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BEFORE THE ARIZONA CORPORATI

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COMMISSIONERS

- BOB STUMP, Chairman
- GARY PIERCE
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- BOB BURNS
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2014 APR -9 P 14:43

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

APR 09 2014

DOCKETED BY

In the matter of:

CONCORDIA FINANCING COMPANY,
LTD, a/k/a "CONCORDIA FINANCE,"

ER FINANCIAL & ADVISORY SERVICES,
L.L.C.,

LANCE MICHAEL BERSCH, and

DAVID JOHN WANZEK and LINDA
WANZEK, husband and wife,

Respondents.

DOCKET NO. S-20906A-14-0063

**RESPONDENT CONCORDIA
FINANCE'S ANSWER TO NOTICE OF
OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO
CEASE AND DESIST, ORDER FOR
RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES, AND
ORDER FOR OTHER AFFIRMATIVE
ACTION**

ORIGINAL

Respondent Concordia Financing Company, Ltd., a/k/a Concordia Finance ("Concordia") submits its Answer to the Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties and for Other Affirmative Action (the "Notice"). Concordia responds to the numbered paragraphs of the Notice as follows:

I.

JURISDICTION

- 1. Concordia denies the allegations in paragraph 1 of the Notice.

II.

RESPONDENTS

- 2. Concordia admits the allegations in paragraph 2 of the Notice.

1 12. The allegations in paragraph 12 are an inaccurate, incomplete and misleading
2 statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 12
3 of the Notice.

4 13. The allegations in paragraph 13 are an inaccurate, incomplete and misleading
5 statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 13
6 of the Notice.

7 14. Concordia is without sufficient knowledge or information to admit or deny the
8 allegations contained in paragraph 14 of the Notice, and, therefore denies those allegations.
9

10 15. Concordia is without sufficient knowledge or information to admit or deny the
11 allegations contained in paragraph 16 of the Notice, and, therefore denies those allegations.

12 16. Concordia is without sufficient knowledge or information to admit or deny the
13 allegations contained in paragraph 16 of the Notice, and, therefore denies those allegations.

14 17. Concordia is without sufficient knowledge or information to admit or deny the
15 allegations contained in paragraph 17 of the Notice, and, therefore denies those allegations.
16

17 18. Concordia is without sufficient knowledge or information to admit or deny the
18 allegations contained in paragraph 18 of the Notice, and, therefore denies those allegations.

19 19. Concordia is without sufficient knowledge or information to admit or deny the
20 allegations contained in paragraph 19 of the Notice, and, therefore denies those allegations.

21 20. The allegations in paragraph 20 are an inaccurate, incomplete and misleading
22 statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 20
23 of the Notice.
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21. The allegations in paragraph 21 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 21 of the Notice.

22. The allegations in paragraph 22 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 22 of the Notice.

23. The allegations in paragraph 23 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 23 of the Notice.

24. The allegations in paragraph 24 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 24 of the Notice.

25. Concordia is without sufficient knowledge or information to admit or deny the allegations contained in paragraph 25 of the Notice, and, therefore denies those allegations.

26. The allegations in paragraph 26 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 26 of the Notice.

27. The allegations in paragraph 27 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 27 of the Notice.

28. The allegations in paragraph 28 are an inaccurate, incomplete and misleading statement of the facts. Accordingly, Concordia denies each and every allegation in paragraph 28 of the Notice.

BASKIN RICHARDS PLC
80 EAST RIO SALADO PARKWAY
SUITE 511
TEMPE, ARIZONA 85281
TELEPHONE NO 480-968-1225
FACSIMILE 480-968-6255

(Transactions by Unregistered Dealers or Salesmen)

37. Concordia denies the allegations in paragraph 37 of the Notice.

38. Concordia denies the allegations in paragraph 38 of the Notice.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

39. The allegations in paragraph 39 of the Notice do not relate to Concordia and require no response.

40. The allegations in paragraph 40 of the Notice do not relate to Concordia and require no response.

41. The allegations in paragraph 41 of the Notice do not relate to Concordia and require no response.

42. Concordia denies each and every allegation not specifically denied therein.

AFFIRMATIVE DEFENSES

The following affirmative defenses nullify any potential claims asserted by the Division. Concordia reserves the right to amend this Answer to assert additional defenses after completion of discovery.

