



0000165908

NEW APPLICATION

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

2015 AUG 26 A 11:53

COMMISSIONERS

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

AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

In the matter of:)
 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.)

DOCKET NO. S-20938A-15-0308
**TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING**

Arizona Corporation Commission
DOCKETED

AUG 26 2015

DOCKETED BY 

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondent Richard C. Harkins is engaging in or is about to engage in, and that respondents Robert J. Kerrigan, George T. Simmons, Bruce Orr, USA Barcelona Realty Advisors, LLC, and USA Barcelona Hotel Land Company I, LLC have engaged in, acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

1 The Division further alleges that Richard C. Harkins, Robert J. Kerrigan, George T.
2 Simmons, and Bruce Orr directly or indirectly controlled USA Barcelona Realty Advisors, LLC
3 within the meaning of A.R.S. § 44-1999, so that they are jointly and severally liable under A.R.S. §
4 44-1999 to the same extent as USA Barcelona Realty Advisors, LLC for its violations of A.R.S. §
5 44-1991.

6 The Division further alleges that Richard C. Harkins and George T. Simmons directly or
7 indirectly controlled USA Barcelona Hotel Land Company I, LLC within the meaning of A.R.S. §
8 44-1999, so that they are jointly and severally liable under A.R.S. § 44-1999 to the same extent as
9 USA Barcelona Hotel Land Company I, LLC for its violations of A.R.S. § 44-1991.

10 **I.**

11 **JURISDICTION**

12 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
13 Arizona Constitution and the Securities Act.

14 **II.**

15 **RESPONDENTS**

16 2. Since October 2012, Richard C. Harkins (“Harkins”) has been a resident of the state
17 of Arizona. Since November 28, 2012, Harkins has been an unmarried man. Harkins has not been
18 registered by the Commission as a securities salesman or dealer.

19 3. From at least October 2012 until August 2015, Robert J. Kerrigan (“Kerrigan”) was
20 an unmarried man, a resident of the state of Arizona, registered by the Commission as a securities
21 salesman with CRD no. 268516, and employed by a registered securities dealer with CRD no.
22 16507.

23 4. Since October 2012, George T. Simmons (“Simmons”) has been a married man and
24 a resident of the state of Arizona. Simmons has not been registered by the Commission as a
25 securities salesman or dealer.

1 12. From October 2012 to at least August 2014, Kerrigan, Simmons, and Orr were
2 Executive Members of Barcelona Advisors. A majority of the Executive Members must approve
3 Barcelona Advisors' "Major Decisions," including decisions to incur liability for borrowed money,
4 issue any note, admit new company members, increase the number of membership units, create a
5 new class of membership units, or adopt or modify a budget.

6 13. Barcelona Advisors' non-executive members cannot take part in the control of
7 management of the company's business except to require majority-in-interest approval for actions
8 that would materially diminish their membership interests and to remove Executive Members for
9 cause by a majority-in-interest vote. As a result of the members' limited voting rights, the
10 Executive Members have control of the company through their exclusive power to approve all
11 "Major Decisions."

12 14. Since January 2014, Harkins has been the president of Barcelona Land Company. As
13 president, Harkins has the power to oversee the day-to-day activities of the company and make all
14 decisions other than an enumerated list of "Major Decisions" that require approval by the
15 company's manager, which is USA Barcelona Hotel Holding Company, LLC. From at least April
16 2014 to at least August 2014, Harkins was the president of USA Barcelona Hotel Holding
17 Company, LLC.

18 15. From at least April 2014 to at least August 2014, Simmons was the executive vice
19 president of Barcelona Land Company and the executive vice president of Barcelona Land
20 Company's manager. As an officer of Barcelona Land Company, Simmons had the power to
21 perform normal business functions and otherwise operate and manage the company's business, to
22 keep all books, accounts, and other records of the company, to enforce obligations of third parties
23 to the company, pay all debts and other obligations of the company, and to execute agreements in
24 connection with the company's assets.

25 16. Barcelona Land Company's members cannot take part in the control of management
26 of the company's business except to require majority-in-interest approval for actions that would

1 materially diminish their economic rights and to remove the manager for cause by a majority-in-
2 interest vote. As a result of the members' limited voting rights, the manager has control of the
3 company through its exclusive right to approve all "Major Decisions."

