

ORIGINAL

OPEN MEETING AGENDA I



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**GREENBERG TRAURIG, LLP**

ATTORNEYS AT LAW

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AZ CORP COMMISSION

DOCKET CONTROL

Arizona Corporation Commission

**DOCKETED**

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MAR 6 2013

Brian J. Schulman, SBN 015286  
Attorneys for Respondents Patrick Shudak  
and Promise Land Properties, LLC

DOCKETED BY *BSM*

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

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

In the matter of:

PATRICK LEONARD SHUDAK, a single man,  
PROMISE LAND PROPERTIES, LLC, an Arizona  
limited liability company,  
and  
PARKER SKYLAR & ASSOCIATES, LLC, an  
Arizona limited liability company,  
Respondents.

DOCKET NO. S-20859A-12-0413

**RESPONDENTS' FIRST REQUEST  
FOR PRODUCTION OF  
DOCUMENTS**

Pursuant to the Rules of Practice before the Arizona Corporation Commission, A.A.C. R14-3-101, *et seq.*, respondents Patrick Shudak and Promise Land Properties, LLC (the "Respondents") request that the documents or things designated in the list labeled "Documents to be Produced" be produced for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

**Time:** No later than twenty (20) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

**Place:** Greenberg Traurig, LLP, 2375 E. Camelback Road, Suite 700, Phoenix, Arizona

1 85016.

2 The list labeled "Documents to be Produced" sets forth the items to be produced, either  
3 by individual item or by category; describes each item and category with reasonable  
4 particularity; and specifies the reasonable time, place and manner of making the production and  
5 performing the related acts in connection with each item.

6 The party upon whom this Request is served shall satisfy or object to it in writing within  
7 twenty (20) days from the date of service of this Request unless this time frame is modified by  
8 the Administrative Law Judge.

9 The Response shall state, with respect to each item or category, that the documents will  
10 be produced and related activities will be permitted as requested, unless the Request is objected  
11 to, in which event the reasons for objection shall be stated.

12 The documents or things sought by this Request include documents, information and  
13 things in the possession, custody or control of the Securities Division, their attorneys and all  
14 present and former agents, servants, representatives, investigators and others who may have  
15 obtained custody of the documents and things on behalf of the party or their attorneys.

16 Unless otherwise indicated, this Request covers the time frame of January 1, 2007 to the  
17 present.

18 **DEFINITIONS**

19 For the purposes of this Request for Production of Documents, the following terms and  
20 references have been abbreviated and defined as follows:

21 1. The terms "and" and "or" shall be construed conjunctively or disjunctively,  
22 whichever makes the document request more inclusive.

23 2. The terms "Securities Division," "you" and "your" shall mean the Securities  
24 Division of the Arizona Corporation Commission.

25 3. The term "Respondents" shall mean collectively, Patrick Shudak and Promise  
26 Land Properties, LLC.

27 4. The term "Tombstone Project" shall have the same meaning as that term is  
28 defined in the Notice.

1           5.     The term "CC Land" shall have the same meaning as that term is defined in the  
2 Notice.

3           6.     The term "CC 1900" shall have the same meaning as that term is defined in the  
4 Notice.

5           7.     The term "P-L Membership Interest" shall have the same meaning as that term  
6 is defined in the Notice.

7           8.     The term "P-L Investors" shall have the same meaning as that term is defined in  
8 the Notice.

9           9.     The term "Bisbee Project" shall have the same meaning as that term is defined  
10 in the Notice.

11          10.    The term "Bisbee Property" shall have the same meaning as that term is defined  
12 in the Notice.

13          11.    The term "P-S Investors" shall have the same meaning as that term is defined in  
14 the Notice.

15          12.    The term "Investment Purchase Agreement" shall have the same meaning as that  
16 term is defined in the Notice.

17          13.    The term "Investment Agreement" shall have the same meaning as that term is  
18 defined in the Notice.

19          14.    The term "Note(s)" shall have the same meaning as that term is defined in the  
20 Notice.

