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AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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 **STIPULATION REGARDING LEAVE TO AMEND TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING AND REGARDING CONTINUING HEARING** **(Assigned to Administrative Law Judge Mark Preny)**

Arizona Corporation Commission
DOCKETED
DEC 29 2015
DOCKETED BY

The parties, except for Bruce Orr, ("Parties") stipulate and agree to the following:

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing ("TC&D and Notice") on August 26, 2015. The Parties stipulate for the Administrative Law Judge ("ALJ") under A.A.C. R14-3-106(E), to grant leave for the Division to amend the TC&D and Notice. A copy of the proposed amended TC&D and Notice is attached hereto as Exhibit A ("Proposed Amended TC&D and Notice"). Under A.A.C. R14-3-106(E), the ALJ has the discretion to allow any formal document to be amended. The Parties also move the ALJ to continue the hearing in this case and to change the deadline for the Parties to exchange copies of their witness lists and copies of the exhibits

The Division seeks to amend the TC&D and Notice to add factual allegations generated by the Division's ongoing investigation, and the amendment is necessary both for due process reasons and to prevent this matter from being litigated on a piece-meal basis. The Temporary Order to Cease and Desist continues to be in effect, and the changes are only to the allegations. Specifically, the Proposed Amended TC&D and Notice (1) adds Susan C. Orr, wife of respondent Bruce L. Orr, to the caption as a respondent solely for purposes of determining the liability of their marital community; (2) requests relief to be imposed upon the marital community of Bruce L. Orr and Susan C. Orr; (3) adds further allegations of violations of A.R.S. 44-1991; (4) adds allegations of violations of A.R.S. § 44-1841 by USA Barcelona Realty Advisors, LLC, Richard C. Harkins, and Robert J. Kerrigan; (5) adds allegations of violations of A.R.S. § 44-1842 by USA Barcelona Realty Advisors, LLC and Richard C. Harkins; and (6) otherwise modifies the Division's allegations against the Respondents.

Based on the foregoing, the Parties, except for Bruce Orr, stipulate that the ALJ amend the Notice and allow the Division to file the Proposed Amended TC&D and Notice.

The Parties also request that the hearing scheduled to commence on March 7, 2016, be continued to May 9, 2016, or as soon as possible thereafter, and that the January 8, 2016 deadline for the Parties to exchange copies of their witness lists and copies of the exhibits be changed accordingly.

RESPECTFULLY SUBMITTED this 29th day of December 2015.

ARIZONA CORPORATION COMMISSION

By: _____

Paul Kitchin
Attorney for the Securities Division of the
Arizona Corporation Commission

The following Parties stipulate and agree to the above requests:

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ORIGINAL AND TEN (10) COPIES of the foregoing filed this 29th day of December 2015 with:

Docket Control
Arizona Corporation Commission
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Phoenix, AZ 85007

COPY of the foregoing mailed/delivered this 29th day of December 2015 to:

Mr. Mark Preny
Administrative Law Judge
Arizona Corporation Commission/Hearing Division
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Paul Kitchin

Exhibit A

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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 L. ORR and SUSAN C. ORR, husband and wife, Respondents.	DOCKET NO. S-20938A-15-0308 **AMENDED TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING**

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 L. 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.

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

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

I.

JURISDICTION

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

II.

RESPONDENTS

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

3. From at least October 2012 until August 2015, Robert J. Kerrigan ("Kerrigan") was an unmarried man, a resident of the state of Arizona, registered by the Commission as a securities salesman with CRD no. 268516, and registered in Arizona with a securities dealer with CRD no. 16507 that was registered in Arizona.

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

5. Since October 2012, Bruce L. Orr ("Orr") has been a married man and a resident of the state of California. Orr has not been registered by the Commission as a securities salesman or dealer.