4 OCTOBER 2012 OFFERING

5 17. From at least October 26, 2012 until at least November 25, 2013, Harkins and
6 Barcelona Advisors offered and sold promissory notes issued by Barcelona Advisors and
7 investment contracts in the form of membership interests in Barcelona Advisors within and from
8 Arizona (collectively the "October 2012 Offering").

9 18. Since at least October 2, 2013, Kerrigan offered or sold the October 2012 Offering
10 within or from Arizona.

11 19. Since October 2012, Barcelona Advisors provided at least four offerees with a
12 private placement memorandum describing the October 2012 Offering ("October 2012 PPM").

13 20. The October 2012 PPM offered combinations of promissory notes and membership
14 interests in Barcelona Advisors with a total offering of \$1,000,000. The October 2012 PPM offered
15 12% annual interest on the notes, paid quarterly, and a maturity date of December 31, 2014, with a
16 6% bonus payment at the end of 2013 and a 12% bonus payment at the end of 2014. The October
17 2012 PPM stated that members would receive annual distributions.

18 21. At least eight investors invested at least \$720,000 in the October 2012 Offering.

19 22. To date, investors in the October 2012 Offering have received a return of \$90,251 in
20 interest payments, but none have received a refund of their principal investments.

21 23. Barcelona Advisors' stated business plan during the October 2012 Offering was to
22 be a real estate investment trust and to act as the advisor to a series of private funds that would
23 raise capital to acquire apartments and hotels.

24 24. At least four of the investors in the October 2012 Offering learned about the
25 offering from Kerrigan, who was a financial advisor to at least three of them. One of these
26 investors paid for his investment with funds from a stock account that Kerrigan managed for him.

1 Kerrigan gave the October 2012 PPM to at least one of these investors and gave promotional
2 documents to another. Kerrigan told one of these investors in approximately May 2013 that money
3 would be “rolling in” from the October 2012 Offering.

4 25. At least six of the investors in the October 2012 Offering were Kerrigan’s clients
5 through the registered securities dealer that employed him.

6 26. Harkins provided one of the investors in the October 2012 Offering with company
7 brochures and newsletters, and in approximately May 2013 he told the investor that the investment
8 would be good as long as the economy was stable.

9 27. Barcelona Advisors issued to investors in the October 2012 Offering promissory
10 notes containing the same terms with respect to interest, maturity date, and bonus payments, and it
11 issued subscription agreements reflecting membership interests in Barcelona Advisors.

12 28. Harkins accepted and signed all of the subscription agreements for the October 2012
13 Offering and signed at least three of the notes for the October 2012 Offering.

14 29. The October 2012 PPM stated that, “[Harkins] has been involved in the real estate
15 industry ... over the period 2002 through mid-2009 in the creation and executive management of
16 Arizona Village Communities Operating Company, Inc. (‘AVC’), a land acquisition and
17 investment company.”

18 30. The October 2012 PPM failed to disclose that the Arizona Village Communities
19 venture failed, that three companies controlled by Harkins that were related to the venture filed for
20 Chapter 11 bankruptcy, and that the Arizona State Land Department cancelled the acquisition of
21 the land for the venture for nonpayment.

22 31. The October 2012 PPM also stated that, “The day-to-day business affairs of the
23 Company shall be managed exclusively by its President. Richard Harkins is appointed ... for an
24 initial term as President....”

25 32. The October 2012 PPM failed to disclose that Harkins, the president, was also
26 closely assisted by Paul Meka (“Meka”), who worked for the company, maintained the company’s

1 records, and prepared financial projections. Since June 19, 2006, Meka has been subject to a
2 Maricopa Superior Court judgment permanently enjoining him from violating the Arizona
3 Securities Act and ordering him to pay \$81,000 in disgorgement to investors. Meka was also a
4 felon convicted of misprision of a felony in November 2010 due to his role in an investment fraud
5 scheme in which Meka was paid to “rubber stamp” documents that his superiors used to defraud
6 investors.

