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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

COMMISSIONERS

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

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 TOMAS 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

Arizona Corporation Commission

DOCKETED

FEB - 1 2012

DOCKETED BY

PROCEDURAL ORDER

BY THE COMMISSION:

On March 12, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing against Radical Bunny, L.L.C.; Horizon Partners, L.L.C.; Tom Hirsch (aka Tomas N. Hirsch); Berta Friedman Walder (aka Bunny Walder); Howard Evan Walder; Harish Pannalal Shah; and Madhavi H. Shah, in which the Division alleged multiple violations of the Arizona Securities Act in connection with the offer and sale of securities in the form of notes and investment contracts.

On March 26, 2009, a request for hearing was filed on behalf of Horizon Partners, L.L.C.; Tom Hirsch; Diane Rose Hirsch; Berta Friedman Walder; Howard Evan Walder; Harish Pannalal Shah; and Madhavi H. Shah ("Respondents").

On April 28, 2010, the Commission issued Decision No. 71682, a Consent Order against

1 Respondent Radical Bunny, L.L.C., an Arizona limited liability company.

2 On October 14, 2010, the hearing concerning the remaining Respondents commenced as
3 scheduled and was concluded on November 17, 2010. Briefs were filed by the parties on February
4 18, 2011; April 4, 2011; and April 25, 2011.

5 On April 13, 2011, the Division filed a Post-Hearing Motion to Supplement the Evidentiary
6 Record ("Motion to Supplement").

7 On April 29, 2011, the Respondents filed their Response and Objection to Post Hearing
8 Motion to Supplement the Evidentiary Record.

9 On May 3, 2011, the Division filed its Reply to Respondents' Response and Objection to
10 Motion to Supplement the Evidentiary Record.

11 By Procedural Order issued July 1, 2011, the Motion to Supplement was granted and official
12 notice was taken of several documents.

13 On August 1, 2011, Respondents filed a Motion to Reopen Hearing and to Add Evidence to
14 the Record ("Motion"). The Respondents requested that the hearing be re-opened; that a witness be
15 ordered to re-appear for cross examination; and that additional testimony be taken on the subject of
16 documents attached to the Motion and related events. The Respondents also requested oral argument
17 on the Motion.

18 On August 15, 2011, the Division filed its Opposition to Respondents' Motion to Reopen
19 Hearing and Add Evidence to the Record.

20 On August 26, 2011, the Respondents filed their Reply on Motion to Reopen Hearing and
21 Add Evidence to the Record.

22 On September 20, 2011, oral arguments were held on the Motion, and the Motion was
23 granted. The parties were instructed to discuss how the additional testimony and evidence could be
24 made part of the record and to make a filing with the Commission.

25 On November 10, 2011, a Procedural Order was issued directing the parties to file either a
26 joint or separate statements updating the Commission on the status of the discussions concerning the
27 additional testimony and evidence.

28 On November 15, 2011, the Division filed its Status Report.

1 On November 22, 2011, the Respondents filed their Status Report and Response to Securities
2 Division's Status Report and the Division filed an Updated Status Report.

3 On November 28, 2011, a Procedural Order was issued that scheduled a procedural
4 conference for December 1, 2011.

5 On November 29, 2011, Counsel for the Division contacted the Hearing Division and
6 requested that the procedural conference be rescheduled due to a scheduling conflict. The Division
7 indicated that Respondents' counsel had no objections to the request and alternative dates for the pre-
8 hearing conference were suggested.

9 On November 29, 2011, the procedural conference was rescheduled for December 12, 2011.

10 The procedural conference was held as scheduled and the parties reported that they were
11 unable to resolve the issue of the appropriate method of supplementing the record. The parties were
12 directed to make filings delineating the transcript portions from the deposition of Mr. Christian J.
13 Hoffmann, III that each wanted to be included in the record, and then to file any objections to the
14 portions identified by the other party.

15 On December 16, 2011, the Respondents filed their Proposed Hoffmann Deposition Excerpts
16 and the Division filed its Proposal Regarding the Respondents' Request to Add Evidence to the
17 Administrative Hearing Record.

18 On December 23, 2011, the Respondents filed their Memo Regarding State's Proposed Scope
19 of Reopened Hearing and the Division filed its Response in Opposition to Respondents' Proposed
20 Hoffmann Deposition Excerpts.

21 On January 17, 2012, by Procedural Order, the Motion was granted to reconvene the hearing
22 to hear testimony and evidence solely on the issue of the document identified therein. The Division
23 was directed to recall Mr. Hoffmann and to submit dates when he is available to testify, no later than
24 January 27, 2012. The Procedural Order stated that any rebuttal testimony by the Respondents would
25 be taken immediately upon conclusion of Mr. Hoffmann's testimony.

26 On January 27, 2012, the Division filed the dates that Mr. Hoffmann is available to provide
27 additional testimony.

28 Accordingly, the hearing should reconvene on March 19, 2012 in accordance with and for the

1 purposes set for in the January 17, 2012 Procedural Order.

2 IT IS THEREFORE ORDERED that the hearing shall reconvene on **March 19, 2012, at 9:30**
3 **a.m.**, or as soon thereafter as is practicable, at the Commission's Office, 1200 West Washington Street,
4 Hearing Room No. 1, Phoenix, Arizona.

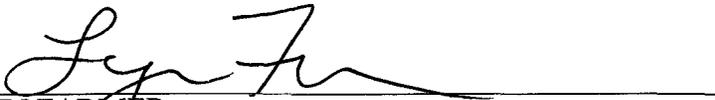
5 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
6 Communications) continues to apply to this proceeding until the Commission's decision in this matter
7 is final and non-appealable.

8 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
9 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
10 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
11 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
12 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
13 Administrative Law Judge or the Commission.

14 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
15 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*
16 *hac vice*.

17 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
18 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

19 DATED this 15th day of February, 2012

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22 
23 LYN FARMER
CHIEF ADMINISTRATIVE LAW JUDGE

24 Copies of the foregoing mailed/delivered
this 15th day of February, 2012.

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