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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

ORIGINAL

DOCKET NO. S-20906A-14-0063

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.

**SECURITIES DIVISION'S REPLY IN
SUPPORT OF MOTION TO QUASH
DISCOVERY DEMANDS BY THE ER
RESPONDENTS**

Arizona Corporation Commission

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1 **I. Introduction**

2 The Securities Division (“Division”) of the Arizona Corporation Commission
3 (“Commission”) respectfully submits this Reply to the ER Respondents¹ Response to
4 the Division’s Motion to Quash. For the reasons explained in the Motion and below,
5 the Hearing Officer should issue an order quashing the Non-Uniform Interrogatories,
6 Request for Production, Requests for Admission, and two Notices of Deposition
7 (collectively, “Discovery Demands”) the ER Respondents served on the Division.

8 **II. The ER Respondents Have Discovery Devices Available To Them, Just**
9 **Not The Ones They Erroneously Propounded In Disregard Of The APA**
10 **And The Commission’s Rules.**

11 The ER Respondents misstate that the Division “maintain[s] that no discovery
12 is available....”² That is not the Division’s position, however. As the Division
13 explained in its Motion to Quash, the Administrative Procedures Act (“APA”) and
14 the Commission Rules expressly provide for the following discovery:³

- 15 ● The procurement of documents via subpoenas issued on a showing of
16 reasonable need (*See* A.R.S. § 41-1062(A)(4) and Rule 14-3-109(O));
- 17 ● Depositions of witnesses via subpoenas issued on a showing of reasonable
18 need (*See* A.R.S. § 41-1062(A)(4), Rule 14-3-109 (P)); and
- 19 ● The exchange of the parties’ proposed lists of witnesses and exhibits, which
20 will now occur on March 12, 2015, 60 days prior to the evidentiary hearing
21 in this case. (*See* Rule 14-3-109(L) and Sixth Procedural Order dated
22 January 26, 2015).

23
24 ¹ This motion refers to the following Respondents as “the ER Respondents”: ER Financial &
25 Advisory Services, LLC (“ER Financial”), Lance Michael Bersch (“Bersch”), David John Wanzek
26 (“Wanzek”) and Linda Wanzek (“Mrs. Wanzek”).

² The ER Respondents’ Response to Motion to Quash (“Response”) at 1:13-14.

³ *See* Motion to Quash at 4:11 to 6:19.

1 These provisions for limited discovery based on a showing of reasonable need
2 are consistent with the principle that administrative proceedings are intended to be
3 less costly and speedier than civil litigation governed by the Arizona Rules of Civil
4 Procedure (“ARCP”). *See* A.R.S. § 41-1062(A)(1) (an administrative hearing “may
5 be conducted in an informal manner and without adherence to the rules of evidence
6 required in judicial proceedings.”); R14-3-101(B) (“These [Commission] [R]ules
7 shall be liberally construed to secure just and speedy determination of all matters
8 presented to the Commission.”).

9 The ER Respondents, however, have not bothered to apply for the issuance of
10 any subpoenas under R14-3-109(O) or depositions under R14-3-109(P). Nor have
11 they attempted to demonstrate a reasonable need for a subpoena or a deposition, as
12 required under § 41-1062(A)(4) of APA. Instead, they disregarded the discovery
13 devices available to them, and improperly served interrogatories, requests for
14 admission and other discovery devices provided for in the ARCP, which are not
15 permitted. *See* A.R.S. § 41-1062(A)(4).

16 So contrary to the ER Respondents’ misstatement, the Division’s position is
17 that *discovery is available* under the APA and the Commission’s Rules. The
18 Division’s position is also that the ER Respondents should follow the APA and the
19 Commission’s Rules if they want to obtain that discovery.

20 **III. The ER Respondents’ Construction Of The “Default” Provision**
21 **Regarding The ARCP In The Commission’s Rules Is Wrong.**

22 The ER Respondents contend that the ARCP’s discovery provisions apply to
23 Commission proceedings because R14-3-101(A) provides in part: “In all cases in
24 which procedure is set forth *neither by law, nor by these rules, nor by regulations*
25 *or orders* of the Commission, the Rules of Civil Procedure for the Superior Court of
26

1 Arizona as established by the Supreme Court of the state of Arizona shall govern.”
2 The ER Respondents’ construction of this “default” provision to argue that all the
3 ARCP’s types of discovery are available to them is wrong.

4 The procedure for discovery in an administrative action is set forth by both the
5 APA and the Commission’s Rules.⁴ There is no basis to invoke the ARCP’s
6 discovery provisions when the Legislature and the Commission have specified what
7 discovery may be conducted in an administrative action like this one. In fact, the
8 APA expressly prohibits any other type of discovery. *See* A.R.S. § 41-1062(A)(4)
9 (“[N]o subpoenas, depositions or other discovery shall be permitted in contested
10 cases except as provided by agency rule or this paragraph.”). The statute’s
11 preclusion of any other types of discovery not specifically listed is clear.

12 Nonetheless, the ER Respondents argue, “[W]here the Commission’s rules are
13 silent as to a specific type of discovery, the [ARCP] govern.” That construction of
14 R14-3-101(A)’s default provision, if adopted, would be the exception that swallowed
15 the rule. “[A] rule or regulation of an administrative agency should not be
16 inconsistent with or contrary to the provisions of a statute, particularly the statute it
17 seeks to effectuate.” *In re Pima County Mental Health No. MH-2010-0047*, 228
18 Ariz. 94, 99, ¶ 22, 263 P.3d 643, 648 (App. 2011). Construing R14-3-101(A)’s
19 default provision to allow all the types of discovery permitted under the ARCP
20 would be inconsistent with and contrary to the plain language of § 41-1062(A)(4)
21 that “no subpoenas, depositions or other discovery shall be permitted in contested
22 cases except as provided by agency rule or this paragraph.”

23 The ER Respondents’ construction of the Commission’s Rules also conflicts
24 with the well-established rule of statutory construction, *expressio unius est exclusio*

25
26 ⁴ *See* Motion to Quash at 4:11 to 6:19.

1 *alterius*. See *State v. Roscoe*, 185 Ariz. 68, 71, 912 P.2d 1297, 1300 (1996) (“[T]he
2 expression of one or more items of a class indicates an intent to exclude all elements
3 of the same class which are not expressed.”); *State Comp. Fund v. Superior Court*
4 (*EnerGCorp, Inc.*), 190 Ariz. 371, 375, 948 P.2d 499, 503 (App.1997) (“The
5 provision of one exemption in a statute implicitly denies the existence of other
6 unstated exemptions.”). The express provision for subpoenas under R14-3-109(O)
7 and depositions under R14-3-109(P) indicates an intent to exclude all other types of
8 discovery which are not expressly provided for in the Commission’s Rules.

9 Moreover, if all the discovery devices contained in the ARCP are available in
10 Commission proceedings, as the ER Respondents argue, what would be the point of
11 R14-3-109(O)’s provision for subpoenas and R14-3-109(P)’s provision for
12 depositions? The ARCP already provide for subpoenas (Rule 45) and depositions
13 (Rule 30). If all the discovery devices contained in the ARCP were available here,
14 Commission Rules R14-3-109(O) and R14-3-109(P) would be redundant and
15 superfluous. The Commission’s Rules must be construed to “give every word,
16 phrase, clause and sentence meaning so that no part of rule is rendered superfluous,
17 ... redundant or contradictory.” *Patterson v. Maricopa County Sheriff’s Office*, 177
18 Ariz. 153, 865 P.2d 814 (App.1993). The Hearing Officer should reject the ER
19 Respondents’ erroneous construction of R14-3-101(A)’s default provision.

20 **IV. The ER Respondents’ reliance on procedural orders and decisions from**
21 **other cases is misplaced.**

22 The ER Respondents contend that procedural orders and decisions from other
23 cases show that the scope of discovery afforded by the Commission’s Rules is broad.
24 See Response at 2:3-4. The ER Respondents overstate, and in one instance, misstate
25 what those rulings stand for.
26

1 The first two procedural orders the ER Respondents cite are easily
2 distinguishable. In those cases, the parties seeking discovery complied with the
3 Commission's Rules by applying for subpoenas to be issued or permission to take
4 depositions. *See* Judge Nodes' Procedural Order dated November 23, 2009 in
5 Docket No. SW-01428A-09-103 at 2:24 to 3:6 ("LPSCO filed an Application for
6 Subpoena.... On November 16, 2009, the Commission's Executive Director signed
7 the requested subpoena directing Mr. Rowell to appear for deposition."); Judge
8 Rodda's Procedural Order dated November 13, 2009 in Docket No. RT-00000H-97-
9 0137 at 1:23-24 (parties filed a Joint Application for Subpoena Duces Tecum, which
10 was granted). After the subpoenas were authorized in those cases, other parties filed
11 motions to quash, which were denied. It was in that context that Judges Nodes and
12 Rodda discussed "the reasonably calculated to lead to the discovery of admissible
13 evidence" standard. Unlike the parties in those cases, the ER Respondents have not
14 applied for or received authority under Rules R14-3-109(O) and R14-3-109(P) to
15 subpoena documents or take depositions.

16 Other decisions that the ER Respondents cite stand for the unremarkable
17 proposition that some discovery is available in Commission proceedings. *See* Decision
18 No. 70011 dated November 27, 2007 (noting that utility's eleventh-hour proposal left
19 Staff and RUCO with insufficient time to conduct discovery, but not elaborating on
20 what that discovery might be); Decision No. 67454 dated January 4, 2005 (two
21 Commissioners expressed an interest in reviewing studies by investors in utility, but
22 Commission did not order production of the studies). In *Reserve Oil & Gas, Inc.*,
23 which the ER Respondents cite by docket number only, the hearing was recessed to
24 allow the Respondents' counsel to take the deposition of a Division witness who
25 resided in Colorado.⁵

26 ⁵ *See* Revised Seventh Procedural Order dated January 30, 2007 in *Reserve Oil & Gas, Inc.*, Docket
No. S-20437A-05-0925.

1 Finally, the *Yucatan* case the ER Respondents cite by docket number only is of
2 no help to their cause and in fact confirms that the Division's position is correct. In
3 *Yucatan*, the respondents (one of whom was represented by the ER Respondents'
4 present counsel, Paul Roshka, Jr.) served the Securities Division with non-uniform
5 interrogatories and requests for production of documents. The Division objected that
6 those discovery requests were improper under A.R.S. § 41-1062(A)(4) and the
7 Commission's Rules.⁶ Judge Stern agreed with the Division. He wrote:

8 [A]fter reviewing the various arguments posed by the parties,
9 and the applicable statutes and rules, it is concluded that A.R.S.
10 § 41-1062(A)(4) is controlling and as a result, it is concluded
11 that discovery is not a matter of right in an administrative
12 proceeding. Therefore, the use of the discovery rules pursuant
13 to the ARCP shall not be followed unless an exception is
14 granted by the presiding Administrative Law Judge. The
15 objections of the Division in the form of responses to the various
16 discovery requests of the Respondents have merit and
17 effectively prevent further discovery in the form requested by
18 the Respondents.⁷

19 Mr. Roshka and the ER Respondents should know better than to have served
20 their improper Discovery Demands. Judge Stern's analysis in the *Yucatan* case
21 confirms that the Hearing Officer should grant the Division's Motion to Quash in this
22 case.
23
24

25 ⁶ See Sixth Procedural Order dated May 5, 2004 in *Yucatan Resorts, Inc.*, Docket No. S-03539A, a
26 copy of which is attached hereto as Exhibit A.

⁷ Exhibit A at 10:2-8.

1 **V. The ER Respondents Have Not Demonstrated Reasonable Need For**
2 **Discovery From the Division.**

3 The ER Respondents' arguments that they have "reasonable need" under the
4 APA for their onerous and improper Discover Demands fail for several reasons.
5 *First*, the ER Respondents' claims that they lack documents and information are not
6 supported by any affidavit or declaration. Those claims are nothing more than
7 argument by the ER Respondents' counsel. Moreover, Concordia flatly disputes the
8 assertion by the ER Respondents' counsel that his clients "returned thousands of
9 pages of files to Concordia in 2010 at Concordia's insistence."⁸ In recent
10 correspondence to the ER Respondents' counsel, Concordia's counsel wrote:

11 [Y]ou stated that Concordia in 2010 demanded and received
12 "the ER Respondents' customer files" ***That did not***
13 ***happen.*** In 2010, Concordia received from the ER respondents
14 original vehicles titles relating to customer contracts and not
customer files.⁹

15 Absent an affidavit or declaration from Mr. Bersch or Mr. Wanzek, there is no
16 reason to give any credit to their counsel's argument that the ER Respondents
17 returned their investors' files to Concordia.

18 *Second*, there is no reason to believe the ER Respondents' claim that "A hard
19 drive failure destroyed remaining electric files...."¹⁰ This assertion by counsel is
20 also not supported by any affidavit or declaration.

21 Worse yet, this purported "hard drive failure" appears to be a newly concocted
22 fabrication. On September 5, 2012, the Division served a subpoena duces tecum on
23

24 ⁸ Response at 4:26 to 5: 1.

25 ⁹ Email from David Wood to Timothy Sabo dated December 24, 2014, at 11:07 a.m., a true and
correct copy of which is attached hereto as Exhibit B (emphasis added).

26 ¹⁰ Response at 5:2.

1 the Custodian of Records for ER Financial.¹¹ On October 10, 2012, counsel for the
2 ER Respondents requested and received an extension until October 19, 2012 to
3 respond to the subpoena duces tecum.¹² On October 19, 2012, counsel for the ER
4 Respondents wrote to the Division: “I am writing regarding he subpoena responses
5 of ER Financial and Mr. Michael Bersch. Unfortunately, we require an additional
6 week to prepare our responses. Accordingly, we will be providing the responses
7 next Friday, October 26, 2012.”¹³

8 When October 26th came, however, ER Financial produced no responsive
9 documents to the subpoena duces tecum. Instead, the ER Respondents’ counsel
10 wrote, “Mr. Bersch, and Mr. David Wanzek as custodian of records for ER
11 [Financial], respectfully invoke their constitutional right to remain silent under the
12 5th Amendment of the United States Constitution and Article II Section 10 of the
13 Arizona Constitution.”¹⁴ Letter dated 10/26/2012 from Timothy Sabo to Gary
14 Clapper, a true and correct copy of which is attached hereto as Exhibit F. Counsel
15 further stated that regardless of his clients’ invocation of the privilege against self-
16 incrimination, “[A]s a practical matter ... the vast majority of the records were
17 returned to Concordia....” Exhibit F. There was no mention of any purported “hard
18 drive failure” as a reason why the ER Respondents could not produce documents.

