

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

2013 FEB 28 P 2:03

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

FEB 28 2013

DOCKETED  
*DSM*

In the matter of:

DOCKET NO. S-20864A-12-0439

MARK DANA HUGHES, CRD# 1843511,  
and DOLLY A. HUGHES, husband and  
wife,

STATUS REPORT AND REQUEST FOR  
HEARING DATES

and

LEGACY FINANCIAL ADVISORS,  
L.L.C., CRD# 114029, an Arizona limited  
liability company,

Respondents.

On February 14, 2013, a pre-hearing conference was held to set hearing dates. Respondents did not appear resulting in Administrative Law Judge ("ALJ") Stern requesting the Securities Division ("Division") contact Respondents to inquire if Respondents intended to defend the case, and if so, how much time would they need to present their defense. ALJ Stern ordered the Division to file a Status Report on or before March 1, 2013, regarding contact with Respondents as well the number of days the Division needs to present its case.

On February 19, 2013, the Division emailed and mailed by first class certified mail, a letter to each of the Respondents.<sup>1</sup> (Ex. 1) At least two of the emails were received and read by Respondent Mark Hughes. (Ex. 2)

On February 25, 2013, Division counsel received a letter from Respondent Hughes' bankruptcy attorney Eric Sparks<sup>2</sup> which enclosed a copy of the Division's February 19, 2013, letter

<sup>1</sup> The Division is unaware if the Respondents received the certified letters because the U.S. Postal Service has not yet returned those receipts to the Division.

<sup>2</sup> Mark and Dolly Hughes's bankruptcy attorney has not filed any notice with the Division or ALJ Stern advising he represents any of the Respondents in this present administrative action.

1 to Respondent Mark Hughes. (Ex. 3) Attorney Sparks stated that due to Respondents' Mark and  
2 Dolly Hughes' bankruptcy filing the Division's action was stayed and that contrary to the  
3 Division's position, Section 362(b)(4) of the Bankruptcy Code did not operate to exempt the  
4 Division from the stay. Attorney Sparks did not indicate whether or not any of the Respondents  
5 intended to defend against this administrative action.

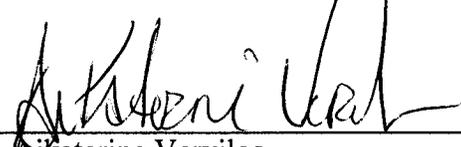
6 On February 26, 2013, the Division informed attorney Sparks that because the Division is a  
7 governmental unit which commenced an action to enforce its police and regulatory power it is  
8 specifically exempted from the stay under Section 362(b)(4) of the Bankruptcy Code. (Ex. 4).

9 Based on the forgoing, the Division respectfully requests ALJ Stern set hearing dates for this  
10 matter. The Division requests three days to present its case and has the following days available  
11 after considering the schedules of its six witnesses: July 29-August 2; August 26-30; November 4-  
12 15; November 25-27; and December 9-15.

13  
14 RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of February, 2013.

15 ARIZONA CORPORATION/COMMISSION

16  
17 By \_\_\_\_\_

  
18 Aikaterine Vervilos  
19 Registration & Compliance Enforcement  
20 Attorney for the Securities Division of the  
21 Arizona Corporation Commission  
22  
23  
24  
25  
26

1 ORIGINAL AND EIGHT (8) COPIES of the foregoing  
2 filed this 28<sup>th</sup> day of February, 2013 with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington St.  
6 Phoenix, AZ 85007

7 COPY of the foregoing hand-delivered  
8 this 28<sup>th</sup> day of February, 2013 to:

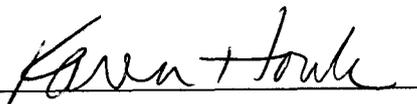
9 Mr. Marc E. Stern  
10 Administrative Law Judge  
11 Arizona Corporation Commission/Hearing Division  
12 1200 W. Washington St.  
13 Phoenix, AZ 85007

