23 hearing then-so is Mrs. Bosworth now. Once again, it is the actions of the Commission, not the
24 Respondents, are creating this problem. The hearing has moved (slowly) forward with only Mr.
25 Bosworth participating. The 19th Procedural Order now compels Mrs. Bosworth to participate
26 in the hearing, either personally, or through counsel, if her interests are to be protected. She
27 certainly must be given adequate time to prepare.

1 In summary, the hearing should be continued to allow adequate time for the final
2 Mexican title paperwork to be issued, fully disclosed to the Bosworth's, and to allow Mrs.
3 Bosworth an adequate opportunity to prepare. Mr. Sargent was rightfully allowed nearly 100
4 days to prepare for his possible testimony. Mr. Sargent was rightfully allowed a voluminous
5 amount of time under the pretense he would prepare to testify and not merely take the fifth on all
6 his testimony. The Honorable Administrative Law Judge Marc E. Stern saw fit to allow
7 respondent Sargent all the time needed to make the hearing fair and equitable. Mrs. Bosworth
8 deserves the same fair and equitable treatment. That was before the hearing really even started.
9 Mr. Sargent was a part of the day-to-day operations of the business and involved in the
10 operations now in question. He had much less research to do.
11
12
13

14 In the division's own motion of September 11, 2008, they claim on page 4 #C "The
15 division's interest in proceeding expeditiously is great"! They continue with "ANY delay in
16 prosecuting this matter will adversely affect the division's interests" and "ANY delay would
17 have a detrimental effect on the public confidence in the enforcement efforts of the division".
18 They make the SAME EXACT claim on their September 5, 2008 filing in response to the
19 Sargent's motion. NOW, AFTER OVER 1,100 DAYS, A NEW DELAY.
20

21 As an uninvolved spouse with no working knowledge of the business operations, I will be
22 required to spend much more time to be given my rights. The same rights respondent Michael J.
23 Sargent received, "Notice and an opportunity to be heard (that) must be provided at a meaningful
24 time and in a meaningful manner...as provided by the regular and established rules of
25 procedure." Most important is my right to equal and fair access to the same court, judge,
26 witnesses, testimony and evidence that every other respondent has received in this case. I
27
28

1 SHOULD NOT BE HELD RESPONSIBLE FOR THE COMMISSIONS ACTIONS IN
2 DELAYING THIS CASE WITH THIS MOST RECENT LEGAL TACTIC.

3 I make this emergency answer/response without proper time, expertise or having legal
4 representation available due to severe time restraints by this extremely late filing by the Division.

5 I request additional time to make a full and proper response after reviewing all the information
6 and documents in question. This response was filed under great duress and concern for my legal
7 rights. I will be at the next scheduled hearing.
8

9
10 RESPECTFULLY SUBMITTED this day ^{27th} of July, 2011

11
12 By 
13 Lisa Bosworth
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15 Scottsdale, Arizona 85260
16
17
18

19 ORIGINAL and thirteen copies of the foregoing
20 Filed this ^{27th} of July, 2011 with:

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