19 ¹¹ A true and correct copy of the subpoena duces tecum is attached hereto as Exhibit C.

20 ¹² See Letter dated 10/10/2012 from Timothy Sabo to Gary Clapper, a true and correct copy of
which is attached hereto as Exhibit D.

21 ¹³ Letter dated 10/19/2012 from Timothy Sabo to Gary Clapper, a true and correct copy of which is
attached hereto as Exhibit E.

22 ¹⁴ ER Financial’s refusal to produce documents based on the purported 5th Amendment privilege of
23 its Custodian of Records was directly contrary to well-established law: “It is well settled that *no*
24 *privilege can be claimed by the custodian of corporate records*, regardless of how small the
25 corporation may be.” *Bellis v. United States*, 417 U.S. 85, 100 (1974) (emphasis added); *Braswell*
26 *v. United States*, 487 U.S. 99, 113 (1988) (“A custodian may not resist a subpoena for corporate
records on Fifth Amendment grounds.”); *United States v. Milligan*, 371 F. Supp.2d 1127, 1129-30
(D. Ariz. 2005) (records custodian of alleged one-man corporation could not assert the Fifth
Amendment privilege and was required to produce documents and testify).

1 On October 31, 2012, the ER Respondents filed Articles of Termination for
2 ER Financial.¹⁵ They did not inform the Securities Division that they had done so.

3 On November 5, 2012, the Securities Division served another Subpoena Duces
4 Tecum directed to ER Financial's Custodian of Records requiring documents to be
5 produced on December 5, 2012, and a Subpoena for the Custodian to testify two
6 weeks after the document production.¹⁶

7 On November 30, 2012, the ER Respondents' counsel wrote acknowledging
8 that they had received the two Subpoenas to ER Financial's Custodian on November
9 7, 2012.¹⁷ They also informed the Division that ER Financial had previously filed its
10 Articles of Termination.¹⁸ As another purported reason as to why ER Financial
11 could not produce any documents, counsel asserted "Thus, as of October 31, 2012,
12 ER [Financial] no longer exists, and therefore there can be no 'Custodian of
13 Records.'"¹⁹ In other words, to avoid having to produce documents through ER
14 Financial's custodian of records, the ER Respondents dissolved and terminated their
15 LLC. Again, there was no mention of any purported "hard drive failure."

16 On December 4, 2012, the ER Respondents' counsel again wrote to the
17 Division in an effort to justify why, in the wake of ER Financial's recent termination,
18 no documents needed to be produced.²⁰ Again, there was no mention of any
19 purported "hard drive failure."

20 No, the first time the ER Respondents asserted anything about a "hard drive
21 failure" was more than two years later in their Response to the Division's Motion to

22 ¹⁵ See Letter dated 11/30/2012 from Timothy Sabo to Stephen Womack, a true and correct copy of
23 which is attached hereto as Exhibit G.

24 ¹⁶ A true and correct copies of the 11/5/2012 subpoenas are attached hereto as Exhibits H and I.

25 ¹⁷ See Exhibit G.

26 ¹⁸ See Exhibit G.

¹⁹ See Exhibit G.

²⁰ See Letter dated 12/4/2012 from Timothy Sabo to Stephen Womack, a true and correct copy of
which is attached hereto as Exhibit J.

1 Quash. This latest “dog ate my homework” excuse does not demonstrate any
2 reasonable need for discovery.

3 *Third*, the ER Respondents’ have not demonstrated that they have ever sought
4 the release of transcripts of the examinations the State of California took of
5 Concordia’s principals or any other documents from those administrative
6 enforcement proceedings.

7 *Fourth*, the ER Respondents’ argument that they need the transcript of the one
8 examination under oath (“EUO”) the Division took here of them is completely
9 disingenuous. The EUO was actually of Mr. Bersch, not Mr. Wanzek, as they
10 erroneously assert in their Response at page 5.²¹ In any event, their purported need
11 for that transcript is completely disingenuous because Mr. Bersch did not answer any
12 questions. Instead, as the ER Respondents’ counsel know because Mr. Sabo
13 attended, Mr. Bersch invoked his privilege against self-incrimination throughout the
14 examination. Why do the ER Respondents need to review Mr. Bersch’s repeated
15 invocation of his privilege against self-incrimination to prepare for the hearing?

16 But even if they do, the Commission’s Rules expressly provide that Mr.
17 Bersch is “entitled, upon written request, and upon proper identification, to inspect
18 the witness’ own testimony on a date to be set by the Director.” R14-4-304(G).
19 Neither Mr. Bersch nor his counsel has ever requested to see his EUO transcript.

20 *Fifth*, as explained in the Motion to Quash, the ER Respondents have had the
21 same opportunity as the Division to investigate this case in order to prepare their
22 defense. Nothing has prevented them from interviewing their own
23 investors/accounting clients, or reviewing the documents in the “two redwells” they
24

25 ²¹ The fact that the ER Respondents do not know which one of them was examined under oath
26 highlights how little attention they have paid to the facts of this case, as opposed to the resources
they have spent on their ill-conceived Motion to Dismiss and Special Action.

1 admittedly still have but have not produced in response the Division's subpoenas
2 duces tecum. *See* Response at 5:2-3.

3 Finally, pursuant to the Sixth Procedural Order, the parties will exchange their
4 lists of witnesses and exhibits ("LWE") on March 12, 2015. Because the Division
5 will be providing the ER Respondents and Concordia Financing Company, Ltd. with
6 the evidence referenced in the Notice via its LWE two months prior to the hearing,
7 they have no reasonable need for the overreaching and onerous Discovery Demands
8 they improperly served.

9 **VI. The ER Respondents' Erroneous Work Product Arguments Fail.**

10 The Motion to Quash explained why much of the information sought by the
11 ER Respondents is work product not and is subject to disclosure. In their Response,
12 the ER Respondents argue that the Division's pre-Notice filing memoranda and notes
13 of investor interviews, records of communications internally and with third-parties,
14 and other materials in the Division's file are not protected by the work product
15 doctrine because, incredibly, they were not prepared in anticipation of litigation. The
16 ER Respondents contend that the work product doctrine only applies to work product
17 the Division created after it filed its Notice of Opportunity for Hearing.

18 The ER Respondents confuse the meaning of "prepared in anticipation of
19 litigation" with "prepared during litigation." Not surprisingly, the ER Respondents
20 cite no authority to support their absurd argument or to counter the wealth of
21 authorities cited in the Motion to Quash at pages 9 and 10.

22 The ER Respondents also mistakenly rely on *Slade v. Schneider*²² in arguing
23 "work product protection is waived for any matters disclosed in a public
24 document...." Response at 8:1-2. But *Slade* actually held that by filing an

25
26 ²² *Slade v. Schneider*, 212 Ariz. 174, 129 P.3d 465 (App. 2006).

1 investigators' affidavit in support of an ex parte application for a temporary
 2 restraining order ("TRO"), "the Commission did not waive its work product
 3 immunity." *Slade*, 212 Ariz. at 181, ¶ 28, 129 P.3d at 470.²³

4 **VII. The Securities Act's Confidentiality Statute Bars The ER Respondents'**
 5 **Discovery Demands.**

6 With respect the Securities Act's confidentiality mandate, A.R.S. § 44-
 7 2042(A), the ER Respondents argue, "'confidential' does not mean 'not
 8 discoverable.'" Response at 6:2-3. Their argument ignores the plain text of the
 9 statute:

10
 11 A. The names of complainants and all information or documents
 12 obtained by any officer, employee or agent of the commission ... in the
 13 course of any examination or investigation are confidential unless the
 14 names, information or documents are made a matter of public record.
 15 *An officer, employee or agent of the commission shall not make the*
 16 *confidential names, information or documents available to anyone*
 17 *other than a member of the commission, another officer or employee of*
 18 *the commission, an agent who is designated by the commission or*
 19 *director, the attorney general or law enforcement or regulatory officials,*
 20 *except pursuant to any rule of the commission or unless the commission*
 21 *or the director authorizes the disclosure of the names, information or*
 22 *documents as not contrary to the public interest.*

23 A.R.S. § 44-2042 (emphasis added).

24 By statute, all information and documents obtained by the Division during an
 25 investigation are confidential. The statute contains no provision for the Division to
 26 enter into a protective order with the ER Respondents. The only documents the
 Division will make "a matter of public record" will be those the *Division* introduces

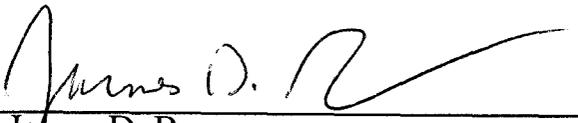
²³ The *Slade* Court also narrowly held that the records at issue were not confidential under A.R.S. § 44-2042 because the Commission had made a matter of public record the contents of a detailed, sworn, testimonial affidavit executed by the investigator in support of the Commission's complaint and related civil pleadings. *Slade*, 212 Ariz. at 182, ¶ 32, 129 P.3d at 471.

1 into evidence at hearing. Unless and until those investigatory documents are made
2 public, or the Hearing Officer requires disclosure as not contrary to the public
3 interest, § 44-2042's confidentiality mandate governs over the ER Respondents'
4 Discovery Demands.

5
6 **VIII. Conclusion**

7 The Division respectfully requests that the ER Respondents' Discovery
8 Demands be quashed.

9 RESPECTFULLY SUBMITTED this 3rd day of February, 2015.

10
11 By 
12 James D. Burgess
13 Attorney for the Securities Division
14 of the Arizona Corporation Commission
15
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24
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26

1 ORIGINAL and 8 copies of the foregoing
2 Motion to Quash
3 filed this 3rd day of February, 2015, with:

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

8 COPY of the foregoing hand-delivered
9 this 3rd day of February, 2015, to:

10 The Honorable Mark H. Preny
11 Administrative Law Judge
12 Arizona Corporation Commission
13 1200 W. Washington St.
14 Phoenix, AZ 85007

15 COPIES of the foregoing sent via
16 U.S. Mail this 3rd day of February, 2015, to:

17 Paul J. Roshka, Jr.
18 Timothy J. Sabo
19 Roshka DeWulf & Patten, PLC
20 One Arizona Center
21 400 East Van Buren, Suite 800
22 Phoenix, AZ 85004
23 Attorneys for ER Financial & Advisory Services, LLC,
24 Lance Michael Bersch, David John Wanzek, and Linda Wanzek

25 Alan S. Baskin
26 David Wood
Baskin Richards, PLC
2901 N. Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Concordia Financing Company, Ltd.

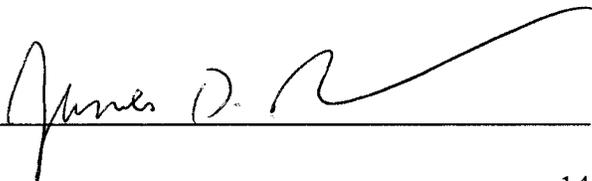


Exhibit A

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

JSDM

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF:

DOCKET NO. S-03539A-03-0000

YUCATAN RESORTS, INC., dba
3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680
Av. Coba #82, Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

YUCATAN RESORTS, S.A.,
3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680
Av. Coba #82, Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

RESORT HOLDINGS INTERNATIONAL, INC.,
3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680
Av. Coba #82, Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

RESORT HOLDINGS INTERNATIONAL, S.A.
3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680
Av. Coba #82, Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

WORLD PHANTASY TOURS, INC., aka
MAJESTY TRAVEL, aka VIAJES MAJESTY
Calle Eusebio A. Morales
Edificio Atlantida, P Baja
APDO, 8301 Zona 7 Panama

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2004 MAY -5 P 1:31
AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

MAY - 5 2004

DOCKETED BY

1 AVALON RESORTS, S.A.
Avenida Coba #82 Lote 10, 3er. Piso
Cancun, Q. Roo
2 Mexico, C.P. 77500

3 MICHAEL E. KELLY and LORI KELLY,
Husband and wife,
4 29294 Quinn Road
North Liberty, IN 46554;
5 3222 Mishawaka Avenue
South Bend, IN 46615;
6 P.O. Box 2661
South Bend, IN 46680
7

8 Respondents.

SIXTH
PROCEDURAL ORDER

9
10 **BY THE COMMISSION:**

11 On May 20, 2003, the Securities Division ("Division") of the Arizona Corporation
12 Commission ("Commission") filed a Temporary Order to Cease and Desist ("T.O.") and a Notice of
13 Opportunity for Hearing ("Notice") against Yucatan Resorts, Inc. dba Yucatan Resorts, S.A.,
14 ("Yucatan"), Resort Holdings International, Inc. dba Resort Holdings International, S.A. ("RHI"),
15 World Phantasy Tours, aka Majesty Travel, aka Viajes Majesty ("WPT") and Michael E. Kelly and
16 Lori Kelly ("Kelly") (collectively the "Respondents") in which the Division alleged multiple
17 violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in
18 the form of investment contracts.

19 Respondents Yucatan, RHI, Kelly and WPT were duly served with copies of the notice.

20 On June 10, 2003, Respondents Yucatan, RHI and Kelly filed requests for hearing.

21 On June 23, 2003, Respondents, Yucatan, RHI and Kelly filed multiple Motions to Dismiss
22 also claiming lack of personal jurisdiction and insufficiency of service of process. Yucatan, RHI and
23 Kelly also filed Answers to the TO and Notice.