14 COPY of the foregoing mailed  
15 this 28<sup>th</sup> day of February, 2013 to:

16 Mark Dana Hughes  
17 4549 North Camino Campero  
18 Tucson, AZ 85750  
19 Respondent

20 Dolly A. Hughes  
21 4549 North Camino Campero  
22 Tucson, AZ 85750  
23 Respondent

24 Legacy Financial Advisors, L.L.C.  
25 4549 North Camino Campero  
26 Tucson, AZ 85750  
Respondent



## Exhibit 1

## Aikaterine Vervilos

---

**From:** Aikaterine Vervilos  
**Sent:** Tuesday, February 19, 2013 2:17 PM  
**To:** 'Mark Hughes'  
**Subject:** Letter from the Securities Division

**Attachments:** Letter to Mark Hughes\_021913.pdf

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel  
Arizona Corporation Commission, Securities Division  
1300 W Washington, 3rd Floor  
Phoenix, AZ 85007  
Phone (602) 542-0906



Letter to Mark  
Hughes\_021913.p...

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BOB BURNS  
SUSAN BITTER SMITH

JODI JERICH  
EXECUTIVE DIRECTOR



**MATTHEW J. NEUBERT**  
DIRECTOR

**SECURITIES DIVISION**  
1300 West Washington, Third Floor  
Phoenix, AZ 85007  
TELEPHONE: (602) 542-4242  
FAX: (602) 396-6661  
E-MAIL: [securities@azcc.gov](mailto:securities@azcc.gov)

**ARIZONA CORPORATION COMMISSION**

February 19, 2013

**Via Certified Mail, Return Receipt Requested and email (mdhtuc17@██████████)**

Mark Hughes  
4549 N. Camino Campero  
Tucson, AZ 85750

**Re: Mark Dana Hughes, et al, Docket No. S-20864A-12-0439**

Dear Mr. Hughes:

A pre-hearing conference was held on February 14, 2013, in order to schedule hearing dates. You failed to appear at the pre-conference hearing. Because of your absence, Judge Stern asked the Securities Division to contact you for the following information: a) Do you intend to defend the case?; and b) If you intend to present a defense, please indicate the number of days you will need.

Please forward the information to one of the following by no later than March 1, 2013: Docket Control, 400 West Congress Tucson, AZ 85701-1347, Docket Control, 1200 W. Washington, Phoenix, AZ 85007, or to my attention at 1300 W. Washington, Third Floor, Phoenix, AZ 85007. Of course, you may also email the information to me at [avervilos@azcc.gov](mailto:avervilos@azcc.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Aikaterine Vervilos".

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel

## **Aikaterine Vervilos**

---

**From:** Aikaterine Vervilos  
**Sent:** Tuesday, February 19, 2013 2:17 PM  
**To:** 'Mark Hughes'  
**Subject:** Letter from the Securities Division re Legacy Financial Advisors, LLC

**Attachments:** Letter to Legacy\_021913.pdf

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel  
Arizona Corporation Commission, Securities Division  
1300 W Washington, 3rd Floor  
Phoenix, AZ 85007  
Phone (602) 542-0906



Letter to  
gacy\_021913.pdf (2)

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JODI JERICH  
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT  
DIRECTOR

SECURITIES DIVISION  
1300 West Washington, Third Floor  
Phoenix, AZ 85007  
TELEPHONE: (602) 542-4242  
FAX: (602) 396-5661  
E-MAIL: securitiesdiv@azcc.gov

**ARIZONA CORPORATION COMMISSION**

February 19, 2013

**Via Certified Mail, Return Receipt Requested and email to Mark Dana Hughes**  
**(mdhtuc17@██████████)**

Legacy Financial Advisors, LLC  
c/o Mark Hughes  
4549 N. Camino Campero  
Tucson, AZ 85750

**Re: Mark Dana Hughes, et al, Docket No. S-20864A-12-0439**

Dear Legacy Financial Advisors, LLC:

A pre-hearing conference was held on February 14, 2013, in order to schedule hearing dates. You failed to appear at the pre-conference hearing. Because of your absence, Judge Stern asked the Securities Division to contact you for the following information: a) Do you intend to defend the case?; and b) If you intend to present a defense, please indicate the number of days you will need.

Please forward the information to one of the following by no later than March 1, 2013: Docket Control, 400 West Congress Tucson, AZ 85701-1347, Docket Control, 1200 W. Washington, Phoenix, AZ 85007, or to my attention at 1300 W. Washington, Third Floor, Phoenix, AZ 85007. Of course, you may also email the information to me at [avervilos@azcc.gov](mailto:avervilos@azcc.gov).