21          15.    The term "Notice" is intended to include the Temporary Order to Cease and  
22 Desist and Notice of Opportunity for Hearing in Arizona Corporation Commission Docket  
23 No. S-20859A-12-0413.

24          16.    The terms "document" or "documents" include, without limiting their  
25 generality, all contracts, agreements, correspondence, letters, files, memoranda, messages,  
26 handwritten notes, e-mail, inter- or intra-departmental or office or firm communications,  
27 telephone logs, telephone messages, computer disks, hard drives, telegrams, newsletters or  
28 other publications, stock certificates, stock options, promissory notes, appraisal reports,

1 expressions of opinion as to value or use of real or personal property, valuation estimates of  
2 any kind, financial data, *pro formas*, estimates, financial projections, statements, credit and loan  
3 applications, accounting records and worksheets, financial statements, diaries, calendars, logs,  
4 desk diaries, appointment books, feasibility studies, recordings, notes of conversations, notes of  
5 meetings, notes of conferences, notes of investigations, notes of opinions, notes of interviews,  
6 written statements, recorded or taped interviews or statements, drafts of reports, preliminary  
7 reports, final reports, studies, forecasts, prospectuses, charts, graphs, maps, drawings or other  
8 representations or depictions, telephone records, motion picture film, audio or video tape  
9 recordings, facsimile copies, computer printouts, data card programs or other input or output of  
10 data processing systems, photographs (positive print, slides or negatives), microfilm or  
11 microfiche, or other data compilations from which information can be obtained or translated  
12 through detection devices into reasonably usable form, whether originals or copies, altered or  
13 unaltered, made by any means. The terms "document" and "documents" also include all copies  
14 which are, in any manner, not identical in content to the originals. Any comment or notation  
15 appearing on any document, and not a part of the original text, is to be considered a separate  
16 "document." Any draft, or any other preliminary form of any document, is also to be  
17 considered a separate "document."

18 17. The term "all documents" means every document, as defined above, known to  
19 you and every document which can be located or discovered by reasonably diligent efforts.

20 18. The terms "writing" or "written" are intended to include, but not necessarily be  
21 limited to, the following: handwriting, typewriting, printing, photographing and every other  
22 means of recording upon any tangible thing, any form of communication later reduced to a  
23 writing or confirmed by a letter.

24 19. The term "communication" means any oral, written, electronic, graphic,  
25 demonstrative, or other transfer of information, ideas, opinions or thoughts between two or  
26 more individuals or entities, regardless of the medium by which such communication occurred,  
27 and shall include, without limitation, written contact by such means as letters, memoranda,  
28 telegrams, telex, or any documents, and oral contact by such means as face to face meetings

1 and telephone conversations.

2 20. The terms “concerns” or “concerning” include referring to, alluding to,  
3 responding to, relating to, connected with, commenting on, impinging or impacting upon, in  
4 respect of, about, regarding, discussing, showing, describing, affecting, mentioning, reflecting,  
5 analyzing, constituting, evidencing or pertaining to.

6 21. The term “person(s)” shall mean any natural person, corporation, partnership,  
7 sole proprietorship, joint venture, association, limited liability company, governmental or other  
8 public entity, or any other form of organization or legal entity, and all of their officials,  
9 directors, officers, employees, representatives, attorneys and agents.

10 22. The terms “meeting” and “meetings” mean any coincidence of presence of two  
11 or more persons between or among whom some communication occurs, whether or not such  
12 coincidence of presence was by chance or prearranged, formal or informal, or in connection  
13 with some other activity.

14 **INSTRUCTIONS FOR USE**

15 A. In producing documents and things, indicate the particular request to which a  
16 produced document or thing is responsive.

17 B. In producing documents and things, furnish all documents or things known or  
18 available to you, regardless of whether such documents or things are possessed directly by you  
19 or your directors, officers, agents, employees, representatives and investigators or by your  
20 attorneys or their agents, employees, representatives or investigators.

21 C. If any requested document or thing cannot be produced in full, produce each  
22 such document to the extent possible, specifying each reason for your inability to produce the  
23 remainder and stating whatever information, knowledge or belief you have concerning the  
24 unproduced portion and the expected dates on which full production can be completed.

