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BEFORE THE ARIZONA CORPORATION COMMISSION  
ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

**ORIGINAL**

In the matter of:

Docket No. S-20906A-14-0063

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

**APPLICATION FOR  
ADMINISTRATIVE SUBPOENA**

ER FINANCIAL & ADVISORY SERVICES,  
LLC,

Arizona Corporation Commission

**DOCKETED**

LANCE MICHAEL BERSCH, and

FEB 17 2015

DAVID JOHN WANZEK and LINDA  
WANZEK, husband and wife,

Respondents.

DOCKETED BY

**TO THE EXECUTIVE DIRECTOR  
OF THE ARIZONA CORPORATION COMMISSION:**

Pursuant to A.R.S. § 44-1823 and A.A.C. R14-3-109, Respondents, ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek, and Linda Wanzek (the "ER Respondents") request the issuance of a subpoena in connection with the above-captioned action, commanding:

**Gary R. Clapper**  
Securities Division  
Arizona Corporation Commission  
1300 West Washington, 3rd Floor  
Phoenix, Arizona 85007

to appear before an officer authorized by law to administer oaths for a deposition taken upon oral examination, continuing from day to day until such deposition(s) have been completed, to testify under oath.

SNELL & WILMER

LLP

ONE ARIZONA CENTER  
400 E. VAN BUREN, SUITE 1900  
PHOENIX, ARIZONA 85004-2202

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1 The ER Respondents had previously issued a Notice of Deposition for this deposition  
2 on November 24, 2014, but at the February 11, 2015 Procedural Conference the  
3 Administrative Law Judge instructed the ER Respondents to obtain an administrative  
4 subpoena to proceed with the deposition.

5 There is a reasonable need for the deposition, in order for the ER Respondents to prepare  
6 for the administrative hearing, because Mr. Clapper is expected to be the main witness in the  
7 administrative hearing.<sup>1</sup> Moreover, the ER Respondents still do not know basic and critical facts  
8 regarding the administrative charges against them, including:

- 9 1) the names of the 193 alleged investors;
- 10 2) what amount of restitution the Division seeks against them;
- 11 2) which of the 446 alleged investments each of them allegedly sold;
- 12 3) which of the 193 investors each respondent allegedly sold to;
- 13 4) which of the respondents made the allegedly fraudulent statements, to whom  
14 and when ;
- 15 6) the dollar amount of the alleged securities sold by each particular respondent  
16 and the amounts the investor was paid back for each of those alleged securities.

17 Further, the administrative charges date back 15 years or more, and the ER Respondents have  
18 few remaining records to assist them in preparing their defense.<sup>2</sup> Thus, the deposition is  
19 reasonably necessary to prepare a defense.

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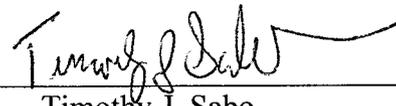
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25 <sup>1</sup> The subpoena application form on the Commission's website contains no provision for a  
26 showing of "reasonable need" and such a showing has traditionally not been required by the  
27 Commission for the issuance of a subpoena. However, this information is included to prevent an  
28 anticipated objection from the Securities Division.

<sup>2</sup> See affidavit of David Wanzek, attached as Exhibit E to the ER Respondents' Motion to Compel  
submitted on February 10, 2015.

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RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of February 2015.

By   
\_\_\_\_\_  
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and

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*Attorneys for the ER Respondents*

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PHOENIX, ARIZONA 85004-2202

1 Submitted this this 17<sup>th</sup> day of February 2015 by  
2 Hand delivery to:

3 Executive Director's Office,  
4 Arizona Corporation Commission,  
5 1200 West Washington, 2nd Floor  
6 Phoenix, Arizona 85007

7 Original + 13 copies of the foregoing  
8 filed this 17<sup>th</sup> day of February 2015, with:

9 Docket Control  
10 Arizona Corporation Commission  
11 1200 West Washington  
12 Phoenix, Arizona 85007

13 Copies of the foregoing hand-delivered/mailed  
14 this \_\_\_\_<sup>th</sup> day of February 2015, to:

15 Mark H. Preny, Esq.  
16 Administrative Law Judge  
17 Hearing Division  
18 Arizona Corporation Commission  
19 1200 West Washington  
20 Phoenix, Arizona 85007

21 James D. Burgess, Esq.  
22 Securities Division  
23 Arizona Corporation Commission  
24 1300 West Washington, 3rd Floor  
25 Phoenix, Arizona 85007

26 Alan S. Baskin, Esq.  
27 David E. Wood, Esq.  
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*Attorneys for Concordia Finance Company, LTD.*

By 

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POLSINELLI, P.C.  
One East Washington St., Suite 1200  
Phoenix, AZ 85004-2568  
Phone: 602.650.2098  
Email: proshka@polsinelli.com

Who are the attorneys for Respondents ER Financial & Advisory Services, LLC,  
Lance Michael Bersch, David John Wanzek, and Linda Wanzek

DISOBEDIENCE OF THIS SUBPOENA constitutes contempt of the Arizona Corporation  
Commission and may subject you to further proceedings and penalties under law, pursuant to  
A.R.S. § 44-1825.

Given under by hand the seal of the Arizona Corporation Commission this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Jodi A. Jerich, Executive Director  
Arizona Corporation Commission