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

12 **BEFORE THE ARIZONA CORPORATION COMMISSION**

13 In the matter of:

DOCKET NO. S-20660A-09-0107

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

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

**MEMO REGARDING STATE'S
PROPOSED SCOPE OF
REOPENED HEARING**

18 TOM HIRSCH (aka TOMAS N.
19 HIRSCH)and DIANE ROSE HIRSCH,
20 husband and wife;

21 BERTA FRIEDMAN. WALDER (aka
22 BUNNY WALDER, a married person,

23 HOWARD EVAN WALDER, a
24 married person,

**(Assigned to the Honorable
Lyn Farmer)** Arizona Corporation Commission

25 HARISH PANNALAL SHAH and
26 MADHAVI H. SHAH, husband and
27 wife,

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28 Respondents.

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29 The issue that caused the hearing officer to reopen the hearing is much
30 broader than just a piece of paper. Mr. Hoffman testified that he told the

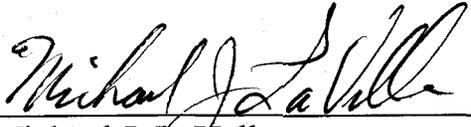
1 Respondents not to continue to operate. The missing piece of paper clearly
2 contemplates operations continuing but the deposition is more than about the
3 existence of a piece of paper.

4 Parts of the deposition sought to be utilized by Respondents explore the
5 unlikeness and indeed impossibility that Mr. Hoffman's explanation of Exhibits
6 71 and 72 are true. It would be a denial of Due Process for the Court to simply
7 allow a portion of the deposition in which Mr. Hoffman sets forth his story about
8 Exhibits 71 and 72 and to not allow the portion in which he is questioned about
9 his knowledge of the continuing operations of the business and how other exhibits
10 fit in and are inconsistent with Exhibits 71 and 72. That testimony was not
11 available and was not known to be necessary in the days when Respondents did
12 not know of the existence of the Exhibits 71 and 72. If Staff wants to submit other
13 testimony by Mr. Hoffman in an attempt to buttress Mr. Hoffman's contentions it
14 may do so.

15 The deposition testimony requested by Respondents should be allowed and
16 Respondents should be allowed, if a video can be obtained, to present that
17 testimony in video form because Mr. Hoffman's credibility is at this point is in
18 complete dispute.

19
20 RESPECTFULLY SUBMITTED this 23rd day of December, 2011.

21 **LAVELLE & LAVELLE, PLC**

22
23 By: 
24 Michael J. LaVelle
25 2525 East Camelback Road, Suite 888
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27 *Attorneys for Respondents Tom Hirsch, Diane Rose Hirsch, Berta Walder,*
28 *Howard Walder, Harish P. Shah, Madhavi H. Shah and Horizon Partners,*
LLC

1 ORIGINAL and 13 COPIES filed this
2 23rd day of December, 2011 with:

3 **ARIZONA CORPORATION COMMISSION**
4 Securities Division
5 1200 West Washington, Third Floor
6 Phoenix, Arizona 85007

7 COPY of the foregoing MAILED this
8 23rd day of December, 2011 to:

9 Lyn Farmer
10 Chief Administrative Law Judge
11 **ARIZONA CORPORATION COMMISSION**
12 1200 West Washington
13 Phoenix, Arizona 85007

14 Julie Coleman
15 **ARIZONA CORPORATION COMMISSION**
16 Securities Division
17 1300 West Washington, Third Floor
18 Phoenix, Arizona 85007

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