24 On June 25, 2003, by Procedural Order, a pre-hearing conference was scheduled on July 10,
25 2003.

26 On July 1, 2003, counsel for Respondents Yucatan and RHI filed a Motion and Consent for
27 Admission Pro Hac Vice ("Motion PHV") for attorneys Joel Held and Elizabeth Yingling. The
28 Motion PHV was accompanied by evidence that attorneys Held and Yingling had complied with Rule

1 33 of the Rules of the Arizona Supreme Court and paid the required filing fees.

2 On July 3, 2003, counsel for the Division, Yucatan, RHI and Kelly filed a stipulation to
3 reschedule the pre-hearing conference from July 10, 2003 to July 17, 2003. The parties also agreed
4 to extend by two days, from July 8, 2003 to July 10, 2003, the date for filing the Division's
5 Responses to Respondents' Motions to Dismiss.

6 On July 8, 2003, by Procedural Order, the pre-hearing conference was continued to July 17,
7 2003 and the Motion PHV was granted.

8 On July 11, 2003, the Division filed Responses to the pending Motions to Dismiss.

9 On July 17, 2003, a pre-hearing conference was held with counsel for the Division, Yucatan,
10 RHI and Kelly present. Procedural and discovery matters were discussed. It was decided that an
11 additional pre-hearing would be scheduled after the various pleadings were filed.

12 On July 30, 2003, Replies of Yucatan, RHI and Mr. Kelly were filed to the Division's
13 Responses. Mrs. Kelly did not file a Reply.

14 On August 8, 2003, WPT filed a request for hearing and a Motion to Dismiss and Answer to
15 the TO and Notice.

16 On August 8, 2003, the Division filed a Motion to Amend the TO and Notice to add an
17 additional Respondent, Avalon Resorts, S.A. ("Avalon") to the proceeding.

18 On August 13, 2003, the Division filed its Response to WPT's Motion to Dismiss. WPT did
19 not file a Reply.

20 On August 25, 2003, Yucatan and RHI filed a Response to the Division's Motion to Amend
21 the TO and Notice to add Avalon to the proceeding.

22 On September 4, 2003, Yucatan and RHI filed what was captioned "Motion to Quash
23 Subpoenas, Objection to Subpoenas and Motion to Stay Discovery Pending Further Order" ("Motion
24 to Quash") with respect to four subpoenas which involve ongoing to investigations being conducted
25 by the Division. Yucatan and RHI argued that the individuals involved could possibly be witnesses
26 in this proceeding and pursuant to the Arizona Rules of Civil Procedure ("ARCP"), the Respondents
27 were entitled to notice and to attend and participate in the formal interviews under oath of the
28 individuals who were subpoenaed.

1 On September 12, 2003, by Procedural Order, the Motions to Dismiss were taken under
2 advisement and the Division's Motion to Amend TO and Notice was granted, and a pre-hearing
3 conference scheduled for October 8, 2003.

4 On September 18, 2003, the Division filed its Response to Yucatan's and RHI's Motion to
5 Quash arguing that the Respondents did not have standing to object to the Division's investigation of
6 these individuals and that its investigative powers were not restricted as argued by the Respondents in
7 the Motion to Quash.

8 On September 26, 2003, the parties filed a joint stipulation that the pre-hearing conference be
9 rescheduled from October 8, 2003 to October 7, 2003, at 10:00 a.m. Additionally, on September 26,
10 2003, Yucatan and RHI filed a Supplemental Motion to Quash with respect to subpoena issued to
11 Wells Fargo Bank for financial records regarding individuals or entities described in the initial
12 Motion to Quash filed by Yucatan and RHI.

13 On September 29, 2003, by Procedural Order, the pre-hearing conference scheduled for
14 October 8, 2003, was rescheduled to October 7, 2003,.

15 On September 30, 2003, Yucatan and RHI filed a Reply to the Division's Response arguing
16 that the Division should have conducted its investigation before the issuance of its TO and Notice
17 herein.

18 On October 6, 2003, the Division filed its response to the Supplemental Motion to Quash in
19 which the Division reargued its objections to either Yucatan or RHI having standing to object to the
20 Division's subpoenas citing further A.R.S. § 44-1823(A) and also raising the issue whether counsel
21 for Yucatan and RHI who is appearing Pro Hac Vice could represent any other parties or individuals
22 not named in the instant proceeding.

23 On October 7, 2003, at the pre-hearing conference, counsel for the respective parties to the
24 proceeding appeared. Various discovery issues were addressed and the parties agreed to attempt to
25 resolve these issues without an order from the presiding Administrative Law Judge. The parties
26 further agreed upon another pre-hearing conference being scheduled for November 12, 2003.

27 On November 12, 2003, at the pre-hearing conference, counsel for the Division, Yucatan,
28 RHI, WPT and Mr. and Mrs. Kelly were present. Counsel for Yucatan and RHI who is appearing Pro

1 Hac Vice indicated that he would not be representing the individuals on whose behalf he had earlier
2 filed the Motion to Quash and the Supplemental Motion to Quash. There was also a brief discussion
3 with respect to the fact that Mrs. Kelly, who had been joined in the proceeding pursuant to A.R.S. §
4 44-2031(C), had not been properly served in the proceeding. With respect to discovery issues,
5 although the parties have in good faith attempted to resolve their differences, it remained for a
6 resolution to be had. It was decided that all parties to the proceeding would be entitled to the
7 following: notice of formal interviews of witnesses by the Division with respect to this proceeding;
8 cross-notice to the Division of depositions of these witnesses by the Respondents; the right of counsel
9 for the Respondents in this proceeding to attend these formal interviews; and the right of
10 Respondents' counsel to purchase a copy of that portion of any transcript relevant to this proceeding
11 involving the aforementioned witnesses, but no other portion with respect to other investigations.
12 Respondents' counsel would not have the right to either question witnesses nor object to improper
13 questions and/or answers during the Division's formal interviews. The parties further agreed to an
14 additional pre-hearing being scheduled on January 14, 2004, at 2:00 p.m.

15 On November 21, 2003, by Procedural Order, the Motion to Quash and Supplemental Motion
16 to Quash were denied. The portion of the proceeding with respect to Mrs. Kelly was dismissed
17 without prejudice until such time it is established that proper service has been made by the Division.
18 The Division and the Respondents were ordered to follow the procedure outlined above with respect
19 to formal interviews, their notice, attendance and conduct.

20 On January 14, 2004, at the pre-hearing conference, counsel for the Division, Yucatan, RHI,
21 WPT and Mr. Kelly appeared. The status of discovery in the proceeding was discussed and it was
22 agreed that a pre-hearing conference be scheduled during the first week in March, 2004 prior to a
23 hearing being scheduled.

24 On January 15, 2004, by Procedural Order, an additional pre-hearing conference was
25 scheduled for March 4, 2004.

26 On March 4, 2004, at the pre-hearing conference, counsel for the Division, Yucatan, RHI,
27 WPT and Mr. Kelly appeared. Counsel for the Division disclosed that he believed the evidence in the
28 proceeding would establish that a Ponzi scheme developed during the course of the alleged offering.

1 In response to Respondents' arguments that the proceeding should be before the Arizona Department
2 of Real Estate rather than the Commission, counsel for the Division pointed out that a number of
3 jurisdictions had taken administrative action similar to that by the Division for securities violations,
4 and that the Division had copies of the "rulings" from these jurisdictions. Following some
5 discussion, the Division was directed to provide copies of the "rulings" to the Respondents. The
6 Division further argued that the discovery rules pursuant to the ARCP do not apply because a
7 provision of A.A.C. R14-3-101(A) states in part as follows:

8
9 . . . notwithstanding any of the above, neither these rules nor the Rules of
Civil Procedure shall apply to any investigation by the Commission, any
of its divisions or its staff.

10 In this instance, the Division pointed out that since this proceeding involves an ongoing investigation
11 of the Respondents, the filing of the T.O. and Notice do not terminate the investigation. During the
12 pre-hearing conference, it was further discussed that the parties would have ten business days to file
13 responses and would have five business days to file replies with five additional days for delivery.

14 On March 5, 2004, due to ongoing discovery disputes between the Division and Respondents,
15 the Division filed separate responses/objections to the following: First Set of Non-Uniform
16 Interrogatories and Request for Production of Documents filed by Yucatan and RHI; the First
17 Request for Production of Documents filed by WPT; and the First Request for Production of
18 Documents filed by Mr. Kelly. In response to the Respondents' requests for discovery pursuant to
19 the ARCP, the Division argued that they were outside of the limits authorized for administrative
20 proceedings pursuant to the Arizona Revised Statutes and the Rules of Practice and Procedure before
21 the Commission. The Division cited a series of cases which stood for the principle that the civil rules
22 for discovery do not apply in administrative proceedings. Specifically, the Division cited A.R.S. §
23 41-1062(A)(4) which states, ". . . no subpoenas, depositions or other discovery shall be permitted in
24 contested cases except as provided by agency rule or this paragraph." Further supporting the
25 Division's position that the Respondents would not be denied due process if the ARCP were not
26 followed in an administrative proceeding, the Division cited a Texas appellate court case, *Huntsville*
27 *Mem. Hospital v. Ernst*, 763 S.W. 2d 856, 859 (Tex. App. 1988). This case found that due process in
28

1 an administrative proceeding requires notice, a hearing and an impartial trier of fact, but does not
2 require the use of discovery as in a civil court proceeding.

3 On March 18, 2004, Respondents Yucatan, RHI, WPT and Kelly filed what was captioned,
4 "Respondents' Joint Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease
5 and Desist" ("Joint Motion to Compel/Vacate") and "Respondents' Joint Motion for Sanctions". In
6 addition, WPT filed what was captioned "Renewed Motion to Dismiss and Motion for Sanctions"
7 ("Renewed Motion"). In the Joint Motion to Compel/Vacate, the Respondents argued that the
8 Division was engaging in a form of litigation by ambush and requested that if the Division was not
9 compelled to respond to the Respondents' requests for discovery then, in the alternative, the T.O.
10 should be vacated. The Respondents argued that the Division was bound by another provision of
11 A.A.C. R14-3-101(A) which states in part as follows:

12
13 In all cases in which procedure is set forth neither by law, nor by these
14 rules, nor by regulations or orders of the Commission, the Rules of Civil
15 Procedure for the Superior Court of Arizona as established by the
16 Supreme Court of the State of Arizona shall govern.

17 In their Joint Motion for Sanctions, Respondents argued that certain of the statements made
18 by the Division's counsel at the pre-hearing conference on March 4, 2004, tainted the proceedings
19 when certain representations were made concerning proceedings in other jurisdictions which had
20 resulted in "rulings against Respondents", and purportedly did not relate to any named Respondents
21 herein. The Respondents argued that the Division should be sanctioned by an Order precluding the
22 use of any other orders from other jurisdictions as exhibits in this proceeding and that the Division's
23 counsel be admonished and prohibited from making any statements in the proceeding which are not
24 true and prejudice the Respondents.

25 WPT in its Renewed Motion argues that the Division had made vague and unsupported
26 accusations against WPT in the allegations contained in the Notice and there was no allegation that
27 WPT had directly or indirectly had been involved in any sales activities or made any
28 misrepresentations to any investors.

On April 2, 2004, the Division filed what was captioned, "Securities Division's Response to
Respondents' Joint Motion for Sanctions" arguing that the Division did not misrepresent the nature of

1 other actions taken in other jurisdictions with respect to proceedings which have been initiated by the
2 equivalent of the Division in those jurisdictions. The Division argued that its representations about
3 actions in other jurisdictions had been made primarily to counter the claim by the Respondents that
4 action should not be brought by the Division, but by the Arizona Department of Real Estate.

5 On April 2, 2004, the Division also filed what it captioned, "Securities Division's Response to
6 Respondent World Phantasy Tours, Inc.'s Renewed Motion to Dismiss and Motion for Sanctions"
7 arguing that WPT failed to consider statements made by the Division's counsel at the March 4, 2004,
8 pre-hearing conference in their entirety when renewing its claim that it should be dismissed from the
9 proceeding herein after having been previously advised that its Motion for Dismissal would be taken
10 under advisement pending an evidentiary hearing. The Division also claimed that it was entitled to
11 sanctions for attorney's fees in connection with its response to WPT's Renewed Motion.

12 On April 5, 2004, the Division filed what was captioned, "Securities Division's Response
13 [Effectively Reply] to Respondents' Joint Motion to Compel or, Alternatively, to Vacate the
14 Temporary Order to Cease and Desist" ("Division Response/Reply"). Although captioned a
15 response, this filing constitutes a reply to the Respondents' Joint Motion to Compel/Vacate which
16 amounted to be a response by Respondents to the objections, termed a "response" by the Division in
17 its March 5, 2004 filings, to the Respondents' multiple requests for discovery from the Division. The
18 Division stated that the Respondents' position was not supported by any authority contrary to the
19 Division's earlier filing which cited treatises, state and federal case law, administrative rules and the
20 Arizona Administrative Procedures Act to support its position opposing discovery pursuant to the
21 ARCP in an administrative proceeding. As was pointed out in cases cited by the Division, the
22 Respondents are provided due process in an administrative proceeding provided they have received
23 notice and have an opportunity for a hearing before an impartial trier of fact.

24 On April 7, 2004, the Respondents advised the presiding Administrative Law Judge by fax
25 that they intended to file a reply by April 12, 2004, to the Division's filing of April 5, 2004.

26 On April 12, 2004, the Respondents filed the following: "Respondents' Joint Reply in
27 Support of Joint Motion for Sanctions" ("Joint Reply for Sanctions"); "Respondents' Joint Motion to
28 Strike the Securities Division's Reply to Respondents' Joint Motion to Compel or, Alternatively,

1 Vacate the Temporary Order to Cease and Desist” (“Joint Motion to Strike”); and “WPT’s Reply in
2 Support of its Renewed Motion to Dismiss and Motion for Sanctions and Response to the Division’s
3 Request for Sanctions” (“Reply in Support”).