7 33. The October 2012 PPM included a description of Kerrigan, an Executive Member
8 of Barcelona Advisors who had a vote in the approval of all Barcelona Advisors “Major
9 Decisions.” The October 2012 PPM stated that, “Mr. Kerrigan is the President and sole shareholder
10 of Personal Wealth Management Group, Inc [sic] and the Sole Managing Partner of Wealth Legacy
11 Consultants, LLC. ... For the past (45) years [Kerrigan] has been active in the financial services
12 industry both as a provider of financial services to private clients and through ownership and
13 management of several privately held companies both in manufacturing and service distribution.”

14 34. The October 2012 PPM failed to disclose that National Bank of Arizona was
15 awarded over \$76,000 in judgments against Kerrigan in 2010 for failure to repay a line of credit
16 debt.

17 35. Barcelona Advisors failed to disclose to at least one investor who invested after
18 September 2013 that Barcelona Advisors had “shelved” its business plan in September 2013 and
19 was in search of a new business plan.

20 36. The October 2012 PPM stated that after using \$50,000 of the October 2012 Offering
21 proceeds to reimburse management for the time and expenses of organizing the company and after
22 using \$30,000 of the October 2012 Offering proceeds to pay expenses related to the offering, “...
23 all other Proceeds will be used by the Company to pursue the business plan outlined in this
24 Memorandum.”

25 37. Barcelona Advisors failed to disclose to at least one investor who invested after
26 October 1, 2013 that on that date, Barcelona Advisors issued a \$70,000 promissory note to

1 Kerrigan promising that, "Principal and any earned and unpaid interest shall be paid from proceeds
2 received by [Barcelona Advisors] from new investors in the ... [October 2012] Offering."

3 R.E. AND M.E. OFFERINGS

4 38. After investing twice in the October 2012 Offering, married investors R.E. and M.E.
5 made four more investments under different terms in Barcelona Advisors' notes and rights to
6 purchase investment contracts in the form of limited liability company membership interests
7 (collectively, the "R.E. and M.E. Offerings").

8 39. On December 30, 2013, Barcelona Advisors offered and sold to R.E. and M.E. a
9 promissory note issued by Barcelona Advisors and rights to purchase membership interests in
10 Barcelona Advisors (collectively, the "December 30, 2013 Investment"). The December 30, 2013
11 Investment offered 12% annual interest on the note, a maturity date of March 31, 2014, and rights
12 to purchase membership interests in Barcelona Advisors at an unspecified price.

13 40. Investors R.E. and M.E. invested \$125,000 in the December 30, 2013 Investment.

14 41. On February 28, 2014, Barcelona Advisors offered and sold to R.E. and M.E. a
15 promissory note issued by Barcelona Advisors and rights to purchase investment contracts in the
16 form of limited liability company membership interests in Barcelona Advisors (collectively, the
17 "February 28, 2014 Investment"). The February 28, 2014 Investment offered 12% annual interest
18 on the note, a maturity date of May 31, 2014, and rights to purchase membership interests in
19 Barcelona Advisors at an unspecified price.

20 42. Investors R.E. and M.E. invested \$125,000 in the February 28, 2014 Investment.

21 43. On July 14, 2014, Barcelona Advisors offered and sold to R.E. and M.E. a
22 promissory note issued by Barcelona Advisors ("July 14, 2014 Investment"). The July 14, 2014
23 Investment offered 8% annual interest on the note and a maturity date of October 14, 2014.

24 44. Investors R.E. and M.E. invested \$15,000 in the July 14, 2014 Investment.

1 54. Barcelona Advisors provided at least one offeree with a private placement
2 memorandum dated January 1, 2014 (“January 2014 PPM”). The January 2014 PPM offered
3 promissory notes with a total offering of \$1,000,000. The January 2014 PPM offered 10% annual
4 interest on the notes, paid quarterly, and a maturity date of December 31, 2015, with a 5% bonus
5 payment at the end of 2014 and a 10% bonus payment at the end of 2015.

6 55. At least one of the investors in the January 2014 Offering was Kerrigan’s client
7 through the registered securities dealer that employed him.

8 56. Investors in the January 2014 Offering were issued promissory notes containing the
9 same terms with respect to interest, maturity date, and bonus payments.