Sincerely,

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel

## **Aikaterine Vervilos**

---

**From:** Aikaterine Vervilos  
**Sent:** Tuesday, February 19, 2013 2:16 PM  
**To:** 'dollyhughes@[REDACTED]'  
**Subject:** Letter from the Securities Division

**Attachments:** Letter to Dolly Hughes\_021913.pdf

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel  
Arizona Corporation Commission, Securities Division  
1300 W Washington, 3rd Floor  
Phoenix, AZ 85007  
Phone (602) 542-0906



Letter to Dolly  
Hughes\_021913....

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EXECUTIVE DIRECTOR



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DIRECTOR

SECURITIES DIVISION  
1300 West Washington, Third Floor  
Phoenix, AZ 85007  
TELEPHONE: (602) 542-4242  
FAX: (602) 396-6661  
E-MAIL: securitiesdiv@azcc.gov

**ARIZONA CORPORATION COMMISSION**

February 19, 2013

**Via Certified Mail, Return Receipt Requested and email (dollyhughes@[REDACTED])**

Dolly Hughes  
4549 N. Camino Campero  
Tucson, AZ 85750

**Re: Mark Dana Hughes, et al, Docket No. S-20864A-12-0439**

Dear Mrs. Hughes:

A pre-hearing conference was held on February 14, 2013, in order to schedule hearing dates. You failed to appear at the pre-conference hearing. Because of your absence, Judge Stern asked the Securities Division to contact you for the following information: a) Do you intend to defend the case?; and b) If you intend to present a defense, please indicate the number of days you will need.

Please forward the information to one of the following by no later than March 1, 2013: Docket Control, 400 West Congress Tucson, AZ 85701-1347, Docket Control, 1200 W. Washington, Phoenix, AZ 85007, or to my attention at 1300 W. Washington, Third Floor, Phoenix, AZ 85007. Of course, you may also email the information to me at [avervilos@azcc.gov](mailto:avervilos@azcc.gov).

Sincerely,

A handwritten signature in black ink that reads "Aikaterine Vervilos".

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel

## Exhibit 2

**Aikaterine Vervilos**

---

**From:** Mark Hughes [mdhtuc17@██████████]  
**To:** Aikaterine Vervilos  
**Sent:** Tuesday, February 19, 2013 3:10 PM  
**Subject:** Read: Letter from the Securities Division re Legacy Financial Advisors, LLC

Your message was read on Tuesday, February 19, 2013 3:09:41 PM (GMT-07:00) Arizona.

**Aikaterine Vervilos**

---

**From:** Mark Hughes [mdhtuc17@██████████]  
**To:** Aikaterine Vervilos  
**Sent:** Tuesday, February 19, 2013 3:10 PM  
**Subject:** Read: Letter from the Securities Division

Your message was read on Tuesday, February 19, 2013 3:09:41 PM (GMT-07:00) Arizona.

## Exhibit 3

Law Offices

**ERIC SLOCUM SPARKS, P.C.**

110 South Church Avenue, Suite 2270  
Tucson, Arizona 85701

tel 520/623-8330

fax 520/623-9157

email: eric@ericsloumsparkspc.com

February 25, 2013

Via Email: AVervilos@azcc.gov

Aikaterine Vervilos, Esq.  
Registration & Compliance Enforcement Counsel  
Arizona Corporation Commission  
1300 W. Washington, Third Floor  
Phoenix, AZ 85007

Re: Mark Dana Hughes - Docket No. S-20864A-12-0439  
Bankruptcy Case No. 4:12-bk-25942-BMW

Dear Ms. Vervilos,

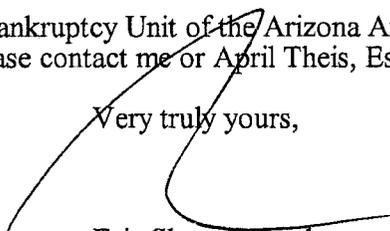
As you are aware, our firm represents Mr. and Mrs. Hughes in their Chapter 13 proceeding pending in the United States Bankruptcy Court in Tucson, Arizona. Despite the fact that you and the Corporation Commission have been advised that the automatic stay provisions of the Bankruptcy Code prevent you from pursuing further action against them, you continue to persist in your contact of Mr. and Mrs Hughes. You claim as your basis for exemption from the Bankruptcy Code stay, provision §362 (b)(4) which states,