6. USA Barcelona Realty Advisors, LLC ("Barcelona Advisors") is a limited liability company that was organized under the laws of the state of Arizona in November 2010. Barcelona Advisors was originally named Barcelona Administration Company, LLC before amending its name on April 12, 2013. Harkins, Kerrigan, Simmons, and Orr were members of Barcelona Advisors, and Harkins and Simmons were managers. Barcelona Advisors has not been registered by the Commission as a securities salesman or dealer.

7. USA Barcelona Hotel Land Company I, LLC ("Barcelona Land Company") is a limited liability company that was organized under the laws of the state of Arizona in January 2014. Barcelona Advisors was a member of Barcelona Land Company, and USA Barcelona Hotel Holding Company, LLC was a manager. Barcelona Land Company has not been registered by the Commission as a securities salesman or dealer.

8. Since October 2012, Janet B. Simmons has been the spouse of George T. Simmons, and Susan S. Orr has been the spouse of Bruce L. Orr (Janet B. Simmons and Susan S. Orr may be referred to as "Respondent Spouses"). Respondent Spouses are joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liabilities of their marital communities.

9. Since October 2012, Simmons and Orr have been acting for their own benefit and for the benefit or in furtherance of their respective marital communities.

10. Harkins, Kerrigan, Simmons, Orr, Barcelona Advisors, and Barcelona Land Company may be referred to as "Respondents."

III.

FACTS

11. Since October 2012, Harkins has been the president of Barcelona Advisors. As president, Harkins has had "complete authority and exclusive control to conduct any business on

behalf of the Company in the sole and absolute discretion of the President" except for an enumerated list of "Major Decisions" which require approval by a majority of four "Executive Members," one of whom is Harkins.

12. From at least March 26, 2013 to at least August 2014, Kerrigan, Simmons, and Orr were Executive Members of Barcelona Advisors. A majority of the Executive Members must approve Barcelona Advisors' "Major Decisions," including decisions to incur liability for borrowed money, issue any note, admit new company members, increase the number of membership units, create a new class of membership units, or adopt or modify a budget.

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

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

15. From at least April 2014 to at least August 2014, Simmons was the executive vice president of Barcelona Land Company and the executive vice president of Barcelona Land Company's manager. As an officer of Barcelona Land Company, Simmons had the power to perform normal business functions and otherwise operate and manage the company's business, to keep all books, accounts, and other records of the company, to enforce obligations of third parties

to the company, pay all debts and other obligations of the company, and to execute agreements in connection with the company's assets.

16. Barcelona Land Company's members cannot take part in the control of management of the company's business except to require majority-in-interest approval for actions that would materially diminish their economic rights and to remove the manager for cause by a majority-in-interest vote. As a result of the members' limited voting rights, the manager has control of the company through its exclusive right to approve all "Major Decisions."

OCTOBER 2012 OFFERING

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

18. The October 2012 Offering notes and investment contracts were not registered with the Commission.

19. Since at least March 7, 2013, Kerrigan offered and sold the October 2012 Offering within or from Arizona.

20. Since October 2012, Barcelona Advisors provided at least five offerees with a private placement memorandum describing the October 2012 Offering ("October 2012 PPM").

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

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

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

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

25. At least ten of the investors in the October 2012 Offering learned about the offering from Kerrigan. One of these investors paid for his investment with funds from a stock account that Kerrigan managed for him. Kerrigan gave the October 2012 PPM to at least one of these investors and gave a written summary of the investment terms to at least four of them. Kerrigan told one of these investors in approximately May 2013 that money would be "rolling in" from the October 2012 Offering.

26. At least six of the investors in the October 2012 Offering were Kerrigan's clients through the registered securities dealer that employed him.

27. The dealer with which Kerrigan was registered did not approve Kerrigan's sale of the October 2012 Offering, and Kerrigan's sales of the October 2012 Offering were not recorded on the records of the dealer.

28. Harkins provided two of the investors in the October 2012 Offering with the October 2012 PPM, and in approximately May 2013 he told an investor that the investment would be good as long as the economy was stable.

29. In 2013, Barcelona Advisors advertised the October 2012 Offering for sale in several print advertisements published in the Arizona Republic.