10 57. Harkins accepted and signed at least one of the subscription agreements and signed
11 at least one of the notes for the January 2014 Offering.

12 58. The January 2014 PPM failed to disclose that on December 31, 2013, Barcelona
13 Advisors failed to make interest payments due on the notes from its previous October 2012
14 Offering.

15 59. The January 2014 PPM stated that after using \$30,000 of the January 2014 Offering
16 proceeds to pay expenses related to the offering, “... all other Offering Proceeds will be used by
17 the Company to pursue the business plan outlined in this Memorandum.”

18 60. The January 2014 PPM failed to disclose that Barcelona Advisors also intended to
19 use January 2014 Offering proceeds to make interest payments to investors from its October 2012
20 Offering.

21 61. The January 2014 PPM stated that, “We have an appropriate business model We
22 have appropriately planned for the Company’s capital requirements. ... We have organized and
23 prepared to effectively raise the capital required”

24 62. The January 2014 PPM failed to disclose that the current business model was
25 Barcelona Advisors’ “Plan B” after its first business model failed due to the inability to raise the
26 necessary capital for the first business model.

1 70. Barcelona Land Company provided at least one offeree with a private placement
2 memorandum dated May 5, 2014 (“May 2014 PPM”). The May 2014 PPM offered Barcelona Land
3 Company membership interests with a total offering of \$10,000,000. The May 2014 PPM
4 forecasted 214% returns over four years.

5 71. Barcelona Land Company’s stated business was to complete the entitlement of land
6 parcels and sell the parcels to other entities that would build select service hotels on them.

7 72. The May 2014 PPM referred to a specific major general contracting company
8 (“Contractor”) and stated that, “Our Parent Company has reached agreement with [Contractor] to
9 coordinate with us in the Entitlement work and handle all site development and construction
10 requirements of the New Build Affiliates. We feel this strategic alliance adds a great deal of quality
11 to both the Company’s investment Offering and the future offerings of the New Build Affiliates.
12 [Contractor’s] over 50 years of experience across a broad spectrum of major construction projects
13 and specifically numerous major hotels and resorts [sic] undertakings for both their own account
14 and as agents for others is a major benefit to our investors and our Company.”

15 73. Contractor never reached any agreement with Barcelona Land Company’s parent
16 company regarding entitlement work and site development.

17 74. The May 2014 PPM also stated that, “Mr. Harkins has over 40 years of background
18 in the real estate industry. His experiences include land acquisition, development, financing and
19 executive management involving over 675 individual hospitality and multifamily projects. ... Over
20 the period 2002 through mid-2009 Mr. Harkins was [involved] in the creation and executive
21 management of Arizona Village Communities Operating Company, Inc. (‘AVC’), a land
22 development luxury community developer and real estate investment company, which ceased
23 operations in 2009.”

24 75. The May 2014 PPM failed to disclose the failure of Harkins’ previous venture, as
25 alleged in paragraph 30.

26

1 investments across 8 to 10 Funds each of which are invested in multiple real estate based
2 investments.”

3 91. The securities described in the May 2015 E-mail are not registered with the
4 Commission.

5 92. In the May 2015 E-mail, Harkins indicated that he would be seeking investors,
6 stating, “As is always the case, the viability of this Plan falls on startup capital. This time around, I
7 have none to start it with so it all have [sic] to come from outsiders.”

8 93. Harkins also stated his intention to offer these unregistered securities: “So, we’re
9 close to putting the Plan out there. First to the Barcelona Advisors noteholders.”

10 IV.

11 VIOLATION OF A.R.S. § 44-1991

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

13 94. In connection with the offer or sale of securities within or from Arizona, respondents
14 Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company, directly or indirectly: (i)
15 employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or
16 omitted to state material facts that were necessary in order to make the statements made not
17 misleading in light of the circumstances under which they were made; or (iii) engaged in
18 transactions, practices, or courses of business that operated or would operate as a fraud or deceit
19 upon offerees and investors.