25 D. If any documents or things requested were in existence but are no longer in  
26 existence, then so state, specifying for each document or thing:

27 (1) The type of document or thing;

28 (2) The type(s) of information contained therein;

- 1           (3)    The date upon which it ceased to exist;
- 2           (4)    The circumstances under which it ceased to exist;
- 3           (5)    The identity of each person or persons having knowledge or who had knowledge  
4 of the contents thereof; and
- 5           (6)    The identity of each person or persons having knowledge of the circumstances  
6 under which each document or thing ceased to exist.

7           E.    This Request for Production of Documents is deemed to be continuing. If, after  
8 producing documents and things, you obtain or become aware of any further documents, things  
9 or information responsive to this Request for Production of Documents, you are required to  
10 produce to Respondents such additional documents and things, or provide Respondents with  
11 such additional information.

12          F.    Documents attached to each other should not be separated.

13          G.    In lieu of producing originals or copies thereof responsive to this Request, you  
14 may, at your option, submit legible photographic or other reproductions of such documents,  
15 provided that the originals or copies from which such reproductions were made are retained by  
16 you until the final disposition of this proceeding.

17          H.    In the event that you seek to withhold any documents, things or information on  
18 the basis that it is properly subject to some limitation on discovery, you shall supply  
19 Respondents with a list of the documents and things for which limitation of discovery is  
20 claimed, indicating:

- 21           (1)    The name of each author, writer, sender or initiator of such document or thing, if  
22 any;
- 23           (2)    The name of each recipient, addressee or party for whom such document or  
24 thing was intended, if any;
- 25           (3)    The name of the person in custody or charge or possession of each such  
26 document;
- 27           (4)    The date of each such document, if any, or an estimate thereof and so indicated  
28 as an estimate;

1 (5) The general subject matter as described in each such document, or, if no such  
2 description appears, then such other description sufficient to identify said document;

3 (6) The name, business address and position of each person who has seen, or has  
4 access to or knowledge of, the contents or nature of any such document; and

5 (7) The claimed grounds for limitation of discovery (*e.g.*, “attorney-client  
6 privilege”).

7 **DOCUMENTS TO BE PRODUCED**

8 1. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or  
9 transcripts of tapes and/or memoranda and/or notes and/or transcripts of sworn or unsworn  
10 testimony or interviews that in any way memorialize communications between the Securities  
11 Division, on the one hand, and (i) Respondents, (ii) any of the P-L Investors, (iii) any of the P-S  
12 Investors, (iv) Alan Thome of Sunburst Properties, Inc., or (v) any employees or  
13 representatives of Sunburst Properties, Inc., including any and all Examinations Under Oath,  
14 and all exhibits thereto.

15 2. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or  
16 transcripts of sworn or unsworn testimony or interviews that that in any way memorialize  
17 communications between the Securities Division and any entity or individual interviewed  
18 and/or contacted in connection with the Securities Division’s investigation of Respondents  
19 relating to the allegations set forth in the Notice. This includes all complaints, correspondence  
20 and Examinations Under Oath, and all exhibits thereto.

21 3. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or  
22 transcripts of sworn or unsworn testimony or interviews that in any way memorialize  
23 communications between the Securities Division and any entity or individual interviewed  
24 and/or contacted in connection with the Securities Division’s investigation of Respondents and  
25 relating to the allegations set forth in the Notice, and should include all complaints,  
26 correspondence and Examinations Under Oath, and all exhibits thereto.