4 In their Joint Reply for Sanctions, Respondents restated their arguments made previously with
5 respect the Division’s representations at the March 4, 2004 pre-hearing conference concerning
6 “rulings” against the Respondents. The Respondents argued that the Division’s statement was
7 inaccurate and that the Division should be subject to sanctions. The Respondents reiterated that the
8 Division should be prohibited from the use or reference to these jurisdictions’ proceedings outside of
9 Arizona that involved securities actions against what possibly appear to be some of the Respondents
10 herein. The Respondents also requested that the Division be sanctioned and ordered to pay the
11 Respondents the reasonable expenses of their joint pleadings. The Respondents’ Joint Motion to
12 Strike the Division’s Response/Reply filed on April 5, 2004 took issue with the timeliness of the
13 Division’s Response/Reply purportedly filed beyond a filing deadline. WPT’s Reply in Support
14 reargues that there are no direct allegations which appear in the amended Notice to connect WPT to
15 the alleged violations of the Act. WPT also pointed out that WPT had not yet entered an appearance
16 in the proceeding and was not present at a July 17, 2003 pre-hearing conference where it was
17 discussed that Motions to Dismiss would be taken under advisement pending an evidentiary hearing.
18 WPT further opposed the Division’s earlier request for sanctions in its filing of April 2, 2004, in the
19 form of attorney’s fees.

20 On April 26, 2004, the Division filed what was captioned, “Securities Division’s Response to
21 Respondents’ Joint Motion to Strike”. Therein, the Division argued that Respondents’ Joint Motion
22 to Strike was unreasonable and the Respondents’ interests would not be substantially affected by the
23 denial of the Joint Motion to Strike.

24 On May 4, 2004, Yucatan, RHI, WPT and Mr. Kelly filed what was captioned, “Respondents’
25 Joint Reply in Support of Joint Motion to Strike”. Therein, Respondents replied to the Division’s
26 arguments made in the April 26, 2004, filing. Respondents argue that the Division relies on the
27 ARCP when they favor the Division, but deny their use by the Respondents depriving them of their
28 process of rights if the arguments of the Division in its Response/Reply are allowed consideration in

1 the proceeding.

2 Under the circumstances, after reviewing the various arguments posed by the parties, and the
3 applicable statutes and rules, it is concluded that A.R.S. § 41-1062(A)(4) is controlling and as a
4 result, it is concluded that discovery is not a matter of right in an administrative proceeding.
5 Therefore, the use of the discovery rules pursuant to the ARCP shall not be followed unless an
6 exception is granted by the presiding Administrative Law Judge. The objections of the Division in
7 the form of responses to the various discovery requests of the Respondents have merit and effectively
8 prevent further discovery in the form requested by the Respondents. The Respondents' Joint Motion
9 to Compel/Vacate should be denied. The Respondents' Joint Motion to Strike and the Joint Motion
10 for Sanctions should be denied; however, the so-called "rulings" from other jurisdictions will be
11 examined during the evidentiary portion of this proceeding as to their admissibility and the weight
12 that that evidence should be given. WPT's Renewed Motion should be taken under advisement at
13 this time, and WPT's Motion for Sanctions from the Division should be denied. The Division's
14 request for sanctions against Respondent WPT should also be denied.

15 IT IS THEREFORE ORDERED that the discovery requests of the Respondents to the
16 Division beyond the format previously authorized for Examinations Under Oath are hereby denied.

17 IT IS FURTHER ORDERED that the Respondents' Joint Motion to Compel/Vacate is hereby
18 denied.

19 IT IS FURTHER ORDERED that the Respondents' Joint Motion to Strike is hereby denied.

20 IT IS FURTHER ORDERED that Respondents' Joint Motion for Sanctions is hereby denied.

21 IT IS FURTHER ORDERED that WPT's Renewed Motion shall be taken under advisement.

22 IT IS FURTHER ORDERED that WPT's Motion for Sanctions against the Division is hereby
23 denied.

24 IT IS FURTHER ORDERED that the Division's Motion for Sanctions against WPT is hereby
25 denied

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that a pre-hearing conference shall be held on May 27, 2004, at
2 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona.

3 Dated this 5TH day of May, 2004.

4
5 
6 MARC E. STERN
7 ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing were mailed/delivered
9 this 5 day of May, 2004 to:

9 Martin R. Galbut
10 Jeffrey D. Gardner
11 GALBUT & HUNTER
12 2425 E. Camelback Road, Ste. 1020
13 Phoenix, AZ 85016
14 Attorneys for Respondents Yucatan Resorts,
15 Inc.
16 dba Yucatan Resorts, S.A. and
17 Resort Holdings International
18 dba Resort Holdings International, S.A.

Tom Galbraith
Kirsten Copeland
3003 N. Central Avenue, Ste. 1200
Phoenix, AZ 85012-2915
Attorneys for World Phantasy Tours, Inc.

Matt Neubert, Director
Securities Division
1300 West Washington
Phoenix, AZ 85007

15 Joel Held
16 Elizabeth Yingling
17 BAKER & MCKENZIE
18 2300 Trammell Crow Center
19 2001 Ross Avenue, Ste. 2300
20 Dallas, TX 75201
21 Attorneys for Respondents Yucatan Resorts,
22 Inc.
23 dba Yucatan Resorts, S.A. and
24 Resort Holdings International
25 dba Resort Holdings International, S.A.

ARIZONA REPORTING SERVICE, INC.
2627 N. Third Street, Ste. Three
Phoenix, AZ 85004-1003

By: 
Molly Johnson
Secretary to Marc E. Stern

21 Paul J. Roshka, Jr.
22 Dax R. Watson
23 ROSHKA HEYMAN & DEWULF, PLC
24 400 East Van Buren Street, Ste. 800
25 Phoenix, AZ 85004
26 Attorneys for Respondents Michael E. Kelly
27 and Lori Kelly
28

Exhibit B

James Burgess

From: David Wood <dwood@baskinrichards.com>
Sent: Wednesday, December 24, 2014 11:07 AM
To: Tim Sabo; Alan Baskin
Cc: James Burgess; Cristina McDonald
Subject: Concordia.ACC response

Dear Mr. Sabo,

We write in response to your letter of December 16, 2014, challenging our response to your clients' discovery demands and labeling our response a "refusal to provide even a single demand." It appears that you have misconstrued that response. Additionally, while you cite to the Arizona Rules of Civil Procedure to defend your clients' requests, the requests themselves do not comply with those rules.

First, without any specificity of documents requested, Concordia had nothing to work with, and in defense of its own time and resources properly rejected the request of the ER respondents. Even if the rules of civil procedure applied, the ER respondents can and must do more than simply sending over a blanket request for every document under the sun. In order to avoid a continued exchange, Concordia asks for your clients to actually provide a specific list of documents with which it can work. Absent that, even under the rules of civil procedure, the blanket request is over broad and unduly burdensome.

Part of that undue burden stems from an apparent erroneous assumption held by the ER respondents that these materials are simply available at the click of a button to an unlimited number of people. For instance, one of the requests is simply everything previously provided to the California Department of Business Oversight. But, those materials were all hard copies provided years before downsizing. Since that time, Concordia has reduced its staff by fifty percent. Replicating those materials is an impossibility, which would require the limited staff to dig through multiple storage facilities for hard copies. Yet, your letter does not even suggest that the ER respondents have made an attempt at retrieving those materials from the California Department of Business Oversight. Demands on Concordia should be a final effort, not the first and only. Even under the civil rules, discovery may be limited if the information is "obtainable from some other source that is either more convenient, less burdensome, or less expensive." Ariz. R. Civ. Pro. 26(b)(1)(C).

In your letter, you assert that the rules of civil procedure apply because that is routinely done. However, the law is governed by the adopted rules, not routine practice. As we noted, the commission rules adopted a specific subpoena requirement. Whether that is ignored is immaterial.

Lastly, the position of the ER respondents reverses the burdens between the parties. As to a number of items listed, your response relies on the possible testimony of the ER respondents as to alleged communications. First, the ER respondents bore responsibility as to their communications to actually preserve them. And second, if they intend to proceed to the judge with their purported knowledge as the basis to compel disclosure, they should be prepared to provide sworn statements in support of each matter. Concordia will insist as to each claim and demand upon which they have asserted knowledge, communications, or any specific action, that the ER respondents either appear for sworn testimony, or provide a sworn statement with specific statements addressing the matter.

Unfortunately, due to inaccuracies in the letter, Concordia must be firm and insist upon the ER respondents undertaking oaths in support of any motion to compel. On page four of your letter, you stated that Concordia in 2010 demanded and received "the ER Respondents' customer files . . ." That did not happen. In 2010, Concordia received from the ER respondents original vehicles titles relating to customer contracts and not customer files. Additionally, the letter

includes the allegation by the ER respondents that Dick Millar informed them that the contracts were not securities. We spoke with Mr. Millar, and he denies any such statement or conversation.

We appreciate anything that can be done to limit and specify the request of Concordia. Absent that, Concordia's position must remain the same.

Sincerely,

David

David Wood
Baskin Richards PLC
2901 N. Central Avenue, Suite 1150
Phoenix, AZ 85012
Telephone: (602) 812-7979
Fax: (602)-595-7800

Dwood@baskinrichards.com



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www.baskinrichards.com

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We do not provide tax advice and therefore any advice contained in this email and any attachments is not intended or written to be used, and cannot be used, for purposes of avoiding tax penalties that may be imposed on any taxpayer.

Exhibit C

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

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

September 5, 2012

Via Certified Mail, Return Receipt Requested

Custodian of Records
Concordia Financing Company, Ltd
9302 Pittsburgh Ave., Suite 220
Rancho Cucamonga, CA 91730

Re: Michael Bersch

/File No. 8371

Dear Custodian of Records:

Enclosed you will find a Subpoena Duces Tecum which requires your appearance before the Securities Division on **October 5, 2012 at 10:00 AM**. In lieu of personal appearance, you may provide the requested documents along with the enclosed Affidavit of Custodian of Records by the due date by mailing them to **Gary Clapper**, Securities Division, Arizona Corporation Commission, 1300 West Washington Street, Third Floor, Phoenix, Arizona 85007. Testimony concerning the documents will be scheduled at a later time, if necessary.

Should your institution not have any documents responsive to the subpoena, please provide written confirmation to that effect.

Should you have any questions regarding this subpoena, please feel free to contact me at (602) 364-1660 or (602) 542-4242.

Very truly yours,

A handwritten signature in cursive script, appearing to read "G R Clapper".

Gary Clapper
Senior Special Investigator

SUBPOENA
SECURITIES DIVISION
ARIZONA CORPORATION COMMISSION

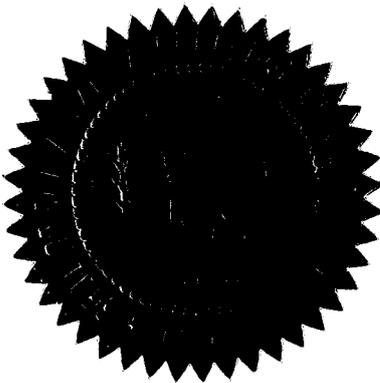
TO **Concordia Financing Company., Ltd.**
 Custodian of Records
 9302 Pittsburgh Ave., Suite 220
 Rancho Cucamonga, CA 91730

In the matter of

Michael Bersch **file number** 8371

**involving possible violations of the Securities Act
and/or Investment Management Act of Arizona.**

PURSUANT TO A.R.S. § 44-1823 AND A.R.S. § 44-3133, YOU ARE HEREBY REQUIRED to appear before **Gary Clapper** of the Securities Division of the Arizona Corporation Commission at 1300 West Washington, Third Floor, Phoenix, Arizona 85007, on the 5th day of **October, 2012** at **10:00 AM**, to PRODUCE THE DOCUMENTS SPECIFIED IN EXHIBIT "A", which is attached and incorporated by reference.



The seal of the Arizona Corporation Commission is affixed hereto, and the undersigned, a member of said Arizona Corporation Commission, or an officer designated by it, has set her hand at Phoenix, Arizona this 5th day of September, 2012.



Julie Coleman
Chief Counsel of Enforcement
Securities Division

Information and documents obtained by the Securities Division in the course of an investigation are confidential, unless made a matter of public record. The Securities Division may disclose the information or documents to a county attorney, the attorney general, a United States Attorney, or to law enforcement or regulatory officials to be used in any administrative, civil, or criminal proceeding. You may, in accordance with the rights guaranteed to you by the Fifth Amendment of the Constitution of the United States, refuse to give any information that might establish a direct link in a chain of evidence leading to your criminal conviction.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal, Executive Assistant to the Executive Director, voice phone number 602/542-3931, e-mail sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

Pursuant to A.R.S. § 44-1825 and A.R.S. § 44-3134, failure to comply with this subpoena may result in the application for a finding of contempt.

Pursuant to A.A.C. R14-4-304, any person required to appear at a formal interview may be represented by legal counsel.

Exhibit "A"

A. **Definitions:**

1. "CONCORDIA" means Concordia Finance, Concordia Financial Company, Concordia Financial Company, Inc, Concordia Financial Company, LTD, any person or entity doing business through or on behalf of Concordia Finance, Concordia Financial Company, Concordia Financial Company, Inc, Concordia Financial Company, LTD, and any predecessor- or successor-in-interest to Concordia Finance, Concordia Financial Company, Concordia Financial Company, Inc, Concordia Financial Company, LTD.
2. "ER FINANCIAL" means ER Financial, ER Financial & Advisory Services, LLC, any person or entity doing business through or on behalf of ER Financial or ER Financial & Advisory Services, LLC, and any predecessor- or successor-in-interest to ER Financial or ER Financial & Advisory Services, LLC.
3. "CONCORDIA INVESTOR" means any individual or entity to whom was offered or sold any property interest, service or management contract, note, investment contract, stock, title, lien, or other interest or investment in, by or on behalf of CONCORDIA.