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

31. Harkins accepted and signed all of the subscription agreements and notes for the October 2012 Offering.

32. The October 2012 PPM stated that, "[Harkins] has been involved in the real estate industry ... over the period 2002 through mid-2009 in the creation and executive management of

Arizona Village Communities Operating Company, Inc. ('AVC'), a land acquisition and investment company."

33. The October 2012 PPM failed to disclose that the Arizona Village Communities venture failed, that three companies controlled by Harkins that were related to the venture filed for protection under the U.S. Bankruptcy Code, Chapter 11, and that the Arizona State Land Department cancelled the acquisition of the land for the fourth company related to the venture for nonpayment.

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

35. The October 2012 PPM failed to disclose that Harkins, the president, was also closely assisted by Paul Meka ("Meka"), who worked for the company, maintained the company's records, and prepared financial projections. Meka also had experience evaluating land parcels and commercial property and gave Barcelona Advisors input on acquiring multifamily projects, and Barcelona Advisors expected Meka to eventually have a significant role in the company to help locate land parcels, evaluate them, and do land entitlement work. Since June 19, 2006, Meka has been subject to a Maricopa Superior Court judgment permanently enjoining him from violating the Arizona Securities Act and ordering him to pay $81,000 in disgorgement to investors. Meka was also a felon convicted of misprision of a felony in November 2010 due to his role in an investment fraud scheme in which Meka was paid to "rubber stamp" documents that his superiors used to defraud investors.

36. The October 2012 PPM included a description of Kerrigan, an Executive Member of Barcelona Advisors who had a vote in the approval of all Barcelona Advisors "Major Decisions." The October 2012 PPM stated that, "Mr. Kerrigan is the President and sole shareholder of Personal Wealth Management Group, Inc [sic] and the Sole Managing Partner of Wealth Legacy Consultants, LLC. ... For the past (45) years [Kerrigan] has been active in the financial services

industry both as a provider of financial services to private clients and through ownership and management of several privately held companies both in manufacturing and service distribution."

37. The October 2012 PPM failed to disclose that National Bank of Arizona was awarded over $76,000 in judgments against Kerrigan in 2010 for failure to repay a line of credit debt and that Kerrigan had an unpaid tax balance of approximately $80,000 from tax year 2010 that had not been fully paid.

38. Barcelona Advisors failed to disclose to investors who invested after June 30, 2013, that on that date, Barcelona Advisors defaulted on two $30,000 promissory notes to Kerrigan.

39. Barcelona Advisors failed to disclose to at least one investor who invested after September 2013 that Barcelona Advisors had "shelved" its business plan in September 2013 and was in search of a new business plan.

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

41. Barcelona Advisors failed to disclose to at least one investor who invested after October 1, 2013 that on that date, Barcelona Advisors issued a $70,000 promissory note to Kerrigan promising that, "Principal and any earned and unpaid interest shall be paid from proceeds received by [Barcelona Advisors] from new investors in the ... [October 2012] Offering."

R.E. AND M.E. OFFERINGS

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

43. On December 30, 2013, Harkins, Kerrigan, Simmons, Orr, and Barcelona Advisors offered and sold to R.E. and M.E. a promissory note issued by Barcelona Advisors and rights to purchase membership interests in Barcelona Advisors (collectively, the "December 30, 2013, Investment"). Harkins, Kerrigan, Simmons, and Orr met with M.E. and requested that he make this investment. The December 30, 2013, Investment offered 12% annual interest on the note, a maturity date of March 31, 2014, and rights to purchase membership interests in Barcelona Advisors at an unspecified price.

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

45. On February 28, 2014, Harkins, Kerrigan, Simmons, Orr, and Barcelona Advisors offered and sold to R.E. and M.E. a promissory note issued by Barcelona Advisors and rights to purchase investment contracts in the form of limited liability company membership interests in Barcelona Advisors (collectively, the "February 28, 2014, Investment"). Harkins, Kerrigan, Simmons, and Orr met with M.E. and requested that he make this investment. The February 28, 2014, Investment offered 12% annual interest on the note, a maturity date of May 31, 2014, and rights to purchase membership interests in Barcelona Advisors at an unspecified price.

