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ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2011 NOV 15 A 9 14

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION  
DOCKET CONTROL

NOV 15 2011

DOCKETED BY

In the matter of:

RADICAL BUNNY, L.L.C., an Arizona  
limited liability company,

HORIZON PARTNERS, L.L.C., an Arizona  
limited liability company,

TOM HIRSCH (aka THOMAS N. HIRSCH)  
and DIANE ROSE HIRSCH, husband and  
wife,

BERTA FRIEDMAN. WALDER (aka  
BUNNY WALDER), a married person,

HOWARD EVAN WALDER, a married  
person,

HARISH PANNALAL SHAH and  
MADHAVI H. SHAH, husband and wife,

Respondents.

DOCKET NO. S-20660A-09-0107

SECURITIES DIVISION'S STATUS  
REPORT

(Assigned to the Hon. Lyn Farmer)

Pursuant to the Procedural Order dated November 10, 2011, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") hereby provides its status report regarding the granting of the Respondents' motion to add evidence to the record ("Motion to Reopen Hearing").

On September 28, 2011, Respondents' Counsel advised the Division that he had obtained a copy of the transcript of the deposition taken of Christian Hoffmann III on September 22-23, 2011 ("Hoffmann Deposition"). Counsel further advised the Division that he would provide it with proposed questions and answers based upon the Hoffmann Deposition for consideration

1 (“Proposed Evidence”).

2 After waiting over three weeks, on October 21, 2011, the Division requested that  
3 Respondents’ Counsel provide the Division with the Proposed Evidence no later than October 27,  
4 2011. See Exhibit A attached hereto. The request was ignored. To date, the Division has yet to  
5 hear from Respondents’ Counsel regarding the Proposed Evidence.

6 Respondents requested that the hearing be reopened because some evidence exists,  
7 purportedly unbeknownst to them at the time of the administrative hearing in these proceedings,  
8 which would shed doubt on the credibility of Mr. Hoffmann, a witness who testified over the  
9 course of an entire day. The Hoffmann Deposition lasted two days – its transcript is 398 pages in  
10 length with 32 exhibits, including the exhibit which was attached to the Motion to Reopen  
11 Hearing.<sup>1</sup> Since the Respondents have failed to communicate at all with the Division, it is fair to  
12 assume that any additional evidence would simply be consistent with his testimony during the  
13 administrative proceedings and otherwise cumulative. The Division believes that the  
14 Respondents are simply attempting to delay the conclusion of these administrative hearings.  
15 Accordingly, the administrative hearing should be closed.

16 RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of November, 2011.

17 

18 Julie Coleman  
19 Chief Counsel of Enforcement for the Securities  
20 Division of the Arizona Corporation Commission

21 ORIGINAL and 13 copies of the foregoing  
22 filed this 15<sup>th</sup> day of November, 2011, with:

23 Docket Control  
24 Arizona Corporation Commission  
25 1200 W. Washington St.  
26 Phoenix, AZ 85007

<sup>1</sup> Hoffmann Deposition Exhibit 71.

1  
2 COPY of the foregoing hand-delivered  
this 15<sup>th</sup> day of November, 2011, to:

3 Lyn Farmer  
4 Administrative Law Judge  
Arizona Corporation Commission  
5 1200 W. Washington St.  
6 Phoenix, AZ 85007

7 COPY of the foregoing mailed  
this 15<sup>th</sup> day of November, 2011, to:

8 Michael J. LaVelle  
9 LAVELLE & LAVELLE, PLC  
2525 E. Camelback Road, Suite 888  
10 Phoenix, AZ 85016  
11 *Attorneys for Respondents*

12 By: \_\_\_\_\_  
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**EXHIBIT A**

## Julie Coleman

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**From:** Julie Coleman  
**Sent:** Friday, October 21, 2011 1:01 PM  
**To:** 'Mick Lavelle'  
**Subject:** Radica Bunny S-2660A-09-0107

**Importance:** High

Mick:

On September 28, 2011, you advised me that you have received a copy of the transcript of the deposition taken of Christian Hoffmann III on September 22-23, 2011, and would provide me with proposed questions and answers there from, pursuant to ALJ Farmer's ruling to re-open the administrative hearing on September 20, 2011. It has been a month, and the Division would like to bring the administrative hearing to a close so that ALJ Farmer can complete the Recommended Opinion and Order for consideration by the Commission. It has been a year since the administrative hearing originally commenced. Accordingly, please provide me with your proposed questions and answers no later than Thursday, October 27, 2011.

In the interim, if you should have any questions or comments, please feel free to contact me.

Regards,

Julie Coleman  
Chief Counsel of Enforcement  
Arizona Corporation Commission, Securities Division  
1300 W. Washington St., Third Floor  
Phoenix, AZ 85007  
Direct Phone: (602) 542-0639  
Email: [jcoleman@azcc.gov](mailto:jcoleman@azcc.gov)