20 95. Respondents’ conduct includes, but is not limited to, the following:

21 **Fraud related to October 2012 Offering, R.E. and M.E. Offerings,**

22 **January 2014 Offering, May 2014 Offering, and June 2014 Offering**

23 a) Although they described Harkins’ real estate industry experience and
24 credentials, Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company failed to disclose
25 that Harkins’ Arizona Village Communities real estate venture failed, that three companies
26 controlled by Harkins that were related to the venture filed for Chapter 11 bankruptcy, and that the

1 Arizona State Land Department cancelled the acquisition of the land for the venture for
2 nonpayment;

3 b) Although they described Harkins' role as president of Barcelona Advisors,
4 Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company failed to disclose that Meka
5 closely assisted Harkins despite being subject to a permanent injunction against violating the
6 Securities Act and despite having been convicted of misprision of a felony for his role in an
7 investment fraud scheme in which he helped his superiors defraud investors.

8 c) Although they described Kerrigan's financial services industry experience
9 and credentials, Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company failed to
10 disclose that National Bank of Arizona was awarded over \$76,000 in judgments against Kerrigan in
11 2010 for failure to repay a line of credit debt;

12 **Additional fraud related to October 2012 Offering**

13 d) Harkins, Kerrigan, and Barcelona Advisors failed to disclose to three
14 investors who invested after September 2013 that Barcelona Advisors had "shelved" its business
15 plan in September 2013 and was in search of a new business plan;

16 e) Harkins, Kerrigan, and Barcelona Advisors failed to disclose to three
17 investors who invested after October 1, 2013 that on that date, Barcelona Advisors issued a \$70,000
18 promissory note to Kerrigan promising to pay him with their investment proceeds;

19 **Additional fraud related to January 2014 Offering and June 2014 Offering**

20 f) Harkins and Barcelona Advisors failed to disclose that on December 31,
21 2013 it had failed to make interest payments due on its October 2012 Offering notes;

22 g) Harkins and Barcelona Advisors failed to disclose that Barcelona Advisors
23 intended to use January 2014 Offering proceeds to make interest payments to investors in the
24 October 2012 Offering;

25

26

1 h) Harkins and Barcelona Advisors failed to disclose that Barcelona Advisors'
2 current business model was its "Plan B" after its first business model failed due to the inability to
3 raise the necessary capital for the first business model;

4 **Additional fraud related to May 2014 Offering**

5 i) Harkins and Barcelona Land Company misrepresented that USA Barcelona
6 Realty Holding Company, LLC had reached an agreement with a major general contracting
7 company regarding land entitlement work, site development, and construction when, in fact, no such
8 agreement had been reached;

9 96. This conduct violates A.R.S. § 44-1991.

10 **V.**

11 **CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999**

12 97. Respondents Harkins, Kerrigan, Simmons, and Orr directly or indirectly controlled
13 Barcelona Advisors within the meaning of A.R.S. § 44-1999. Therefore, Harkins, Kerrigan,
14 Simmons, and Orr are jointly and severally liable under A.R.S. § 44-1999 to the same extent as
15 Barcelona Advisors for its violations of A.R.S. § 44-1991.

16 98. Respondents Harkins and Simmons directly or indirectly controlled Barcelona Land
17 Company within the meaning of A.R.S. § 44-1999. Therefore, Harkins and Simmons are jointly and
18 severally liable under A.R.S. § 44-1999 to the same extent as Barcelona Land Company for its
19 violations of A.R.S. § 44-1991.

20 **VI.**

21 **REMEDIES PURSUANT TO A.R.S. § 44-1962**

22 **(Denial, Revocation, or Suspension of salesman registration; Restitution, Penalties, or other**
23 **Affirmative Action)**

24 1. Respondent Kerrigan's conduct is grounds to revoke respondent Kerrigan's
25 registration as a securities salesman with the Commission pursuant to A.R.S. §44-1962.
26 Specifically, Respondent has:

1 a) Violated A.R.S. §44-1962(A)(2) by fraud in connection with the offer or sale
2 of securities, contrary to A.R.S. § 44-1991; and

3 b) Violated A.R.S. §44-1962(A)(10) by engaging in dishonest or unethical
4 practices in the securities industry, as defined by R14-4-130(A), by:

5 i) employing, in connection with the sale of a security, a manipulative
6 or deceptive device or contrivance, contrary to R14-4-130(A)(14); and

7 ii) while registered as a salesman, effectuating securities transactions
8 which have not been recorded on the records of the dealer with whom Kerrigan was registered at the
9 time of the transactions, contrary to R14-4-130(A)(17).