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

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

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

49. On August 1, 2014, Barcelona Advisors offered and sold to R.E. and M.E. a promissory note issued by Barcelona Advisors ("August 1, 2014, Investment"). The August 1, 2014, Investment offered 10% annual interest on the note and a maturity date of August 15, 2014.

50. Investors R.E. and M.E. invested $15,000 in the August 1, 2014, Investment.

51. To date, investors R.E. and M.E. have not received any interest payments or a refund of their principal investment in the December 30, 2013, February 28, 2014, July 14, 2014, or August 1, 2014, Investments.

52. Investors R.E. and M.E. previously invested in the October 2012 Offering and received an October 2012 PPM and relied on the information in the October 2012 PPM for their ongoing investments in the R.E. and M.E. Offerings.

JANUARY 2014 OFFERING

53. Since at least December 31, 2013, Harkins, Kerrigan, Simmons, Orr, and Barcelona Advisors offered, and Harkins and Barcelona Advisors sold, promissory notes issued by Barcelona Advisors within and from Arizona ("January 2014 Offering").

54. At least two investors invested at least $150,000 in the January 2014 Offering.

55. To date, investors in the January 2014 Offering have not received any interest payments or a refund of their principal investments.

56. Barcelona Advisors' stated business plan during the January 2014 Offering was to be the advisor to a series of private funds that would raise capital to acquire hotels and "other qualified real estate properties."

57. On December 31, 2013, Harkins, Kerrigan, Simmons, Orr, and Barcelona Advisors sent a letter to existing Barcelona Advisors investors explaining that to fund working capital requirements Barcelona Advisors had released a new "$1MM offering featuring 10% annual interest for 2 years, with a 5% premium paid 12/31/2014 and a 10% premium paid 12/31/2015." Harkins, Kerrigan, Simmons, and Orr all signed this letter.

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

59. At least one of the investors in the January 2014 Offering was Kerrigan's client through the registered securities dealer that employed him.

60. The dealer with which Kerrigan was registered did not approve Kerrigan's sale of the January 2014 Offering, and Kerrigan's sale of the January 2014 Offering was not recorded on the records of the dealer.

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

62. Harkins accepted and signed at least one of the subscription agreements and signed at least two of the notes for the January 2014 Offering. Simmons also signed one of the January 2014 Offering subscription agreements.

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

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

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

66. The January 2014 PPM stated that, "We have an appropriate business model .... We have appropriately planned for the Company's capital requirements. ... We have organized and prepared to effectively raise the capital required ...."

67. The January 2014 PPM failed to disclose that the current business model was Barcelona Advisors' "Plan B" after its first business model failed due to the inability to raise the necessary capital for the first business model.

68. The January 2014 PPM stated that, "[Harkins'] experiences include land acquisition, development, financing and executive management involving over 675 individual hospitality and multifamily properties." The January 2014 PPM also stated that, "Our management team has a combined experience which we believe to be significant and uniquely qualified to meet our business objectives."

69. The January 2014 PPM failed to disclose the failure of the AVC venture, as alleged in paragraph 33.

70. The January 2014 PPM also stated that, "The day-to-day business affairs of the Company shall be managed exclusively by its President. Richard Harkins is appointed ... for an initial term as President...."

71. The January 2014 PPM failed to disclose Meka's role in the company, as alleged in paragraph 35.

72. The January 2014 PPM included a description of Kerrigan, an Executive Member of Barcelona Advisors who had a vote in the approval of all Barcelona Advisors "Major Decisions." The January 2014 PPM stated that, "For the past 45 years, Mr. Kerrigan has been active in the financial services industry both as a provider of financial services to private clients, and through ownership and management of several privately held companies both in manufacturing and service distribution." The January 2014 PPM also stated that, "Our management team has a combined experience which we believe to be significant and uniquely qualified to meet our business objectives."

