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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

6 Attorneys for Respondents Donna Kay Beers and James Beers

7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

8 In the matter of:

) Docket No. S-20856A-12-0409

9 DONNA KAY BEERS, CRD #1172038,
10 and JAMES BEERS, wife and husband,

) **ANSWER**

11 Respondents.
12
13

14 **DONNA KAY BEERS** (CRD #1172038) and James Beers, wife and husband
15 (“Respondents”), by and through their duly authorized, undersigned attorneys, Simbro &
16 Stanley, PLC, hereby provide the following response to the allegations set forth in the
17 “*Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution,*
18 *Order of Revocation, Order for Administrative Penalties, and for Other Administrative Action:*

- 19 1. Respondents admit the allegations in ¶1.
- 20 2. Respondents admit the allegations in ¶2.
- 21 3. Respondents admit that James Beers is the Spouse of Donna Beers.
- 22 4. No response is required to ¶4 as it merely states a legal position.
- 23 5. Respondents deny the allegations of ¶5.
- 24 6. Respondents admit the allegations in ¶6.
- 25 7. Respondents admit the allegations in ¶7.
- 26 8. Respondents admit the allegations in ¶8.
- 27 9. Respondents admit the allegations in ¶9.

Arizona Corporation Commission

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1 10. Respondents admit the allegations in ¶10.

2 11. Respondents admit that AK & HK were clients of Respondent Donna
3 Beers. Respondents deny that they were unsophisticated investors. Respondents allege that
4 these individuals originally came to Respondent Donna Beers seeking advice on the
5 maximization of the income return on their investments, and that due to the recent turmoil
6 in the stock market, they wanted to withdraw their investments from the publicly traded
7 stock market.

8 12. Respondents have no knowledge regarding AK & HK's dealings with other
9 financial professionals. Respondents deny the remaining allegations of ¶12.

10 13. Respondents deny that Respondent Donna Beers instructed AK & HK to
11 liquidate their stock holdings. These individuals had already decided to liquidate their
12 holdings, and sought advice on how to invest the cash proceeds of the liquidation.
13 Respondents admit they Respondent Donna Beers presented the investments described in
14 ¶13 as potential investments for these clients.

15 14. Respondents admit the allegations in ¶14, except they deny for lack of
16 information the date upon which this communication occurred. ¹

17 15. Respondents admit the allegations in ¶15.

18 16. Respondents admit the allegations in ¶16.

19 17. Respondents admit the allegations in ¶17.

20 18. Respondents admit the allegations in ¶18.

21 19. Respondents admit the allegations in ¶19.

22 20. Respondents admit the allegations in ¶20.

23 21. Respondents admit the allegations in ¶21.

24 22. Respondents admit the allegations in ¶22.

25

26 ¹ The ACC has possession of all of Respondent Donna Beers' files on this
27 matter, so in some instances it will be impossible to verify certain information contained in
the Notice.

28

1 23. Respondents admit the allegations in ¶23.

2 24. Respondents deny that the restaurant would have benefitted from the FHTS
3 project. Respondents admit the remaining allegations in ¶24.

4 25. Respondents admit the allegations in ¶25.

5 26. Respondents deny the allegations in ¶26 insofar as it purports to describe
6 Respondent Donna Beers's relationship to Infiniti in 2008 or Infiniti's website as it may
7 have appeared in 2008.

8 27. Respondents admit the allegations in ¶27.

9 28. Respondents admit the allegations in ¶28.

10 29. Respondents deny the allegations in ¶29.

11 30. Respondents deny the allegations in ¶30.

12 31. Respondents deny the allegations in ¶31.

13 32. Respondents deny the allegations in ¶32.

14 33. Respondents deny the allegations set forth in ¶33, except they admit that
15 Mr. Kasnoff participated in the presentation described in ¶33, and that on or about that date
16 AK and HK made their \$50,000 investment in FHTS.

17 34. Respondents admit the allegations in ¶34. AK and HK were provided with
18 the PPM prior to making their investment. Respondents admit that Respondent Donna
19 Beers suggested no material changes to the PPM after her review.