27 4. All affidavits, questionnaires and statements provided by any and all individuals  
28 interviewed or contacted by the Securities Division relating to the allegations set forth in the

- 1 Notice and/or relating to the Respondents.
- 2 5. All correspondence regarding or referring to the Respondents.
- 3 6. All documents or other information provided to the Securities Division by any
- 4 individual or entity regarding any of the Respondents.
- 5 7. All Documents concerning the allegations in paragraph 11 of the Notice.
- 6 8. All Documents concerning the allegations in paragraph 12 of the Notice.
- 7 9. All Documents concerning the allegations in paragraph 21 of the Notice.
- 8 10. All Documents concerning the allegations in paragraph 22 of the Notice.
- 9 11. All Documents concerning the allegations in paragraph 24 of the Notice.
- 10 12. All Documents concerning the allegations in paragraph 25 of the Notice.
- 11 13. All Documents concerning the allegations in paragraph 26 of the Notice.
- 12 14. All Documents concerning the allegations in paragraph 30 of the Notice.
- 13 15. All Documents concerning the allegations in paragraph 31 of the Notice.
- 14 16. All Documents concerning the allegations in paragraph 32 of the Notice.
- 15 17. All Documents concerning the allegations in paragraph 35 of the Notice.
- 16 18. All Documents concerning the allegations in paragraph 36 of the Notice.
- 17 19. All Documents concerning the allegations in paragraph 37 of the Notice.
- 18 20. All Documents concerning the allegations in paragraph 38 of the Notice.
- 19 21. All Documents concerning the allegations in paragraph 39 of the Notice.
- 20 22. All Documents concerning the allegations in paragraph 42 of the Notice.
- 21 23. All Documents concerning the allegations in paragraph 43 of the Notice.
- 22 24. All Documents concerning the allegations in paragraph 44 of the Notice.
- 23 25. All Documents concerning the allegations in paragraph 45 of the Notice.
- 24 26. All Documents concerning the allegations in paragraph 46 of the Notice.
- 25 27. All Documents concerning the allegations in paragraph 47 of the Notice.
- 26 28. All Documents concerning the allegations in paragraph 48 of the Notice.
- 27 29. All Documents concerning the allegations in paragraph 57 of the Notice.
- 28 30. All Documents concerning the value of the Tombstone Project and the Bisbee

- 1 Property, including any appraisals.
- 2 31. All Documents concerning CC Land, including all accounting and financial  
3 records, and corporate governance documents.
- 4 32. All Documents concerning CC 1900, including all accounting and financial  
5 records, and corporate governance documents.
- 6 33. All Documents concerning Parker Skylar & Associates, LLC including all  
7 accounting and financial records, and corporate governance documents.
- 8 34. All Documents concerning the losses allegedly suffered by the P-L Investors  
9 and the P-S Investors.
- 10 35. All subpoenas issued by the Securities Division in connection with the  
11 investigation of Respondents, all responses thereto, all communications between the Securities  
12 Division and the recipient of the subpoenas, and any supplemental responses.
- 13 36. All Documents obtained during the Securities Division's investigation that are  
14 not specifically referred to in the prior Requests.
- 15 37. All documents in the possession or under the control of the Securities Division  
16 concerning the Respondents to the extent not already produced in response to the prior  
17 Requests.
- 18 38. All Documents that concern or reflect any contacts or communications with  
19 other state securities agencies, other state regulatory agencies (including without limitation the  
20 Arizona Department of Financial Institutions), law enforcement organizations (including  
21 without limitation the Arizona Attorney General's office, the FBI, and the United States  
22 Department of Justice) regarding the Respondents, their independent agents, employees and  
23 other representatives, the Other Respondents, including their independent agents, employees  
24 and other representatives, and the Related Entities.
- 25 39. All Documents provided to, reviewed by or prepared by any expert or Securities  
26 Division employee who the Securities Division intends to call as a witness at the hearing, all  
27 drafts of those documents, and all notes or other documents in the possession of such expert  
28 that relate to this matter.

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40. All Documents evidencing all communication between the Securities Division and any witness, their independent agents, employees and other representatives.

DATED this 6th day of March, 2013.

GREENBERG TRAUER, LLP

By: 

BRIAN J. SCHULMAN  
Attorneys for Respondents

ORIGINAL and 13 copies of the foregoing hand-delivered on this 6th day of March, 2013 to:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

COPY of the foregoing emailed/mailed on this 6th day of March, 2013 to:

Matthew J. Neubert  
Ryan Millecam  
Arizona Corporation Commission  
Securities Division  
1300 West Washington Street, 3<sup>rd</sup> Floor  
Phoenix, AZ 85007