73. The January 2014 PPM failed to disclose the debt judgment against Kerrigan and his unpaid tax balance, as alleged in paragraph 37.

74. Barcelona Advisors failed to disclose to investors who invested after June 30, 2013, that on that date, Barcelona Advisors defaulted on two $30,000 promissory notes to Kerrigan.

MAY 2014 OFFERING

75. From at least April 16, 2014, until at least June 11, 2014, Harkins and Barcelona Land Company offered membership interests in Barcelona Land Company within and from Arizona ("May 2014 Offering").

76. Barcelona Land Company provided at least one offeree with a private placement memorandum dated May 5, 2014, ("May 2014 PPM"). The May 2014 PPM offered Barcelona Land Company membership interests with a total offering of $10,000,000. The May 2014 PPM forecasted 214% returns over four years.

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

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

79. Contractor never reached any agreement with Barcelona Land Company's parent company regarding entitlement work and site development.

80. The May 2014 PPM also stated that, "Mr. Harkins has over 40 years of background in the real estate industry. His experiences include land acquisition, development, financing and executive management involving over 675 individual hospitality and multifamily projects. ... Over the period 2002 through mid-2009 Mr. Harkins was [involved] in the creation and executive management of Arizona Village Communities Operating Company, Inc. ('AVC'), a land

development luxury community developer and real estate investment company, which ceased operations in 2009."

81. The May 2014 PPM failed to disclose the failure of the AVC venture, as alleged in paragraph 33.

82. The May 2014 PPM also stated that Harkins was the president of USA Barcelona Realty Advisors, LLC and that, "USA Barcelona Realty Advisors, LLC ... will act as Advisor to the Company. Its management team has a combined experience which we believe to be significant and uniquely qualified to meet our business objectives."

83. The May 2014 PPM failed to disclose Meka's role in the company, as alleged in paragraph 35.

84. The May 2014 PPM also stated that, "Mr. Kerrigan advises on financial matters. ... For the past 45 years, Mr. Kerrigan has been active in the financial services industry both as a provider of financial services to private clients, and through ownership and management of several privately held companies ...."

85. The May 2014 PPM failed to disclose the debt judgment against Kerrigan and his unpaid tax balance, as alleged in paragraph 37.

JUNE 2014 OFFERING

86. From at least June 11, 2014, to June 16, 2014, Harkins and Barcelona Advisors offered and sold a combination of promissory notes issued by Barcelona Advisors and investment contracts in the form of limited liability company membership interests in Barcelona Advisors within and from Arizona (collectively the "June 2014 Offering").

87. At least one investor invested at least $5,000 in the June 2014 Offering.

88. To date, the investor in the June 2014 Offering has not received any interest payments or a refund of his principal investment.

89. Harkins sent at least thirteen offerees a letter dated June 11, 2014, ("June 2014 Offer Letter") and signed by Harkins. The June 2014 Offer Letter offered promissory notes with a total

offering of $150,000, 10% annual interest, a 3% bonus, and a ninety day maturity date. The June 2014 Offer Letter also offered membership interests in Barcelona Advisors based on the amount of the promissory notes.

90. At least one investor in the June 2014 Offering was issued a promissory note signed by Harkins containing the same terms with respect to interest, bonus interest, and maturity date.

91. All offerees of the June 2014 Offering had previously invested in the October 2012 Offering or the January 2014 Offering. Accordingly, the misstatements and failures to disclose in the October 2012 PPM and the January 2014 PPM, as described above, were also made in connection with the June 2014 Offering.

HARKINS' INTENT TO MAKE NEW OFFERINGS

92. Harkins sent at least thirteen potential investors a letter dated April 21, 2015 ("April 2015 Letter"). The April 2015 Letter described investment contracts in the form of limited liability company membership interests in NewCo with a total offering of $500,000. The April 2015 Letter also described 8% annual interest on the amount of the membership interest investment. The April 2015 Letter also described a second class of membership interests in NewCo that entitled investors to a percentage of profits.

