

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

RECEIVED
AZ CORP COMMISSION
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2015 OCT 14 PM 1 21

In the matter of:

DOCKET NO. S-20938A-15-0308

USA BARCELONA REALTY ADVISORS, LLC,
an Arizona limited liability company,

USA BARCELONA HOTEL LAND COMPANY I,
LLC, an Arizona limited liability company,

RICHARD C. HARKINS, an unmarried man,

ROBERT J. KERRIGAN (CRD no. 268516), an
unmarried man,

GEORGE T. SIMMONS and JANET B. SIMMONS,
husband and wife,

BRUCE ORR, an unmarried man,

Respondents.

Arizona Corporation Commission

DOCKETED

OCT 14 2015

DOCKETED BY

THIRD
PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On August 26, 2015, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing ("T.O. and Notice") against USA Barcelona Realty Advisors, LLC ("Barcelona Advisors"), USA Barcelona Hotel Land Company I, LLC ("Barcelona Land Company"), Richard C. Harkins, Robert J. Kerrigan, George T. Simmons and Janet B. Simmons, husband and wife (the "Simmonses"), and Bruce Orr (collectively "Respondents"), in which the Division alleged violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of promissory notes, and investment contracts or membership interests.

The spouse of George T. Simmons, Janet B. Simmons ("Respondent Spouse") is joined in the action pursuant to A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the marital community.

1 The Respondents were duly served with copies of the T.O. and Notice.

2 On September 11, 2015, Respondent George T. Simmons, individually and on behalf of his
3 marital community, filed a Request for Hearing pursuant to A.A.C. R14-4-306.

4 On September 14, 2015, Respondent Robert J. Kerrigan filed a Request for Hearing pursuant
5 to A.A.C. R14-4-306.

6 On September 15, 2015, Respondent Richard C. Harkins filed a Request for Hearing pursuant
7 to A.A.C. R14-4-306.

8 On September 18, 2015, a Notice of Appearance and Request for Hearing, pursuant to A.R.S.
9 § 44-1972, A.A.C. R14-4-306 and A.A.C. R14-4-307, was filed on behalf of Robert J. Kerrigan by
10 counsel Robert D. Mitchell and Sarah K. Deutsch.

11 On September 23, 2015, by Procedural Order, a pre-hearing conference was scheduled to
12 commence on October 13, 2015.

13 On September 28, 2015, a Notice of Appearance and Request for Hearing, pursuant to A.A.C.
14 R14-4-306 and R14-4-307, was filed on behalf of George T. Simmons and Janet B. Simmons by
15 counsel Charles R. Berry and Stanley R. Foreman.

16 On September 29, 2015, Respondent Robert J. Kerrigan filed an Answer to Temporary Order
17 to Cease and Desist and Notice of Opportunity for Hearing.

18 Also on that day, Bruce Orr filed a letter. Mr. Orr's letter responded to assertions made in the
19 T.O. and Notice. Mr. Orr further requested to "have my name removed from this complaint." To
20 preserve Mr. Orr's due process rights, his September 29, 2015 letter was considered a request for
21 hearing and answer to the T.O. and Notice.

22 On October 2, 2015, by Procedural Order, the pre-hearing conference remained scheduled for
23 October 13, 2015.

24 Also on October 2, 2015, George T. Simmons filed an Answer to the Temporary Order to Cease
25 and Desist and Notice of Opportunity for Hearing.

26 On that same day, Richard Harkins filed a pro per Answer to the Temporary Order to Cease
27 and Desist and Notice of Opportunity for Hearing. Mr. Harkins asserted the pro per answer to also be
28 the answer of Barcelona Advisors and Barcelona Land Company.

1 On October 13, 2015, the pre-hearing conference was held as scheduled. The Division appeared
2 through counsel, as did Mr. Kerrigan and the Simmonses. Mr. Harkins appeared on his own behalf
3 and purportedly on behalf of Barcelona Advisors and Barcelona Land Company. The scheduling of a
4 hearing date was discussed. Mr. Harkins was informed that because he is not an attorney, he cannot
5 represent Barcelona Advisors and Barcelona Land Company.

6 Accordingly, a hearing should be scheduled.

7 IT IS THEREFORE ORDERED that a **hearing shall be held commencing on March 7, 2016,**
8 **at 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2,**
9 **Phoenix, Arizona.**

10 IT IS FURTHER ORDERED that **the parties shall also reserve March 8-11, 14-18, and 21-**
11 **25, 2016, for additional days of hearing,** if necessary.

12 IT IS FURTHER ORDERED that **the Division and Respondents shall exchange copies of**
13 **their Witness Lists and copies of the Exhibits by January 8, 2016,** with courtesy copies provided to
14 the presiding Administrative Law Judge.

15 IT IS FURTHER ORDERED that **if the parties reach a resolution of the issues raised in the**
16 **Notice prior to the hearing, the Division shall file a Motion to Vacate the Proceeding**

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
18 Communications) is in effect and shall remain in effect until the Commission's Decision in this matter
19 is final and non-appealable.

20 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
21 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

22 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
23 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
24 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
25 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
26 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
27 Law Judge or the Commission.

28

1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 14th day of October, 2015.

5
6 
7 MARK PRENY
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered
9 this 14th day of October, 2015, to:

10 Robert D. Mitchell
11 Sarah K. Deutsch
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