20 35. Respondents admit the allegations in ¶35, but deny any implication that the
21 issues described in ¶35 were material to the investment in FHTS.

22 36. Respondents admit the allegations in ¶36, but deny any implication that the
23 issues described in ¶36 were material to the investment in FHTS. Respondents affirmatively
24 allege that she informed AK and HK that Respondent Donna Beers was also an investor
25 in FHTS.

26 37. Respondents admit the allegations in ¶37, but deny any implication that the
27 issues described in ¶37 were material to the investment in FHTS. Respondents deny that
28

1 Respondents would have personally been compensated if Infinity was successful in
2 obtaining financing, other than as an investor in FHTS.

3 38. Respondents deny the allegations in ¶38, but admit that, at the time,
4 Respondent Donna Beers told AK and HK that she believed the FHTS was a reasonable
5 investment. FHTS was not “beset” by financing issues at that time. AK and HK were told
6 that additional financing was necessary to move forward with the project, and the risks to
7 them if additional financing could not be procured.

8 39. Respondents deny the allegations in ¶39.

9 40. Respondents deny the allegation that Respondent Donna Beers told AK and
10 HK that their funds would be held in escrow. Respondents admit the remaining allegations
11 in ¶40.

12 41. Respondents admit the allegations in ¶41.

13 42. Respondents deny the allegations in ¶42.

14 43. Respondents admit the allegations ¶43.

15 44. Respondents deny the allegations in ¶44, and further allege that each
16 of the risk factors described were disclosed to AK and HK, and that AK and HK received
17 significant tax benefits from the investment.

18 45. Respondents lack sufficient knowledge to admit or deny the allegations in
19 ¶45. Respondents affirmatively allege that the investment held by AK and HK can be
20 redeemed in accordance with the terms of their agreement.

21 46. Respondents admit the allegations ¶46.

22 47. Respondents admit the allegations ¶47.

23 48. Respondents admit the allegations ¶48.

24 49. Respondents admit the allegations ¶49.

25 50. Respondents deny the allegations ¶50.

26 51. Respondents admit the allegations ¶51.

27 52. Respondents lack sufficient knowledge to admit or deny the allegations in
28

- 1 ¶52.
- 2 53. Respondents deny the allegations ¶53.
- 3 54. Respondents admit the allegations ¶54.
- 4 55. Respondents admit the allegations ¶55.
- 5 56. Respondents admit the allegations ¶56.
- 6 57. Respondents deny the allegations ¶57.
- 7 58. Respondents deny the allegations ¶58.
- 8 59. Respondents deny the allegations ¶59.
- 9 60. Respondents deny the allegations ¶60.
- 10 61. Respondents deny the allegations ¶61.
- 11 62. Respondents deny the allegations ¶62.

12 63-70. Respondents deny that the Division is entitled to the relief requested
13 in ¶¶63-70.

14 71. Respondents deny each and every allegation not specifically admitted herein.

15 **WHEREFORE**, having fully responded to the Notice, Respondents request that
16 the Notice be dismissed, that no sanction be issued, and that Respondents be granted such
17 other and further relief as is just and reasonable under the circumstances.

18 **RESPECTFULLY SUBMITTED** this 19th day of October, 2012.

19 **SIMBRO & STANLEY, PLC**

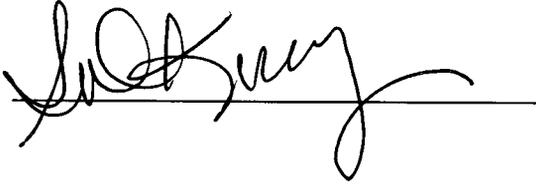
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2 electronically transmitted
3 or mailed where marked
4 with a *
5 this 19th day of October, 2012
6 to:

7 Docket Control
8 Arizona Corporation Commission
9 1200 West Washington
10 Phoenix, Arizona 85007
11 (Hand Delivered)

12 Arizona Corporation Commission
13 Securities Division
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