B. **Requests:**

For the period from January 1, 2002, to the present, produce all documents, records, books, and any other papers, whether stored on electronic media or otherwise, relating to CONCORDIA or any CONCORDIA INVESTOR, including, but not limited to:

1. Certificates of partnership, partnership agreements, articles of incorporation or organization, bylaws, and operating agreements, including any amendments;
2. Records of all pre-organization or corporate meetings, committee meetings, shareholder or member meetings, board of director meetings, or other business meetings, including minutes, resolutions adopted or proposed, agendas, and all information used or presented at these meetings;
3. All assets and liabilities currently held by or for the benefit of CONCORDIA;
4. Names, addresses, and telephone numbers of all past and present officers and directors, managing members, managers, or managing or general partners;
5. Names, addresses, and telephone numbers of all shareholders, members, or partners, including the amount of shares, units, or interest held and a sample share certificate or other evidence of ownership;
6. Names, addresses, telephone numbers, and position of all past and present employees, independent contractors, or other agents;

7. Records of all salaries, bonuses, reimbursement, distributions, draws, loans, or any other compensation, whether monetary or otherwise, paid to the individuals listed in response to Request Nos. 4 through 6;
8. All financial statements and annual and quarterly financial reports, whether audited or unaudited, with accompanying footnotes, and any auditor's reports including any amendments;
9. All documents filed with any governmental agency related to the conduct of business, the formation of affiliated businesses, the renewal or maintenance of status as a legal entity, or the dissolution of the business;
10. All documents submitted for the purpose of compliance, reporting, or seeking exemptions from registration with any state or federal securities agency;
11. All documents concerning inquiries, investigations, or actions by any state or federal governmental agency;
12. All state and federal tax returns, including any applications, forms, or correspondence;
13. All accounting records and books of original entry including but not limited to, cash receipts journal, cash disbursements journal, sales journals, general journal, subsidiary journals, general ledger, subsidiary ledgers, and chart of accounts;
14. All bank or other depository institution accounts in the name of, or for the benefit of CONCORDIA or any CONCORDIA INVESTOR, whether open or closed, including:
 - (a) the name of the bank or depository institution and address of the branch at which the account is located;
 - (b) the name and number of each account; and
 - (c) the names of all signatories on each account;
15. All advertisements, correspondence, circulars, offering memoranda, newsletters, prospectuses, tax opinions, legal opinions, reports, brochures, flyers, handouts, or any other records made available to potential or actual investors;
16. All advertisements, announcements, infomercials, or press releases that appeared in any media including, but not limited to, newspapers, trade journals, magazines, radio, television, or the internet;
17. All information provided through the internet including, but not limited to, copies of all web pages, addresses of web sites, news groups, and email addresses;
18. All lists of prospective investors, including sales lead lists, demographic lists, and any other source of investor names, whether drafted by, purchased by, or obtained for the benefit of CONCORDIA;

19. All lists of persons who attended seminars, classes, or meetings held or sponsored by or on behalf of CONCORDIA, its affiliates or agents;
20. Names, addresses, and telephone numbers of all individuals or entities that have been offered or sold investments in or service agreements with CONCORDIA;
21. All contracts or agreements between CONCORDIA and any person or entity identified in response to Request Nos. 19 through 21, above, records of all payments made to such persons or entities, and any communications, whether written or electronic, between CONCORDIA or ER FINANCIAL, on the one hand, and any such person or entity, on the other hand;
22. Documents relating to each individual or entity listed in Request No. 22, above, including any contracts, forms, subscriptions, agreements, notes, questionnaires, records of investment status, checks, wire transfers, receipts, account statements, tax information, and any correspondence, updates, or other communications;
23. The amounts and dates of each investment for each individual or entity listed in Request No. 22, above;
24. The amounts and dates of any interest, earnings, distributions, dividends, stock splits, spin-offs, rescission, refund, or any other form of returns to each individual or entity listed in Request No. 22, above;
25. All correspondence between CONCORDIA and ER FINANCIAL, whether in document or electronic form;
26. All correspondence between CONCORDIA and any client of or entity referred to CONCORDIA by ER FINANCIAL, whether in document or electronic form;
27. Copies of all agreements between CONCORDIA and ER FINANCIAL;
28. Copies of all agreements between CONCORDIA and any client of or entity referred to CONCORDIA by ER FINANCIAL;
29. Records of all securities held, issued, purchased, or traded by or on behalf of CONCORDIA or any CONCORDIA INVESTOR, including any brokers, underwriters, market makers, clearing firm, or other entities used in each transaction;
30. Records of any mergers, acquisitions, spin-offs, or predecessor entities; and
31. All internal reports and any reports provided to shareholders, members, or partners.

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF _____)
County of _____) ss.

The undersigned hereby declares, under oath, that the following statements are true:

- 1. I am over the age of eighteen, have personal knowledge of the facts set forth below, and am competent to testify.
- 2. I am the duly authorized Custodian of Records of _____
_____.
- 3. I have the authority to certify said records.
- 4. The records submitted herewith are true copies of all records under my possession or control responsive to the Subpoena directed to the Custodian of Records of the entity identified in paragraph 2 above.
- 5. The records were prepared or obtained by personnel or representatives of the entity or persons acting under the control of personnel or representatives of the entity identified in paragraph 2 above in the ordinary course of business at or near the time of the act, condition, or event in said records.
- 6. The records are kept in the course of regularly conducted business pursuant to the regular practice of the entity identified in paragraph 2 above.

Custodian of Records

SUBSCRIBED and SWORN to before me this ____ day of _____, 2012, by _____
_____.

My Commission Expires:

NOTARY PUBLIC

(seal)

Exhibit D

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

October 10, 2012

VIA U. S. MAIL & FACSIMILE (602-594-7470)

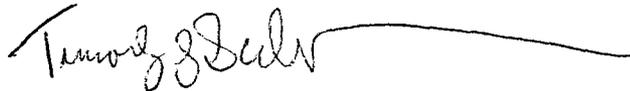
Mr. Gary Clapper, Senior Special Investigator
Securities Division
Arizona Corporation Commission
1300 W. Washington Street, 3rd Floor
Phoenix, AZ 85007

Re: Michael Bersch, David Wanzek and ER Financial and Advisory Services

Dear Mr. Clapper:

This letter will confirm our telephone conversation today granting us an extension of time until Friday October 19, 2012 to respond to the subpoenas to Mr. Michael Bersch and Mr. David Wanzek. Thank you for your courtesy.

Very truly yours,



Timothy J. Sabo
For the Firm

TJS:da

cc: Michael Bersch
David Wanzek
ER Financial and Advisory Services
Timothy J. Sabo, Esq.
Katie Chaban, CLA

ER Financial.ACC/ltr/Clapper02.docx

Exhibit E

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

October 19, 2012

VIA U. S. MAIL & FACSIMILE (602-594-7470)

Mr. Gary Clapper, Senior Special Investigator
Securities Division
Arizona Corporation Commission
1300 W. Washington Street, 3rd Floor
Phoenix, AZ 85007

Re: Michael Bersch, David Wanzek and ER Financial and Advisory Services

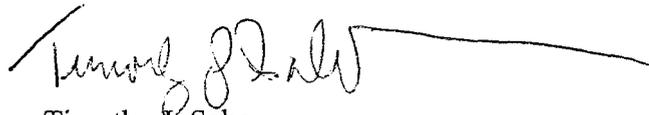
Dear Mr. Clapper:

I left you a few messages this week, but I have not heard back from you. Hopefully, you're on vacation somewhere!

I am writing regarding the subpoena responses of ER Financial and Mr. Michael Bersch. Unfortunately, we require an additional week to prepare our responses. Accordingly, we will be providing the responses next Friday, October 26, 2012.

Please let me know if you have any questions or concerns about this letter.

Very truly yours,



Timothy J. Sabo
For the Firm

TJS:da

cc: Michael Bersch
David Wanzek
ER Financial and Advisory Services
Timothy J. Sabo, Esq.
Katie Chaban, CLA

Exhibit F

ROSHKA DeWULF & PATTEN

ROSHKA DeWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

October 26, 2012

VIA U. S. MAIL & FACSIMILE (602-714-8120)

Mr. Gary Clapper, Senior Special Investigator
Securities Division
Arizona Corporation Commission
1300 W. Washington Street, 3rd Floor
Phoenix, AZ 85007

Re: Subponeas to Michael Bersch and ER Financial and Advisory Services

Dear Mr. Clapper:

This letter responds to the subponeas issued by the Arizona Corporation Commission Securities Division to ER Financial and Advisory Services, LLC ("ER") and Mr. Michael Bersch. Mr. Bersch and Mr. Wanzek would like very much to cooperate in your review of this matter. However, after consultation with counsel, Mr. Bersch, and Mr. David Wanzek as custodian of records for ER, respectfully invoke their constitutional right to remain silent under the 5th Amendment to the United States Constitution and Article II § 10 of the Arizona Constitution.

Regardless, as a practical matter it is our understanding that the vast majority of the records were returned to Concordia Finance Co., Ltd., a California corporation ("Concordia"). Copies of the UPS receipts for the boxes shipped to Concordia are attached as Exhibit A. We suggest you direct any inquiries to Concordia.

Please let me know if you have any questions or concerns about this letter.

Very truly yours,



Timothy J. Sabo
For the Firm

TJS:da
Encl.

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Exhibit

"A"

ACC000280
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TRACKING NUMBER **1Z 268 9W5 22 1000 5853**

SHIPMENT FROM
SHIPPER'S UPS ACCOUNT NO. **2689W5**
REFERENCE NUMBER

NAME **Amanda** TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS

CITY AND STATE **LAKE HAVASU CITY** ZIP CODE **AZ 86403-5695**

EXTREMELY URGENT DELIVERY TO

NAME **Christine Camacho** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd. Ste. 700** DEPT./FLR.

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**



3	WEIGHT Enter "LTR" w/ Letter 5.10	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	4	SHIPPER RELEASE <input type="checkbox"/>
5	TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	CHARGES			
6	OPTIONAL SERVICES FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> SATURDAY PICKUP <input type="checkbox"/> SATURDAY DELIVERY DECLARED VALUE FOR CARRIAGE Contents are insurable only protected up to \$100. For declared value over \$100, see instructions. C.O.D. If C.O.D., make amount to be collected and attach completed UPS C.O.D. tag to package. An Additional Handling Charge applies for certain items. See instructions.	<input type="checkbox"/> DOCUMENTS ONLY	<input type="checkbox"/> SATURDAY DELIVERY	\$	\$
7	ADDITIONAL HANDLING CHARGE	\$	\$	\$	\$
8	TOTAL CHARGES	\$	\$	\$	\$
8	METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa	CHECK <input type="checkbox"/>			
9	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.	EXPIRATION DATE			
THIRD PARTY'S COMPANY NAME					
STREET ADDRESS					
CITY AND STATE					
ZIP CODE					
SHIPPER'S SIGNATURE X Amanda Sauer					
DATE OF SHIPMENT 11/23/10					
SHIPPER'S COPY					

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TRACKING NUMBER **J213 048 295 8**

SHIPMENT FROM
SHIPPER'S UPS ACCOUNT NO. **2689WS**

REFERENCE NUMBER

NAME ~~David Wanzek CPA~~ TELEPHONE

COMPANY **David Wanzek CPA**

STREET ADDRESS **2153 McCulloch**

CITY AND STATE **Lake Havasu AZ** ZIP CODE **86403**

EXTREMELY URGENT DELIVERY TO

NAME **Christine Camacho** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd # 7000** DEPT./FLR.

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**



WEIGHT Enter "LTR" if Letter 5 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> DOCUMENTS ONLY		CHARGES
OPTIONAL SERVICES <input type="checkbox"/> SATURDAY PICKUP <input type="checkbox"/> SATURDAY DELIVERY	DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions. AMOUNT \$		\$
ADDITIONAL HANDLING CHARGE <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. AMOUNT \$		\$
TOTAL CHARGES	METHOD OF PAYMENT <input checked="" type="checkbox"/> SHIPPER'S ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa		CHECK <input type="checkbox"/>
RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.	THIRD PARTY'S COMPANY NAME		EXPIRATION DATE
STREET ADDRESS		CITY AND STATE	
CITY AND STATE		ZIP CODE	
SHIPPER'S SIGNATURE X Camacho		DATE OF SHIPMENT 11/29/10	
SHIPPER'S COPY		SHIPPER'S COPY	

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TRACKING NUMBER **J213 048 298 5**

SHIPMENT FROM
SHIPPER'S UPS ACCOUNT NO. **2689WS**

REFERENCE NUMBER

NAME **Amanda** TELEPHONE

COMPANY **David Wanzek CPA**

STREET ADDRESS **2153 McCulloch**

CITY AND STATE **Lake Havasu AZ** ZIP CODE **86403**

EXTREMELY URGENT DELIVERY TO

NAME **Christine C.** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd # 7000** DEPT./FLR.