First Affirmative Defense

The ACC cannot meet the applicable standards for any of the relief it is seeking in the Notice.

Second Affirmative Defense

The Notice fails to state a claim upon which relief can be granted.

Third Affirmative Defense

1 Concordia did not offer or sell securities within the meaning of the Arizona Securities Act.

2 Fourth Affirmative Defense

3 Concordia did not engage in any activity that required registration with the Arizona
4 Corporation Commission's Securities Division.

5 Fifth Affirmative Defense

6 If the program at issue is determined to be a security, it was exempt from registration
7 and/or sold in an exempt transaction.

8 Sixth Affirmative Defense

9 The alleged investors suffered no injuries or damages as a result of Concordia's alleged
10 acts.

11 Seventh Affirmative Defense

12 The alleged investors alleged injuries or damages are the result of acts or omissions
13 committed by non-parties.

14 Eighth Affirmative Defense

15 Restitution is not an appropriate remedy.

16 Ninth Affirmative Defense

17 To the extent an award of restitution is ordered, the ACC should use its discretion to reduce
18 the amount, if any, Concordia must pay.

19 Tenth Affirmative Defense

20 Concordia did not violate A.R.S. §§ 44-1841 or 44-1842.

21 Eleventh Affirmative Defense

22 The ACC's claims are barred by all applicable statutes of limitations.

23 Twelfth Affirmative Defense

1 The ACC's' claims are barred by prosecutorial delay.

2 Thirteenth Affirmative Defense

3 The ACC's' claims are barred by the doctrines of waiver and estoppel.

4 Fourteenth Affirmative Defense

5 The ACC's' claims are barred by the doctrine of laches.

6 Fifteenth Affirmative Defense

7 The ACC's' claims are barred as either vague, ambiguous, overbroad, or a combination of
8 the three.
9

10 Sixteenth Affirmative Defense

11 The ACC's' claims are barred as a violation of due process.

12 Seventeenth Affirmative Defense

13 Any damages are due to the fault of others.

14 Eighteenth Affirmative Defense

15 Concordia alleges such other affirmative defenses set forth in the Arizona Rules of Civil
16 Procedure 8(c) as may be determined to be applicable during discovery.
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18
19 RESPECTFULLY SUBMITTED this 9 day of April, 2014.

20 BASKIN RICHARDS PLC

21
22 By David Crowl for
23 Alan S. Baskin
24 80 East Rio Salado Parkway, Suite 511
25 Tempe, Arizona 85281
26 Attorneys for Respondent
27 Concordia Finance

BASKIN RICHARDS PLC
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FACSIMILE 480-968-6255

1 ORIGINAL and thirteen copies of the foregoing
filed this 9th day of April, 2014 with:

2 Docket Control
3 Arizona Corporation Commission
1200 West Washington Street
4 Phoenix, AZ 85007

5 COPY of the foregoing hand-delivered
6 this 9th day of April, 2014 to:

7 Matthew J. Neubert
8 Director of Securities
9 Securities Division
Arizona Corporation Commission
1300 W. Washington Street, 3rd Floor
10 Phoenix, AZ 85007

11 COPY of the foregoing mailed
12 this 9th day of April, 2014 to:

13 Stephen Womack
14 Securities Division
Arizona Corporation Commission
1300 W. Washington, 3rd Floor
15 Phoenix, AZ 85007

16 Paul J. Roshka
17 Timothy J. Sabo
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Phoenix, AZ 85004
19 Attorneys for Respondents ER,
Lance Bersch, David and Linda Wanzek

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