"... under paragraph (1), (2), (3) or (6) of subsection (a) of this section of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;"...(emphasis added)

Because your cause of action has nothing to do with the underlined portion of this section of the Code, we believe you are subject to § 362 (a) of this section of Title 11. You are further advised that any continued action by you against Mr. or Mrs. Hughes is a violation of § 362(a) and will leave us no alternative than to seek a §105 Injunction against you and the Arizona Corporation Commission for willful and intentional violations of the automatic stay and will include sanctions and attorneys fees and costs.

By way of copy, I am including the Bankruptcy Unit of the Arizona Attorney General's Office. Should you have any questions, please contact me or April Theis, Esq. of the Attorney General's Office.

Very truly yours,

  
Eric Slocum Sparks

cc: April Theis, Esq.  
Client

**COMMISSIONERS**  
BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

JONI JERICH  
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT  
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TELEPHONE: (602) 542-4242  
FAX: (602) 396-6861  
E-MAIL: [securitiesdiv@azcc.gov](mailto:securitiesdiv@azcc.gov)

ARIZONA CORPORATION COMMISSION

February 19, 2013

Via Certified Mail, Return Receipt Requested and email (mdhtnc17@ [REDACTED])

Mark Hughes  
4549 N. Camino Campero  
Tucson, AZ 85750

Re: Mark Dana Hughes, et al, Docket No. S-20864A-12-0439

Dear Mr. Hughes:

A pre-hearing conference was held on February 14, 2013, in order to schedule hearing dates. You failed to appear at the pre-conference hearing. Because of your absence, Judge Stern asked the Securities Division to contact you for the following information: a) Do you intend to defend the case?; and b) If you intend to present a defense, please indicate the number of days you will need.

Please forward the information to one of the following by no later than March 1, 2013: Docket Control, 400 West Congress Tucson, AZ 85701-1347, Docket Control, 1200 W. Washington, Phoenix, AZ 85007, or to my attention at 1300 W. Washington, Third Floor, Phoenix, AZ 85007. Of course, you may also email the information to me at [avervilos@azcc.gov](mailto:avervilos@azcc.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Aikaterine Vervilos".

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel

## Exhibit 4

**COMMISSIONERS**  
BOB STUMP, Chairman  
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BOB BURNS  
SUSAN BITTER SMITH

JODI JERICH  
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT  
DIRECTOR

SECURITIES DIVISION  
1300 West Washington, Third Floor  
Phoenix, AZ 85007  
TELEPHONE: (602) 642-4242  
FAX: (602) 714-8120  
E-MAIL: [securitiesdiv@azcc.gov](mailto:securitiesdiv@azcc.gov)

**ARIZONA CORPORATION COMMISSION**

February 26, 2013

**VIA US Mail and Email ([eric@ericlocumsparkspc.com](mailto:eric@ericlocumsparkspc.com))**

Eric Slocum Sparks  
Law Offices Eric Slocum Sparks, P.C.  
110 South Church Avenue, Suite 2270  
Tucson, AZ 85701

**Re: Mark Dana Hughes, et al – Docket No. S-20864A-12-0439**

Dear Mr. Sparks:

With due respect, you misread Section 362(b)(4) of the Bankruptcy Code as the language you underlined and italicized does not operate to limit governmental action. An informed reading of Section 362(b)(4) and a review of the relevant case law would have shown you that your position is without merit. The Securities Division has prevailed against similar arguments in the past and if you elect to proceed we are confident we would prevail again.

Simply stated, Section 362(b)(4) exempts government agencies from the automatic stay so the agencies can continue to exercise their police and regulatory powers. It does not protect wrongdoers from using bankruptcy court to avoid the consequences of their actions.

Since Mr. Hughes failed to attend the pre-hearing conference and now through your letter apparently refuses to state whether or not he intends on defending against our action, we will move forward filing a motion with Judge Stern requesting that set he dates for the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Aikaterine Vervilos".

Aikaterine Vervilos  
Registration & Compliance Enforcement Counsel