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**

WEIGHT Enter "LTR" if Letter 7 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> DOCUMENTS ONLY		CHARGES
OPTIONAL SERVICES <input type="checkbox"/> SATURDAY PICKUP <input type="checkbox"/> SATURDAY DELIVERY	DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions. AMOUNT \$		\$
ADDITIONAL HANDLING CHARGE <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. AMOUNT \$		\$
TOTAL CHARGES	METHOD OF PAYMENT <input checked="" type="checkbox"/> SHIPPER'S ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa		CHECK <input type="checkbox"/>
RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.	THIRD PARTY'S COMPANY NAME		EXPIRATION DATE
STREET ADDRESS		CITY AND STATE	
CITY AND STATE		ZIP CODE	
SHIPPER'S SIGNATURE X Amanda		DATE OF SHIPMENT	

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TRACKING NUMBER **J213 048 286 9**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**
 REFERENCE NUMBER

NAME **Ananda** TELEPHONE
 COMPANY **David Wanzek CPA**
 STREET ADDRESS **2153 McCulloch**
 CITY AND STATE **Lake Havasu City, AZ** ZIP CODE **86403**

EXTREMELY URGENT DELIVERY TO
 NAME **Christine Canacho** TELEPHONE
 COMPANY **Concordia Finance**
 STREET ADDRESS **3633 Inland Empire Blvd #700** DEPT./FLR. **100**
 CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**



WEIGHT Enter "LTR" if Letter 5.1 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L) FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> DOCUMENTS ONLY			CHARGES
OPTIONAL SERVICES <input type="checkbox"/> SATURDAY PICKUP See instructions. <input type="checkbox"/> SATURDAY DELIVERY See instructions. <input type="checkbox"/> DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions. <input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.			\$
METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY DOMESTIC ONLY <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> American Express <input type="checkbox"/> Diner's Club <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa			CHECK <input type="checkbox"/>
RECEIVER'S / THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.			EXPIRATION DATE

THIRD PARTY'S COMPANY NAME
 STREET ADDRESS
 CITY AND STATE ZIP CODE

SHIPPER'S SIGNATURE **X Ananda** DATE OF SHIPMENT **11/24/10**
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TRACKING NUMBER **J213 048 290 3**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**
 REFERENCE NUMBER

NAME **Ananda** TELEPHONE
 COMPANY **David Wanzek CPA**
 STREET ADDRESS **2153 McCulloch Blvd.**
 CITY AND STATE **Lake Havasu City, AZ** ZIP CODE **86403**

EXTREMELY URGENT DELIVERY TO
 NAME **Christine Canacho** TELEPHONE
 COMPANY **Concordia Finance**
 STREET ADDRESS **3633 Inland Empire Blvd #700** DEPT./FLR. **100**
 CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**



WEIGHT Enter "LTR" if Letter 5.1 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L) FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> DOCUMENTS ONLY			CHARGES
OPTIONAL SERVICES <input type="checkbox"/> SATURDAY PICKUP See instructions. <input type="checkbox"/> SATURDAY DELIVERY See instructions. <input type="checkbox"/> DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions. <input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.			\$
METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY DOMESTIC ONLY <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> American Express <input type="checkbox"/> Diner's Club <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa			CHECK <input type="checkbox"/>
RECEIVER'S / THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.			EXPIRATION DATE

THIRD PARTY'S COMPANY NAME
 STREET ADDRESS
 CITY AND STATE ZIP CODE

SHIPPER'S SIGNATURE **X Ananda** DATE OF SHIPMENT **11/24/10**
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TRACKING NUMBER **J213 048 287 8**

SHIPMENT FROM
SHIPPER'S UPS ACCOUNT NO. **2689W5**
REFERENCE NUMBER

NAME **Aminda** TELEPHONE

COMPANY **David Winzek CPA**

STREET ADDRESS **2153 McCulloch Blvd.**

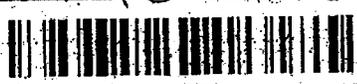
CITY AND STATE **Lake Havasu City AZ 86403**

EXTREMELY URGENT DELIVERY TO
NAME **Christine Camacho** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd #700**

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA 91764**



WEIGHT Enter "LTR" if Letter 6.165	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> DOCUMENTS ONLY		CHARGES
OPTIONAL SERVICES <input type="checkbox"/> SATURDAY PICKUP <input type="checkbox"/> DECLARED VALUE FOR CARRIAGE <input type="checkbox"/> C.O.D. <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	<input type="checkbox"/> SATURDAY DELIVERY <input type="checkbox"/> AMOUNT \$ <input type="checkbox"/> AMOUNT \$		\$
ADDITIONAL HANDLING CHARGE TOTAL CHARGES	METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPERS ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> American Express <input type="checkbox"/> Diner's Club <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa		RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. EXPIRATION DATE
THIRD PARTY'S COMPANY NAME			STREET ADDRESS
CITY AND STATE			ZIP CODE

SHIPPER'S SIGNATURE **X Aminda Winzek** DATE OF SHIPMENT **11/24/10**
SHIPPER'S COPY
010191120.1/07 S

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Shipping Document

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TRACKING NUMBER **1Z 268 9W5 22 1000 6398**

SHIPMENT FROM
SHIPPER'S UPS ACCOUNT NO. **2689W5**
REFERENCE NUMBER

NAME **Aminda** TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS **3633 Inland Empire Blvd #700**

CITY AND STATE **LAKE HAVASU CITY AZ 86403-5695**

EXTREMELY URGENT DELIVERY TO
NAME **Christine Camacho** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd #700**

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA 91764**



WEIGHT Enter "LTR" if Letter 6.2165	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value. <input type="checkbox"/> DOCUMENTS ONLY		CHARGES
OPTIONAL SERVICES <input type="checkbox"/> SATURDAY PICKUP <input type="checkbox"/> DECLARED VALUE FOR CARRIAGE <input type="checkbox"/> C.O.D. <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	<input type="checkbox"/> SATURDAY DELIVERY <input type="checkbox"/> AMOUNT \$ <input type="checkbox"/> AMOUNT \$		\$
ADDITIONAL HANDLING CHARGE TOTAL CHARGES	METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPERS ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> American Express <input type="checkbox"/> Diner's Club <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa		RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. EXPIRATION DATE
THIRD PARTY'S COMPANY NAME			STREET ADDRESS
CITY AND STATE			ZIP CODE

SHIPPER'S SIGNATURE **X Christine Camacho** DATE OF SHIPMENT **11/23/10**
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TRACKING NUMBER **1Z 268 9WS 22 1000 6389**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**
 REFERENCE NUMBER

NAME **Ananda** TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS
 CITY AND STATE **LAKE HAVASU CITY AZ** ZIP CODE **86403-5695**

EXTREMELY URGENT DELIVERY TO
 NAME **Christine Camacho** TELEPHONE
 COMPANY **Concordia Finance**
 STREET ADDRESS **3633 Inland Empire Blvd. #700** DEPT./FLR. Residential Delivery
 CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**



WEIGHT Enter "LTR" if Letter 5.65 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.	<input type="checkbox"/> EXPRESS (INT'L)	CHARGES	
<input type="checkbox"/> SATURDAY PICKUP See instructions.	<input type="checkbox"/> DOCUMENTS ONLY	\$	
<input type="checkbox"/> SATURDAY DELIVERY See instructions.	<input type="checkbox"/> SATURDAY DELIVERY	\$	
<input type="checkbox"/> DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.	\$	\$	
<input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.	\$	\$	
<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	\$		
TOTAL CHARGES	\$		
METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER (IN SECTION 1) <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY DOMESTIC ONLY <input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.		CHECK <input type="checkbox"/>
EXPIRATION DATE			1/1
THIRD PARTY'S COMPANY NAME			
STREET ADDRESS			
CITY AND STATE ZIP CODE			
<small>The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.</small>			
SHIPPER'S SIGNATURE X Ananda			DATE OF SHIPMENT 1/12/10
0101911202609 1107 8			SHIPPER'S COPY

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TRACKING NUMBER **1Z 268 9WS 22 1000 6405**

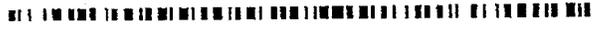
SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**
 REFERENCE NUMBER

NAME **Amanda** TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS
 CITY AND STATE **LAKE HAVASU CITY AZ** ZIP CODE **86403-5695**

EXTREMELY URGENT DELIVERY TO
 NAME **Christine Camacho** TELEPHONE
 COMPANY **Concordia Finance**
 STREET ADDRESS **3633 Inland Empire Blvd. #700** DEPT./FLR. Residential Delivery
 CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA** ZIP CODE **91764**



WEIGHT Enter "LTR" if Letter 6.15 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.	<input type="checkbox"/> EXPRESS (INT'L)	CHARGES	
<input type="checkbox"/> SATURDAY PICKUP See instructions.	<input type="checkbox"/> DOCUMENTS ONLY	\$	
<input type="checkbox"/> SATURDAY DELIVERY See instructions.	<input type="checkbox"/> SATURDAY DELIVERY	\$	
<input type="checkbox"/> DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.	\$	\$	
<input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.	\$	\$	
<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	\$		
TOTAL CHARGES	\$		
METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER (IN SECTION 1) <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY DOMESTIC ONLY <input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.		CHECK <input type="checkbox"/>
EXPIRATION DATE			1/1
THIRD PARTY'S COMPANY NAME			
STREET ADDRESS			
CITY AND STATE ZIP CODE			
<small>The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.</small>			
SHIPPER'S SIGNATURE X Amanda			DATE OF SHIPMENT 1/12/10
0101911202609 1107 8			SHIPPER'S COPY

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TRACKING NUMBER **1Z 268 9W5 22 1000 5880**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**

REFERENCE NUMBER

NAME **Amanda** TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS

CITY AND STATE **LAKE HAVASU CITY AZ 86403-5695**

EXTREMELY URGENT DELIVERY TO

NAME **Christine Camacho** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd. #700**

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA 91764**



WEIGHT	WEIGHT Enter "LTR" if Letter 4.55 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE	SHIPPER RELEASE
TYPE OF SERVICE	<input checked="" type="checkbox"/> NEXT DAY AIR	<input type="checkbox"/> EXPRESS (INT'L)	CHARGES	
FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.	<input type="checkbox"/> DOCUMENTS ONLY	\$		
<input type="checkbox"/> SATURDAY PICKUP See instructions.	<input type="checkbox"/> SATURDAY DELIVERY See instructions.	\$		
OPTIONAL SERVICES	DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.	\$	AMOUNT	\$
<input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.	\$	AMOUNT	\$	\$
ADDITIONAL HANDLING CHARGE	<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	\$		
TOTAL CHARGES	\$			
METHOD OF PAYMENT	<input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER	<input type="checkbox"/> BILL RECEIVER DOMESTIC ONLY	<input type="checkbox"/> BILL THIRD PARTY	<input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa
RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.	THIRD PARTY'S COMPANY NAME			EXPIRATION DATE
STREET ADDRESS				ZIP CODE
CITY AND STATE				ZIP CODE
<small>The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.</small>				
SHIPPER'S SIGNATURE X Amanda Samaan				DATE OF SHIPMENT 11/23/10
<small>All shipments are subject to the terms contained in the UPS Tariff/Terms and Conditions of Service, which are available at ups.com and local UPS offices.</small>				
0101911202609 1J07 S				SHIPPER'S COPY

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TRACKING NUMBER **1Z 268 9W5 22 1000 5862**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**

REFERENCE NUMBER

NAME **Amanda** TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS

CITY AND STATE **LAKE HAVASU CITY AZ 86403-5695**

EXTREMELY URGENT DELIVERY TO

NAME **Christine Camacho** TELEPHONE

COMPANY **Concordia Finance**

STREET ADDRESS **3633 Inland Empire Blvd. #700**

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario, CA 91764**

WEIGHT	WEIGHT Enter "LTR" if Letter 6.70 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE	SHIPPER RELEASE
TYPE OF SERVICE	<input checked="" type="checkbox"/> NEXT DAY AIR	<input type="checkbox"/> EXPRESS (INT'L)	CHARGES	
FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.	<input type="checkbox"/> DOCUMENTS ONLY	\$		
<input type="checkbox"/> SATURDAY PICKUP See instructions.	<input type="checkbox"/> SATURDAY DELIVERY See instructions.	\$		
OPTIONAL SERVICES	DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.	\$	AMOUNT	\$
<input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.	\$	AMOUNT	\$	\$
ADDITIONAL HANDLING CHARGE	<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	\$		
TOTAL CHARGES	\$			
METHOD OF PAYMENT	<input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER	<input type="checkbox"/> BILL RECEIVER DOMESTIC ONLY	<input type="checkbox"/> BILL THIRD PARTY	<input type="checkbox"/> CREDIT CARD American Express Diner's Club MasterCard Visa
RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.	THIRD PARTY'S COMPANY NAME			EXPIRATION DATE
STREET ADDRESS				ZIP CODE
CITY AND STATE				ZIP CODE
<small>The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.</small>				
SHIPPER'S SIGNATURE X Amanda Samaan				DATE OF SHIPMENT 11/23/10
<small>All shipments are subject to the terms contained in the UPS Tariff/Terms and Conditions of Service, which are available at ups.com and local UPS offices.</small>				

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TRACKING NUMBER **1Z 268 9W5 22 1000 5899**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**
 REFERENCE NUMBER

NAME Amanda TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS 17

CITY AND STATE **LAKE HAVASU CITY AZ** ZIP CODE **86403-5695**

EXTREMELY URGENT DELIVERY TO

NAME Christine Camacho TELEPHONE

COMPANY Concordia Finance

STREET ADDRESS 3633 Inland Empire Blvd. ste. 700 DEPT./FLR.

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) Ontario, CA ZIP CODE 91764



3 WEIGHT	WEIGHT Enter "LTR" if Letter 5.60lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	4 SHIPPER RELEASE <input type="checkbox"/>
5 TYPE OF SERVICE	<input checked="" type="checkbox"/> NEXT DAY AIR	<input type="checkbox"/> EXPRESS (INT'L)	CHARGES	
6 OPTIONAL SERVICES	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.		<input type="checkbox"/> DOCUMENTS ONLY	\$
7 ADDITIONAL HANDLING CHARGE	<input type="checkbox"/> SATURDAY PICKUP See instructions.	<input type="checkbox"/> SATURDAY DELIVERY See instructions.	\$	
8 METHOD OF PAYMENT	DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.		\$	AMOUNT
	C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.		\$	AMOUNT
	An Additional Handling Charge applies for certain items. See instructions.		\$	
	TOTAL CHARGES		\$	
	BILL SHIPPER'S ACCOUNT NUMBER <input checked="" type="checkbox"/>	BILL RECEIVER <input type="checkbox"/>	BILL THIRD PARTY DOMESTIC ONLY <input type="checkbox"/>	CREDIT CARD <input type="checkbox"/>
	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.			EXPIRATION DATE
	THIRD PARTY'S COMPANY NAME			
	STREET ADDRESS			
	CITY AND STATE ZIP CODE			
	SHIPPER'S SIGNATURE <u>X Amanda Salinas</u> DATE OF SHIPMENT <u>11/23/10</u>			
	SHIPPER'S COPY			

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TRACKING NUMBER **1Z 268 9W5 22 1000 5844**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689W5**
 REFERENCE NUMBER

NAME Amanda TELEPHONE **928-453-7377**

COMPANY **DAVID WANZEK CPA LLC**

STREET ADDRESS

CITY AND STATE **LAKE HAVASU CITY AZ** ZIP CODE **86403-5695**

EXTREMELY URGENT DELIVERY TO

NAME Christine Camacho TELEPHONE

COMPANY Concordia Finance

STREET ADDRESS 3633 Inland Empire Blvd. ste. 700 DEPT./FLR.

