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 AZ CORP COMMISSION  
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Arizona Corporation Commission

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

10 In the matter of:  
 11  
 12 RADICAL BUNNY, L.L.C., an Arizona  
 13 limited liability company,  
 14 HORIZON PARTNERS, L.L.C., an  
 15 Arizona limited liability company,  
 16 TOM HIRSCH (aka TOMAS N.  
 17 HIRSCH) and DIANE ROSE HIRSCH,  
 18 husband and wife;  
 19 BERTA FRIEDMAN. WALDER (aka  
 20 BUNNY WALDER, a married person,  
 21 HOWARD EVAN WALDER, a  
 22 married person,  
 23 HARISH PANNALAL SHAH and  
 24 MADHAVI H. SHAH, husband and  
 25 wife,  
 26 Respondents.

**DOCKET NO. S-20660A-09-0107**

**RESPONDENTS' STATUS  
REPORT AND RESPONSE TO  
SECURITIES DIVISION'S  
STATUS REPORT**

**(Assigned to the Honorable  
Lyn Farmer)**

27 Respondent's request that the Hearing Officer review the video testimony  
 28 of Mr. Hoffman in the Federal Class litigation recorded at pages at 233 to 314 and

1 323 to 360 of his deposition. After that Berta Walder and Tom Hirsch will be  
2 called to explain the context of the missing exhibit and to counter the explanations  
3 offered in his deposition by Mr. Hoffman.

4 If that order of proof is adopted the re-opened hearing should not take more  
5 than one day once Mr. Hoffman's testimony is viewed.

6 On September 28, 2011, undersigned discussed this concept with Ms.  
7 Coleman. She was non-committal. Once a draft of the deposition testimony was  
8 received undersigned provided the parts of the Respondents wished to utilize and  
9 proposed a stipulation in a letter dated November 9, 2011.

10 On November 15, 2011, Ms. Coleman made a filing in which she accused  
11 Respondents' of bad faith and sought again to prevent additional evidence about  
12 the missing exhibit. On the same day she called undersigned to say she just  
13 became aware that she had in fact received Respondents' proposal and suggested  
14 that Mr. Hoffman not be recalled. She said she contemplated a filing to explain  
15 that she had in fact received Respondents' materials. Subsequently, her  
16 "corrected filing" became conditional on her dictating the proof Respondents were  
17 allowed to provide.

18 Respondents and the staff have failed to agree. If Respondents can obtain a  
19 video copy of the Hoffman testimony they want to offer (they believe they can),  
20 then that testimony and the related exhibits should be viewed by the Court. We  
21 would provide a copy of the video to the Hearing Officer and Staff at no  
22 additional charge. If the Hearing Officer thinks parts or all of any of the exhibits  
23 or testimony is irrelevant, she may disregard that portion of the record. This is not  
24 a jury trial where unsophisticated eyes must be kept from irrelevancies.

25 One more day of testimony from Tom Hirsch and Berta Walder and  
26 anybody Staff wants to call should be scheduled. Respondents have never sought  
27 to delay this review. The deposition they now seek to use had not been taken at  
28 the time of the last hearing. Until it was taken, transcribed and carefully

1 reviewed, no judgment could be made about what additional testimony was  
2 required.

3 Respondents' proposal is modest. It should be accepted by the Hearing  
4 Officer.

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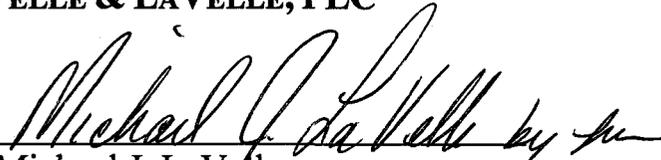
RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of November, 2011.

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**LAVELLE & LAVELLE, PLC**

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By: 

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Michael J. LaVelle

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Phoenix, Arizona 85016

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*Attorneys for Respondents Tom Hirsch, Diane Rose Hirsch, Berta Walder,  
Howard Walder, Harish P. Shah, Madhavi H. Shah and Horizon Partners,  
LLC*

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ORIGINAL and 13 COPIES FILED this

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22<sup>nd</sup> day of November, 2011 with:

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**ARIZONA CORPORATION COMMISSION**

19

Securities Division

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1200 West Washington, Third Floor

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Phoenix, Arizona 85007

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COPY of the foregoing MAILED this

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22<sup>nd</sup> day of November, 2011 to:

24

Lyn Farmer

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Chief Administrative Law Judge

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**ARIZONA CORPORATION COMMISSION**

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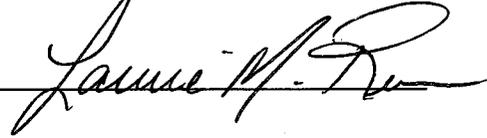
1200 West Washington

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Phoenix, Arizona 85007

1 COPY of the foregoing MAILED and EMAILED this  
2 22<sup>nd</sup> day of November, 2011 to:

3 Julie Coleman  
4 **ARIZONA CORPORATION COMMISSION**  
5 Securities Division  
6 1300 West Washington, Third Floor  
7 Phoenix, Arizona 85007

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