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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2016 FEB 24 P 2:17

- DOUG LITTLE - Chairman
- BOB STUMP
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- ANDY TOBIN

AZ CORP COMMISSION  
DOCKET CONTROL

In the matter of: )  
 KENNETH JOSEPH PLEIN, a married man, )  
 MARY KATHRYN PLEIN (a.k.a. "MARY KAY )  
 PLEIN"), a married woman, )  
 KENNETH JOSEPH PLEIN and MARY )  
 KATHRYN PLEIN (a.k.a. "MARY KAY )  
 PLEIN"), Co-Trustees of THE PLEIN FAMILY )  
 TRUST U/T/A dated DECEMBER 1, 1993, )  
 PLEIN ENTERPRISES INCORPORATED )  
 (d.b.a. "TRI-STAR REALTY"), an Arizona )  
 corporation, )  
 Respondents. )

DOCKET NO. S- 20774A-10-0494

SECURITIES DIVISION'S  
RESPONSE TO MOTION TO  
CONTINUE

Arizona Corporation Commission

DOCKETED

FEB 24 2016

DOCKETED BY

Patricia Peterson, through her personal representative M. Christopher Peterson, filed an Emergency Application for Leave to Intervene, Motion to Reopen Docket and Motion Objecting to Proposed Manner of Distribution of Victims' Restitution Funds ("Motion"). After the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") responded to the Motion, Ms. Peterson then filed a Motion to Continue, asking for an additional 60 days to file her reply to the Division's response in order to allow the Superior Court to issue a ruling. Generally the Division does not oppose requests for continuance. However, in this instance the ruling from Superior Court will not change any of the reasons why the Motion should be denied. Therefore, there is no reason not to deny the underlying Motion at this time.

In her Motion, Ms. Peterson asked:

1 “[F]or an Emergency Order of the ACC affirming that it has no entitlement to any  
2 portion of the \$4 million restitution funds, which should be distributed to the  
3 victims of the Pleins, that the 35% statute [A.R.S. § 41-191.03] does not apply and  
that its Plein order governs any entitlement it has to monies recovered in the Plein  
matter.”

4 Motion, at 4. As the Division pointed out in its response, Ms. Peterson’s argument is not with the  
5 Commission or the Division; rather, it is with the Attorney General’s office and application of A.R.S.  
6 § 41-191.03. That statute states that the Attorney General shall deposit 35% of funds it collects into  
7 the Collections Enforcement Revolving Fund. The Commission does not receive any money from  
8 the fund nor does it have the right to direct money to or from the fund.

9 As Ms. Peterson admits, she is currently litigating the same issue in Maricopa County  
10 Superior Court and expects a ruling by March 3, 2016. What she does not state is that no matter  
11 which way the Court rules in that matter, it will have no impact on the Commission. Either the Court  
12 will rule that the Attorney General must follow A.R.S. § 41-191.03 and deposit 35% in the fund or  
13 it will rule that the Attorney General should not deposit those monies in the fund. Whatever the  
14 ruling, the Commission has no ability to change that ruling or issue contrary instructions to the  
15 Attorney General. Therefore, waiting 60 days for a ruling from the Court does not change the law  
16 and facts regarding Ms. Peterson’s Motion. The Commission is not withholding any funds from  
17 investors and has no ability to instruct the Attorney General regarding a statute that applies to that  
18 office.

19 As there is no reason to grant a continuance, the Division requests that Administrative Law  
20 Judge rule on the underlying Motion and deny it.

21 Dated this 24<sup>th</sup> day of February, 2016

22 ARIZONA CORPORATION COMMISSION

23 By 

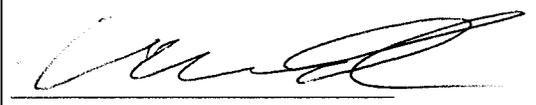
24 Mark Dinell  
25 Attorney for the Securities Division of  
26 the Arizona Corporation Commission

1 Original and 6 copies filed this  
2 24<sup>th</sup> day of February, 2016, with:

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

7 Copy of the foregoing mailed this  
8 24<sup>th</sup> day of February, 2016, to:

9 Thomas K. Irvine  
10 Chance Peterson  
11 ASU Alumni Law Group  
12 Two North Central Av., Suite 1600  
13 Phoenix, AZ 85004

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