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) Ontario, CA ZIP CODE 91764

3 WEIGHT	WEIGHT Enter "LTR" if Letter 4.75lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	4 SHIPPER RELEASE <input type="checkbox"/>
5 TYPE OF SERVICE	<input checked="" type="checkbox"/> NEXT DAY AIR	<input type="checkbox"/> EXPRESS (INT'L)	CHARGES	
6 OPTIONAL SERVICES	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.		<input type="checkbox"/> DOCUMENTS ONLY	\$
7 ADDITIONAL HANDLING CHARGE	<input type="checkbox"/> SATURDAY PICKUP See instructions.	<input type="checkbox"/> SATURDAY DELIVERY See instructions.	\$	
8 METHOD OF PAYMENT	DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.		\$	AMOUNT
	C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.		\$	AMOUNT
	An Additional Handling Charge applies for certain items. See instructions.		\$	
	TOTAL CHARGES		\$	
	BILL SHIPPER'S ACCOUNT NUMBER <input checked="" type="checkbox"/>	BILL RECEIVER <input type="checkbox"/>	BILL THIRD PARTY DOMESTIC ONLY <input type="checkbox"/>	CREDIT CARD <input type="checkbox"/>
	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.			
	EXPIRATION DATE			
	THIRD PARTY'S COMPANY NAME			
	STREET ADDRESS			
	CITY AND STATE ZIP CODE			
	SHIPPER'S SIGNATURE <u>X Amanda Salinas</u> DATE OF SHIPMENT <u>11/23/10</u>			
	SHIPPER'S COPY			

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TRACKING NUMBER **J213 048 291 2**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689WS**
 REFERENCE NUMBER

NAME **Amanda Samois** TELEPHONE
 COMPANY **David Wanzek CPA**
 STREET ADDRESS **2153 McCulloch Blvd**
 CITY AND STATE **Lake Havasu AZ** ZIP CODE **86403**

EXTREMELY URGENT DELIVERY TO
 NAME **Christine Camacho** TELEPHONE
 COMPANY **Concordia Finance**
 STREET ADDRESS **3633 Inland Empire Blvd #700**
 CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario CA** ZIP CODE **91764**



WEIGHT Enter "LIR" if Letter 5 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.		CHARGES
<input type="checkbox"/> SATURDAY PICKUP See Instructions.	<input type="checkbox"/> SATURDAY DELIVERY See Instructions.	<input type="checkbox"/> DOCUMENTS ONLY	\$
<input type="checkbox"/> DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.	\$	AMOUNT	\$
<input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.	\$	AMOUNT	\$
<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	\$		\$
TOTAL CHARGES			\$
METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> American Express <input type="checkbox"/> Diner's Club <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.		EXPIRATION DATE
THIRD PARTY'S COMPANY NAME			
STREET ADDRESS			
CITY AND STATE			ZIP CODE
SHIPPER'S SIGNATURE X Amanda Samois			DATE OF SHIPMENT 11/29/10
010191120 1/07 S			SHIPPER'S COPY

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TRACKING NUMBER **J213 048 294 9**

SHIPMENT FROM
 SHIPPER'S UPS ACCOUNT NO. **2689WS**
 REFERENCE NUMBER

NAME **Amanda Samois** TELEPHONE
 COMPANY **David Wanzek CPA**
 STREET ADDRESS **2153 McCulloch**
 CITY AND STATE **Lake Havasu AZ** ZIP CODE **86403**

EXTREMELY URGENT DELIVERY TO
 NAME **Christine Camacho** TELEPHONE
 COMPANY **Concordia Finance**
 STREET ADDRESS **3633 Inland Empire Blvd #700**
 CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL) **Ontario CA** ZIP CODE **91764**



WEIGHT Enter "LIR" if Letter 6 lbs	DIMENSIONAL WEIGHT If Applicable	LARGE PACKAGE <input type="checkbox"/>	SHIPPER RELEASE <input type="checkbox"/>
TYPE OF SERVICE <input checked="" type="checkbox"/> NEXT DAY AIR <input type="checkbox"/> EXPRESS (INT'L)	FOR WORLDWIDE EXPRESS SHIPMENTS Mark an "X" in this box if shipment only contains documents of no commercial value.		CHARGES
<input type="checkbox"/> SATURDAY PICKUP See Instructions.	<input type="checkbox"/> SATURDAY DELIVERY See Instructions.	<input type="checkbox"/> DOCUMENTS ONLY	\$
<input type="checkbox"/> DECLARED VALUE FOR CARRIAGE Contents are automatically protected up to \$100. For declared value over \$100, see instructions.	\$	AMOUNT	\$
<input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.	\$	AMOUNT	\$
<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.	\$		\$
TOTAL CHARGES			\$
METHOD OF PAYMENT <input checked="" type="checkbox"/> BILL SHIPPER'S ACCOUNT NUMBER <input type="checkbox"/> BILL RECEIVER <input type="checkbox"/> BILL THIRD PARTY <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> American Express <input type="checkbox"/> Diner's Club <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa	RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.		EXPIRATION DATE
THIRD PARTY'S COMPANY NAME			
STREET ADDRESS			
CITY AND STATE			ZIP CODE
SHIPPER'S SIGNATURE X Amanda Samois			DATE OF SHIPMENT 11/29/10
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*** TX REPORT ***

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TX/RX NO 1304
RECIPIENT ADDRESS 6027148120
DESTINATION ID
ST. TIME 10/26 14:23
TIME USE 07'52
PAGES SENT 11
RESULT OK

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE NO 602-256-6800

ACC000289
BERSCH

Writer's Direct Dial Number
(602) 256-6100

Client Name
ER Financial ACC

October 26, 2012

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PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	COMPANY	FACSIMILE NO.
Mr. Gary Clapper	Securities Division ACC	602-714-8120

RE: Subpoenas to Michael Bersch and ER Financial and Advisory Services

TOTAL NUMBER OF PAGES INCLUDING THIS COVER PAGE: 11

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE NO 602-256-6800

Writer's Direct Dial Number
(602) 256-6100

Client Name
ER.Financial.ACC

October 26, 2012

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PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	COMPANY	FASCIMILE NO.
Mr. Gary Clapper	Securities Division ACC	602-714-8120

RE: Subpoenas to Michael Bersch and ER Financial and Advisory Services

TOTAL NUMBER OF PAGES INCLUDING THIS COVER PAGE: 11
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ACC000290
BERSCH

Exhibit G

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

November 30, 2012

VIA U. S. MAIL & FACSIMILE (602-714-8120)

Stephen J. Womack, Esq.
Securities Division
Arizona Corporation Commission
1300 W. Washington St., Third Floor
Phoenix, AZ 85007-2996

Re: ER Financial & Advisory Services, LLC, Your File No. 8371

Dear Mr. Womack:

It has been brought to our attention that the Arizona Corporation Commission Securities Division ("Division") issued two subpoenas addressed to the "Custodian of Records" of "ER Financial & Advisory Services, LLC ("ER") on November 5, 2012. One subpoena was a subpoena duces tecum due December 5, 2012, and the other subpoena was for an examination under oath by the "Custodian of Records" of ER on December 17, 2012. The subpoenas were served by certified mail sent on November 5, 2012, and received on or about November 7, 2012.

Attached for your information is a copy of the Certificate of Termination issued by the Corporations Division of the Arizona Corporation Commission for ER on November 5, 2012, reflecting Articles of Termination filed by ER on October 31, 2012. Thus, as of October 31, 2012, ER no longer exists, and therefore there can be no "Custodian of Records". See A.R.S. § 29-782(A)(1).

In short, the subpoenas were issued to the Custodian of an entity that does not exist, and therefore the subpoenas are a nullity. Of course, the foregoing does not apply to the subpoena issued to Mr. Michael Bersch for an Examination Under Oath on December 18, 2012.

If you have any questions or concerns, please let me know.

Very truly yours,



Timothy J. Sabo
For the Firm

TJS:da
Encl.

STATE OF ARIZONA



Office of the CORPORATION COMMISSION

CERTIFICATE OF TERMINATION

To all to whom these presents shall come, greeting:

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that

*****ER FINANCIAL & ADVISORY SERVICES LLC*****

An Arizona Limited Liability Company, on this 31st day of October, 2012, filed Articles of Termination, attesting that properties and assets have been applied and distributed pursuant to the Arizona Limited Liability Company Act.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 5th Day of November, 2012, A. D.



Executive Director

By

Exhibit H

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

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

November 5, 2012

CMRRR No. 7010 1670 0000 9053 2319

Custodian of Records
ER Financial & Advisory Services, LLC
375 S. Lake Havasu, Unit D
Lake Havasu City, AZ 86403

Re: ER Financial

/File No. 8371

Dear Custodian of Records:

Enclosed you will find a Subpoena Duces Tecum which requires your appearance before the Securities Division on **December 5th, 2012 at 10:00 AM**. In lieu of personal appearance, you may provide the requested documents along with the enclosed Affidavit of Custodian of Records by the due date by mailing them to **Gary Clapper**, Securities Division, Arizona Corporation Commission, 1300 West Washington Street, Third Floor, Phoenix, Arizona 85007. Testimony concerning the documents will be scheduled at a later time, if necessary.

Should your institution not have any documents responsive to the subpoena, please provide written confirmation to that effect.

Should you have any questions regarding this subpoena, please feel free to contact me at (602) 364-1660 or (602) 542-4242.

Very truly yours,

Gary Clapper
Senior Special Investigator

SUBPOENA
SECURITIES DIVISION
ARIZONA CORPORATION COMMISSION

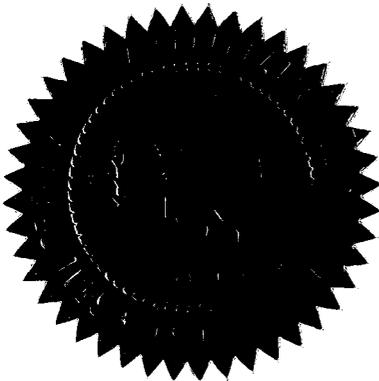
TO ER Financial & Advisory Services, LLC
Custodian of Records
375 S. Lake Havasu, Unit D
Lake Havasu City, AZ 86403

In the matter of

ER Financial file number 8371

**involving possible violations of the Securities Act
and/or Investment Management Act of Arizona.**

PURSUANT TO A.R.S. § 44-1823 AND A.R.S. § 44-3133, YOU ARE HEREBY REQUIRED to appear before **Gary Clapper** of the Securities Division of the Arizona Corporation Commission at 1300 West Washington, Third Floor, Phoenix, Arizona 85007, on the 5th day of **December, 2012** at **10:00 AM**, to PRODUCE THE DOCUMENTS SPECIFIED IN EXHIBIT "A", which is attached and incorporated by reference.



The seal of the Arizona Corporation Commission is affixed hereto, and the undersigned, a member of said Arizona Corporation Commission, or an officer designated by it, has set his hand at Phoenix, Arizona this 5th day of November, 2012.

A handwritten signature in black ink, appearing to read "Mark Dinell", is written over a horizontal line.

Mark Dinell
Assistant Director of Securities
Securities Division

Information and documents obtained by the Securities Division in the course of an investigation are confidential, unless made a matter of public record. The Securities Division may disclose the information or documents to a county attorney, the attorney general, a United States Attorney, or to law enforcement or regulatory officials to be used in any administrative, civil, or criminal proceeding. You may, in accordance with the rights guaranteed to you by the Fifth Amendment of the Constitution of the United States, refuse to give any information that might establish a direct link in a chain of evidence leading to your criminal conviction.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal, Executive Assistant to the Executive Director, voice phone number 602/542-3931, e-mail sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

Pursuant to A.R.S. § 44-1825 and A.R.S. § 44-3134, failure to comply with this subpoena may result in the application for a finding of contempt.

Pursuant to A.A.C. R14-4-304, any person required to appear at a formal interview may be represented by legal counsel.

Exhibit A

A. Definitions:

1. "CONCORDIA" means Concordia Finance, Concordia Financial Company, Concordia Financial Company, Inc, Concordia Financial Company, LTD, any person or entity doing business through or on behalf of Concordia Finance, Concordia Financial Company, Concordia Financial Company, Inc, Concordia Financial Company, LTD, and any predecessor- or successor-in-interest to Concordia Finance, Concordia Financial Company, Concordia Financial Company, Inc, Concordia Financial Company, LTD.
2. "ER FINANCIAL" means ER Financial, ER Financial & Advisory Services, LLC, any person or entity doing business through or on behalf of ER Financial or ER Financial & Advisory Services, LLC, and any predecessor- or successor-in-interest to ER Financial or ER Financial & Advisory Services, LLC.
3. "CONCORDIA INVESTOR" means any individual or entity to whom was offered or sold any property interest, service or management contract, note, investment contract, stock, title, lien, or other interest or investment in, by or on behalf of CONCORDIA.