10 2. Respondent's conduct is grounds to assess restitution, penalties, and/or take
11 appropriate affirmative action pursuant to A.R.S. § 44-1962.

12 **VII.**

13 **TEMPORARY ORDER**

14 **Cease and Desist from Violating the Securities Act**

15 THEREFORE, based on the above allegations of Harkins' stated intent in the April 2015
16 Letter and May 2015 E-mail to offer and sell investment contracts and other securities that are not
17 registered with the Commission, and because the Commission has determined that the public
18 welfare requires immediate action,

19 IT IS ORDERED, pursuant to A.R.S. § 44-2032(1) and A.A.C. R14-4-307, that Harkins, his
20 agents, servants, employees, successors, assigns, and those persons in active concert or participation
21 with him CEASE AND DESIST from any violations of the Securities Act.

22 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
23 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

24 IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order
25 shall remain effective from the date a hearing is requested until a decision is entered unless
26 otherwise ordered by the Commission.

1 IT IS FURTHER ORDERED that this Order shall be effective immediately.

2 **VIII.**

3 **REQUESTED RELIEF**

4 The Division requests that the Commission grant the following relief:

5 1. Order Respondents to permanently cease and desist from violating the Securities
6 Act, pursuant to A.R.S. § 44-2032 and A.R.S. § 44-1962;

7 2. Order Respondents to take affirmative action to correct the conditions resulting from
8 Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to
9 A.R.S. § 44-2032 and A.R.S. § 44-1962;

10 3. Order Respondents to pay the state of Arizona administrative penalties of up to five
11 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

12 4. Order the revocation or suspension of respondent Kerrigan's registration as a
13 securities salesman pursuant to A.R.S. § 44-1962;

14 5. Order that the marital community of Simmons and Respondent Spouse is subject to
15 any order of restitution, rescission, administrative penalties, or other appropriate affirmative action
16 pursuant to A.R.S. § 25-215; and

17 6. Order any other relief that the Commission deems appropriate.

18 **IX.**

19 **HEARING OPPORTUNITY**

20 Each respondent, including Respondent Spouse, may request a hearing pursuant to A.R.S.
21 § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a**
22 **hearing, the requesting respondent must also answer this Temporary Order and Notice.** A
23 request for hearing must be in writing and received by the Commission within 20 days after service
24 of this Temporary Order and Notice. The requesting respondent must deliver or mail the request for
25 hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix,
26

1 Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477
2 or on the Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

3 If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10
4 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties,
5 or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary
6 Order shall remain effective from the date a hearing is requested until a decision is entered.**

7 After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order,
8 with written findings of fact and conclusions of law. A permanent Order may include ordering
9 restitution, assessing administrative penalties, or other action.

10 If a request for hearing is not timely made, the Division will request that the Commission
11 make permanent this Temporary Order, with written findings of fact and conclusions of law, which
12 may include ordering restitution, assessing administrative penalties, or other relief.

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

17 **X.**

18 **ANSWER REQUIREMENT**

19 Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing,
20 the requesting respondent must deliver or mail an Answer to this Temporary Order and Notice to
21 Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona
22 85007, within 30 calendar days after the date of service of this Temporary Order and Notice. Filing
23 instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
24 Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

25 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
26 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a

1 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
2 addressed to Paul Kitchin.

3 The Answer shall contain an admission or denial of each allegation in this Temporary
4 Order and Notice and the original signature of the answering respondent or the respondent's
5 attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial
6 of an allegation. An allegation not denied shall be considered admitted.

7 When the answering respondent intends in good faith to deny only a part or a qualification
8 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
9 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

10 The officer presiding over the hearing may grant relief from the requirement to file an
11 Answer for good cause shown.

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 26 day of
13 August, 2015.

14 
15 Matthew J. Neubert
16 Director of Securities
17
18
19
20
21
22
23
24
25
26