93. The April 2015 Letter described investment contracts, including limited liability company membership interests, that are not registered with the Commission.

94. In the April 2015 Letter, Harkins stated, "NewCo will operate more like a Fund than a real estate company. In fact, it may be a diversified fund that acquires interest in other funds and in both real estate companies and single purpose entities."

95. Harkins also stated his intention to offer these unregistered securities: "Within the next 30 days, I intend to present the Plan in its entirety to you. I will give you the right of first opportunity to acquire Class B Units."

96. Harkins sent at least one potential investor an e-mail dated May 5, 2015 ("May 2015 E-mail"). The May 2015 E-mail offered unspecified "securities" in "The HourGlass Fund" with an

unspecified total offering amount. Harkins described the venture as an "Investment Fund ... that invests in established real estate investment companies. The idea is to spread Hour Glass Fund investments across 8 to 10 Funds each of which are invested in multiple real estate based investments."

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

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

99. Harkins also stated his intention to offer these unregistered securities: "So, we're close to putting the Plan out there. First to the Barcelona Advisors noteholders."

100. Harkins still wants to proceed with the HourGlass Fund offering.

IV.

VIOLATION OF A.R.S. § 44-1841

(Offer or Sale of Unregistered Securities)

1. From on or about October 20, 2012, respondents Harkins, Kerrigan, and Barcelona Advisors offered or sold securities in the form of promissory notes and investment contracts, within or from Arizona.

2. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

3. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

4. Respondents Harkins and Barcelona Advisors offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

5. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

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

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

102. Respondents' conduct includes, but is not limited to, the following:

Fraud related to October 2012 Offering, R.E. and M.E. Offerings, January 2014 Offering, May 2014 Offering, and June 2014 Offering

a) Although they described Harkins' real estate industry experience and credentials, Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company failed to disclose that the Arizona Village Communities real estate venture failed, that three companies controlled by Harkins that were related to the venture filed for protection under the U.S. Bankruptcy Code, Chapter 11, and that the Arizona State Land Department cancelled the acquisition of the land for the venture for nonpayment;

b) Although they described Harkins' role as president of Barcelona Advisors, Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company failed to disclose that Meka closely assisted Harkins and was expected to eventually have a significant role in the company working on real estate tasks despite being subject to a permanent injunction against violating the Securities Act and despite having been convicted of misprision of a felony for his role in an investment fraud scheme in which he helped his superiors defraud investors.

c) Although they described Kerrigan's financial services industry experience and credentials, Harkins, Kerrigan, Barcelona Advisors, and Barcelona Land Company failed to disclose that National Bank of Arizona was awarded over $76,000 in judgments against Kerrigan in 2010 for failure to repay a line of credit debt and that Kerrigan had an unpaid tax balance of approximately $80,000 from tax year 2010 that had not been fully paid;

Additional fraud related to October 2012 Offering

d) Harkins, Kerrigan, and Barcelona Advisors failed to disclose to investors who invested after June 30, 2013, that Barcelona Advisors had defaulted on two $30,000 promissory notes to Kerrigan;

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

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

Additional fraud related to January 2014 Offering and June 2014 Offering

g) Harkins, Kerrigan, and Barcelona Advisors failed to disclose to investors who invested after June 30, 2013, that Barcelona Advisors had defaulted on two $30,000 promissory notes to Kerrigan;

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

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

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

Additional fraud related to May 2014 Offering

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

103. This conduct violates A.R.S. § 44-1991.

VII.

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

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

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

VIII.

REMEDIES PURSUANT TO A.R.S. § 44-1962

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

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

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

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

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

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

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

IX.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

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

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

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

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

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

X.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

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

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

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

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

5. Order that the marital communities of Simmons and Orr, and their respective Respondent Spouses, be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

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

XI.

HEARING OPPORTUNITY

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

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

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

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

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, ADA Coordinator, 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.

XII.

ANSWER REQUIREMENT

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

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

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

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

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

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this _____ day of _____, 2016.

_____
Matthew J. Neubert
Director of Securities