B. Requests:

For the period from January 1, 2002, to the present, produce all documents, records, books, and any other papers, whether stored on electronic media or otherwise, relating to ER FINANCIAL, including, but not limited to:

1. Names, addresses, telephone numbers, and dates of service of all past and present officers and directors, managing members, managers, or managing or general partners;
2. Names, addresses, and telephone numbers, and dates of ownership, membership or partnership of all shareholders, members, or partners, including the amount of shares, units, or interest held;
3. Names, addresses, telephone numbers, dates of employment, and titles of all past and present employees, independent contractors, or other agents;
4. All accounting records and books of original entry related to CONCORDIA, including but not limited to, cash receipts journal, cash disbursements journal, sales journals, general journal, subsidiary journals, general ledger, subsidiary ledgers, and chart of accounts;

5. All bank or other depository institution accounts in the name of, or for the benefit of CONCORDIA or any CONCORDIA INVESTOR, whether open or closed, including:
 - (a) the name of the bank or depository institution and address of the branch at which the account is located;
 - (b) the name and number of each account; and
 - (c) the names of all signatories on each account;
6. Records of all monies, interests, liens or claims transferred by or on behalf of CONCORDIA, to any individual or entity listed in response to Request Nos. 1 through 3, above
7. Records of all monies, interests, liens or claims transferred by or on behalf of any CONCORDIA INVESTOR as a result of the investor's investment in CONCORDIA to any individual or entity listed in response to Request Nos. 1 through 3, above;
8. All information regarding CONCORDIA provided to any potential or actual CONCORDIA INVESTOR;
9. Names, addresses, and telephone numbers of all individuals or entities to whom ER FINANCIAL recommended, referred, or otherwise provided information about CONCORDIA;
10. Names, addresses, and telephone numbers of all individuals or entities to whom ER FINANCIAL offered or sold investment in CONCORDIA;
11. All contracts or agreements between ER FINANCIAL and any person or entity identified in response to Request No. 10, above, and records of all payments made to or on behalf of such persons or entities.
12. All communications, whether written or electronic, between ER FINANCIAL, on the one hand, and any person or entity identified in response to Request Nos. 9 or 10, above, on the other hand;
13. The amounts and dates of each investment for each individual or entity listed in response to Request No. 10, above;
14. All documents relating to any investment in Concordia by each individual or entity listed in response to Request No. 10, above, including any contracts, forms, subscriptions, agreements, notes, questionnaires, records of investment status, checks, wire transfers, receipts, account statements, tax information, and any correspondence, updates, or other communications;

15. All monies transferred to ER FINANCIAL from or on behalf of CONCORDIA, from or on behalf of any CONCORDIA INVESTOR, otherwise related to investment in CONCORDIA;
16. All correspondence between CONCORDIA and ER FINANCIAL, whether in document or electronic form; and
17. Copies of all agreements between CONCORDIA and ER FINANCIAL.

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF _____)
County of _____) ss.

The undersigned hereby declares, under oath, that the following statements are true:

- 1. I am over the age of eighteen, have personal knowledge of the facts set forth below, and am competent to testify.
- 2. I am the duly authorized Custodian of Records of _____
_____.
- 3. I have the authority to certify said records.
- 4. The records submitted herewith are true copies of all records under my possession or control responsive to the Subpoena directed to the Custodian of Records of the entity identified in paragraph 2 above.
- 5. The records were prepared or obtained by personnel or representatives of the entity or persons acting under the control of personnel or representatives of the entity identified in paragraph 2 above in the ordinary course of business at or near the time of the act, condition, or event in said records.
- 6. The records are kept in the course of regularly conducted business pursuant to the regular practice of the entity identified in paragraph 2 above.

Custodian of Records

SUBSCRIBED and SWORN to before me this ____ day of _____, 2012, by _____
_____.

My Commission Expires:

NOTARY PUBLIC

(seal)

Exhibit I

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

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

November 5, 2012

CMRRR No. 7010 1670 0000 9053 2319

ER Financial & Advisory Services, LLC
Custodian of Records
375 S. Lake Havasu, Unit D
Lake Havasu City, AZ 86403

RE: ER Financial & Advisory Services, LLC

Dear Custodian of Records:

Attached is a Subpoena for your appearance on **December 17th, 2012 at 1:00 PM** at the offices of the Securities Division of the Arizona Corporation Commission, 1300 West Washington, Third Floor, Phoenix, Arizona. On that date and time, you must appear for testimony under oath.

Under the Rules of the Arizona Corporation Commission relating to formal interviews, an individual has the right to be accompanied, represented and advised by counsel. This gives you the right to have an attorney present during formal interviews and to have an attorney provide legal advice before, during and after such interviews. Your attorney may also question you briefly at the conclusion of the interview for the purpose of clarifying any of your prior testimony, and he or she may also make summary notes during the interview solely for your and your attorney's use.

Please note that the above-referenced Rules prohibit a particular attorney from representing you under certain circumstances. For your convenience, we have enclosed a copy of those Rules.

Information and documents obtained by the Securities Division in the course of an investigation are confidential, unless made a matter of public record. The Securities Division may disclose the information or documents to a county attorney, the attorney general, a United States Attorney, or to law enforcement or regulatory officials to be used in any administrative, civil, or criminal proceeding. You may, in accordance with the rights guaranteed to you by the Fifth Amendment of the Constitution of the United States, refuse to give any information that might establish a direct link in a chain of evidence leading to your criminal conviction.

This Subpoena is being served upon you with sufficient notice in order to enable you to retain the services of an attorney, if you so wish. If you have or your attorney has any questions regarding the above or the attached Subpoena, please feel free to contact the undersigned at (602) 364-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Clapper".

Gary Clapper
Senior Special Investigator

R14-4-304. Rights of witnesses; formal interview; procedures

- A.** Any person required or requested to appear as a witness at a formal interview may be accompanied, represented, and advised by a lawyer. The lawyer's roll during the formal interview shall be limited to the following activities:
1. Giving legal advice to the witness before, during, and after the formal interview;
 2. Questioning the witness briefly at the conclusion of the formal interview for the purpose of clarifying any testimony the witness has given; and
 3. Making summary notes during the formal interview solely for the use of the witness and the lawyer.
- B.** Notwithstanding Subsection (A), the following lawyers may not represent witnesses:
1. Any lawyer who has represented another witness who has testified at a formal interview in the examination or investigation,
 2. Any lawyer who has represented another person who is a subject of the examination or investigation,
 3. Any lawyer who may be a material witness in the examination or investigation,
 4. Any lawyer who is subject of the examination or investigation.
- C.** The Director may permit a lawyer to represent a witness in those situations described in subsections (B)(1) through (B)(4) upon a showing that such representation should be permitted in the interest of justice and will not obstruct the examination or investigation. If a lawyer is not permitted to represent a witness under Subsection (B), that lawyer's partners or associates of the lawyer's law firm are also precluded from representing the witness.
- D.** All formal interviews may be recorded by the Division either mechanically or by a shorthand reporter employed by the Division. No other recording of the formal interview will be permitted, except summary note taking.
- E.** In addition to the persons identified in subsections (A), (C), and (D), the following individuals may attend a formal interview:
1. Individuals employed by the Commission or the office of the attorney general.
 2. Members of law enforcement or other state, federal, or self-regulatory agencies authorized by the Division.
 3. Translators authorized by the Division.
- F.** The Division may exclude from a formal interview any person previously permitted to attend the formal interview, including a lawyer, whose conduct is dilatory, obstructionist, or contumacious. In addition, the members of the staff of the Division conducting the formal interview may report the conduct to the Director for appropriate action. The Director may thereupon take such further action as circumstances may warrant, including, but not limited to, exclusion from further participation in the examination or investigation.
- G.** A person who has submitted documentary evidence or testimony in connection with a formal interview shall be entitled, upon written request, and upon proper identification, to inspect the witness' own testimony on a date to be set by the Director. The Director may delay the inspection of the record until the conclusion of the examination or investigation if, in the Director's discretion, the Director determines that earlier inspection may obstruct or delay the examination or investigation.
- H.** In connection with an examination or investigation, the Director may delegate authority to members of the staff to administer oaths and affirmations, sign subpoenas, take evidence, and receive books, papers, contracts, agreements or other documents, records, or information, whether filed or kept in original or copied form or electronically stored or recorded.
- I.** During a formal interview, a witness shall not knowingly make any untrue statements of material fact or omit to state any material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

SUBPOENA
SECURITIES DIVISION
ARIZONA CORPORATION COMMISSION

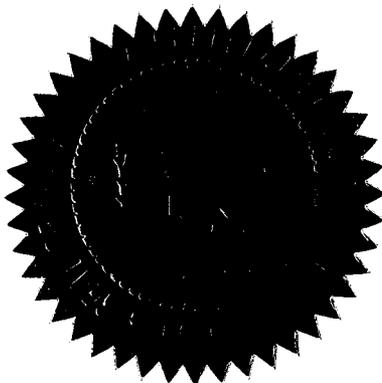
TO: ER Financial & Advisory Services, LLC
Custodian of Records
375 S. Lake Havasu, Unit D
Lake Havasu City, AZ 86403

In the Matter of

ER Financial file number 8371

**involving possible violations of the Securities Act
and/or Investment Management Act of Arizona**

PURSUANT TO A.R.S. § 44-1823 AND A.R.S. § 44-3133, YOU ARE HEREBY REQUIRED to appear before **Stephen Womack** of the Securities Division of the Arizona Corporation Commission at 1300 West Washington, Third Floor, Phoenix, Arizona 85007, on the 17th day of **December, 2012**, at **1:00 o'clock PM**, TO PROVIDE TESTIMONY.



The seal of the Arizona Corporation Commission is affixed hereto, and the undersigned, a member of said Arizona Corporation Commission, or an officer designated by it, has set his hand at, Phoenix, Arizona this 5th day of November, 2012.

A handwritten signature in black ink, appearing to read "Mark Dinell", written over a horizontal line.

Mark Dinell
Assistant Director of Securities
Securities Division

Information and documents obtained by the Securities Division in the course of an investigation are confidential, unless made a matter of public record. The Securities Division may disclose the information or documents to a county attorney, the attorney general, a United States Attorney, or to law enforcement or regulatory officials to be used in any administrative, civil, or criminal proceeding. You may, in accordance with the rights guaranteed to you by the Fifth Amendment of the Constitution of the United States, refuse to give any information that might establish a direct link in a chain of evidence leading to your criminal conviction.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal, Executive Assistant to the Executive Director, voice phone number 602/542-3931, e-mail sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

Pursuant to A.R.S. § 44-1825 and A.R.S. § 44-3134, failure to comply with this subpoena may result in the application for a finding of contempt.

Pursuant to A.A.C. R14-4-304, any person required to appear at a formal interview may be represented by legal counsel.

Exhibit J

ROSHKA DEWULF & PATTEN

ROSHKA DEWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

December 4, 2012

VIA U. S. MAIL & FACSIMILE (602-714-8120)

Stephen J. Womack, Esq.
Enforcement Attorney
Securities Division
Arizona Corporation Commission
1300 W. Washington St., Third Floor
Phoenix, AZ 85007-2996

Re: ER Financial & Advisory Services, LLC, Your File No. 8371

Dear Mr. Womack:

This letter responds to your letter dated December 3, 2012. Your letter states that subpoenas to the "Custodian of Records" of "ER Financial & Advisory Services, LLC" ("ER") were not nullities, despite the fact that ER existence was terminated before the subpoenas were issued. In particular, your letter states "Section 29-782(A), however, does not relieve your clients from the obligation imposed by the subpoenas. *See* A.R.S. §§ 29-782(B)(3) and 29-784."

The statutes cited in your letter do not negate the termination of ER and its separate existence. For example, A.R.S. § 29-782(B)(3) provides that "After its dissolution, until its separate existence terminates, a dissolved limited liability company shall not carry on any business except business that is necessary to wind up and liquidate its business and affairs, including any of the following:... 3. Discharging or making provisions for discharging its liabilities." Your letter does not refer to any liabilities, and a subpoena certainly is not a liability. More fundamentally, this statute only applies to the period of time between dissolution and the termination of the separate existence of the LLC: "After its dissolution, until its separate existence terminates". Here, ER has not just been "dissolved", but fully "terminated." Compare A.R.S. § 29-781 (dissolution) with A.R.S. §§ 29-783 and 29-784 (termination). In addition, note that the Commission's "Certificate of Termination" attached to my November 30th letter refers to termination, not dissolution. Because ER was terminated on October 31, 2012, A.R.S. § 29-782(B)(3) ceased to apply on that date.

Your letter also cites A.R.S. § 29-784, which states that (emphasis added):

On the filing of the articles of termination the existence of the limited liability company ceases, **except for the purpose of suits, other proceedings and**

Stephen J. Womack, Esq.
December 4, 2012
Page 2

appropriate action as provided in this chapter. The managers in office at the time of termination or, if none, the members may distribute any of the limited liability company's property discovered after termination, may convey real estate and may take other action as necessary on behalf of and in the name of the terminated limited liability company to wind up and liquidate the business and affairs of the limited liability company.

As of October, 31, 2012, there are no "suits" or "proceedings" pending against ER, so that provision does not apply. A Securities Division investigation is not a "proceeding." *See e.g.* A.A.C. R14-3-101(A)(Commission Rules of Practice and Procedure do not apply to investigations); A.A.C. R14-4-301(distinguishing among "investigations", "examinations" and "administrative proceedings"). The other possibility is "appropriate action as provided in this chapter". But your letter cites no other provision of "this chapter" (Title 29, Chapter 4) that would allow a subpoena to restore a previously terminated LLC to existence.

Moreover, ER's Articles of Termination (attached) contain the statutorily-required statement that "That all of the known properties and assets of the limited liability company have been applied and distributed pursuant to this chapter." *See* A.R.S. § 29-783. Thus, any remaining assets (including any remaining records) have been distributed to the individual members and have become the individual members' personal property. Thus, to the extent the Division wishes to subpoena any such records, the proper action would be to issue and serve subpoenas for the production of documents directed to the former members of ER, at least to the extent the recipient is subject to personal jurisdiction in Arizona.

However, my letter of November 30 noted that these issues do not apply to the subpoena issued Mr. Bersch in his personal capacity for an Examination Under Oath on December 18, 2012. In practical terms, I don't see any benefit to having three separate examinations of Mr. Bersch.

Moreover, I continue to believe that the most appropriate target of any subpoenas, investigations, or proceedings would be Concordia, the California entity that created, controlled and promoted the product in question (we take no position at this time, with respect to whether the Concordia product was a "security" as defined by the Arizona Securities Act).

Stephen J. Womack, Esq.
December 4, 2012
Page 3

If you have any questions or concerns, please let me know.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy J. Sabo", followed by a horizontal line extending to the right.

Timothy J. Sabo
For the Firm

TJS:da
Encl.