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2013 MAR 11 P 4: 23

CORP COMMISSION
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Arizona Corporation Commission

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MAR 11 2013

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DOCKETED BY 

10 Attorneys for Respondents: Arizona Gold
11 Processing, LLC, an Arizona limited liability
12 company; AZGO, LLC, an Arizona limited
13 liability company; and Charles L. Robertson, an
14 individual

BEFORE THE ARIZONA CORPORATION COMMISSION

15 In the matter of:

16 ARIZONA GOLD PROCESSING,
17 LLC, an Arizona limited liability
18 company,

19 AZGO, LLC, an Arizona limited
20 liability company,

21 and

22 CHARLES L. ROBERTSON, a
23 married man

Respondents.

DOCKET NO. S-20846A-12-0135

**ANSWER TO AMENDED TEMPORARY
ORDER TO CEASE AND DESIST
NOTICE OF OPPORTUNITY FOR
HEARING**

24 Pursuant to the above named Respondents hereby respond to the allegations of the
25 Securities Division (the "Division") of the Arizona Corporation Commission (the
26 "Commission") as set forth in its Amended Temporary Order to Cease and Desist and

1 Notice of Opportunity for Hearing, dated February 7, 2013, as follows:

2 1. In response to Paragraph 1, Respondents aver that the Commission has
3 jurisdiction over any violation of Arizona's securities laws in a situation involving an
4 offer or sale of securities that did not take place "within or from" Arizona. The
5 Commission does not, however, have jurisdiction over any offer or sale that did not
6 occur "within or from" Arizona. Under the law, securities are deemed to have been
7 offered "from" Arizona only if the issuer performed more than "ministerial actions" from
8 an actual "base of operations" located in Arizona. *See Arizona Corp. Comm. v. Media*
9 *Products, Inc.*, 158 Ariz. 463, 465, 763 P.2d 527, 529 (App. 1988); *Chrysler Capital*
10 *Corp. v. Century Power Corp.*, 800 F. Supp. 1189, 1193 (S.D.N.Y. 1992) (stating "[o]nly
11 a transaction which occurs entirely inside the state can be said to occur 'within' Arizona.
12 Therefore, the words 'from this state' must apply to transactions which do not occur
13 entirely inside Arizona."). It is well established law that the State of Arizona would have
14 no jurisdiction or authority to regulate an offer or sale of securities to a non-Arizona
15 person by a business enterprise that has no base of operations in Arizona. Indeed, any
16 attempt by the State of Arizona to regulate such a transaction would be in clear violation
17 of the Commerce Clause and the Supremacy Clause of the United States Constitution.
18 *See Arizona Corp. Comm. v. Media Products, Inc.*, 158 Ariz. 463, 465, 763 P.2d 527,
19 529 (App. 1988). Stated another way, allowing Arizona to regulate a securities
20 transaction that did not occur "within or from" Arizona would interfere with, and would
21 place a direct and excessive burden upon, interstate commerce, which is to be regulated
22 by the United States Congress--not the Division. Respondents deny that they have a
23 "base of operations" in Arizona. Indeed, Respondents affirmatively allege that they
24 merely performed "ministerial actions" from within Arizona. Therefore, the
25 Commission has jurisdiction only over offers and sales of securities by Respondents to
26 persons resident or domiciled in Arizona.

1 2. In response to Paragraphs 2 and 3, Respondents admit that Arizona Gold
2 Processing, LLC (“Arizona Gold”), was a manager-managed Arizona limited liability
3 company formed on or about December 5, 2011. Respondents further admit that Arizona
4 Gold’s manager was AZGO LLC (“AZGO”), which was a manager-managed Arizona
5 limited liability company. Respondents affirmatively allege that on or about July 23,
6 2012, Arizona Gold and AZGO were merged into one of two Nevada limited liability
7 companies, with each of these successor companies bearing the same name as its
8 predecessor. The legal effect of these mergers was that the two Respondent entities’
9 “separate existence...cease[d].” ARS § 29-757(A)(1).

10 3. In response to Paragraphs 4 and 5, Respondents admit that Charles L.
11 Robertson (“Robertson”) is a resident of Texas and that he was one of two managers of
12 AZGO.

13 4. In response to Paragraphs 6 through 8, Respondents aver that the Private
14 Placement Memorandum, dated December 5, 2011, speaks for itself.

15 5. Respondents deny the allegations contained in Paragraph 9.

16 6. In response to Paragraphs 10 through 19, Respondents aver that the Private
17 Placement Memorandum, dated December 5, 2011, speaks for itself.

18 7. In response to Paragraph 20, Respondents aver that the Private Placement
19 Memorandum, dated December 5, 2011, speaks for itself. Respondents deny the
20 remaining allegations contained in Paragraph 20.

21 8. In response to Paragraph 21, Respondents deny making representation
22 outside of the Private Placement Memorandum, and therefore, Respondents deny the
23 allegations contained in Paragraph 21.

24 9. In response to Paragraph 22, Respondents admit the allegations contained
25 therein.

26 10. In response to Paragraph 23, Respondents admit the allegations contained

1 therein.

2 11. In response to Paragraph 24, Respondents deny any violation of the
3 Temporary Cease and Desist Order.

4 12. In response to Paragraph 25, Respondents deny the allegations contained in
5 therein.

6 13. In response to Paragraphs 26 through 28, Respondents deny any violation
7 of ARS § 44-1841.

8 14. In response to Paragraphs 29 through 30, Respondents deny any violation
9 of ARS § 44-1842.

10 15. In response to Paragraphs 31 through 33, Respondents deny any violation
11 of ARS § 44-1991.

12 WHEREFORE, Respondents pray for judgment as follows:

13 A. That the Division's Temporary Cease and Desist Order be vacated
14 and dismissed with prejudice;

15 B. That the Respondents be awarded their attorneys' fees and costs for
16 responding in this matter; and

17 C. For such other and further relief as the Commission deems just as
18 proper.

19 RESPECTFULLY SUBMITTED this 11th day of March, 2013.

20 THEOBALD LAW, PLC

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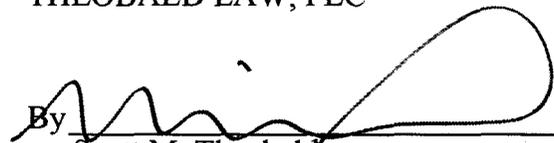
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By 
Scott M. Theobald
Mark A. Nickel
Attorneys for Respondents and on
behalf of Darin H. Mangum

1 ORIGINAL and thirteen (13) copies of the
2 foregoing filed this 11th day of March, 2013 with:

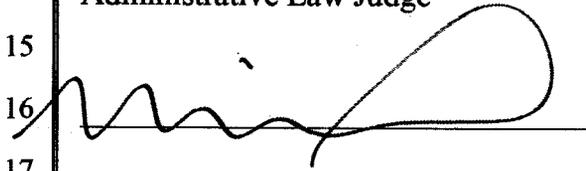
3 Arizona Corporation Commission
4 Docket Control
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 COPY of the foregoing emailed
8 this 11th day of March, 2013 to:

9 Wendy L. Coy, Esq.
10 Arizona Corporation Commission
11 Securities Division
12 1300 West Washington Street, 3rd Floor
13 Phoenix, Arizona 85007

14 COPY of the foregoing delivered
15 this 11th day of March, 2013 to:

16 Marc E. Stern
17 Administrative Law Judge

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