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0000168855

1 Charles R. Berry, 003379
 Stanley R. Foreman, 032320
 2 Clark Hill PLC
 14850 N. Scottsdale Road, Suite 500
 3 Scottsdale, AZ 85254
 Telephone: (480) 684-1100
 4 E-mails: cberry@clarkhill.com; sforeman@clarkhill.com
 5 Counsel for George T. Simmons and Janet B. Simmons
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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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 10 DOUG LITTLE, Chairman
 BOB STUMP
 11 BOB BURNS
 TOM FORESE
 12 ANDY TOBIN

In the matter of:

14 USA BARCELONA REALTY ADVISORS,
 15 LLC, an Arizona limited liability company,
 16 USA BARCELONA HOTEL LAND
 COMPANY I, LLC, an Arizona limited liability
 17 company,
 18 RICHARD C. HARKINS, an unmarried man,
 19 ROBERT J. KERRIGAN (CRD no. 268516)
 An unmarried man,
 20 GEORGE T. SIMMONS and JANET B.
 21 SIMMONS, husband and wife,
 22 BRUCE ORR, an unmarried man,

DOCKET NO. S-20938A-15-0308

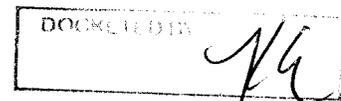
**ANSWER OF RESPONDENT GEORGE
T. SIMMONS TO AMENDED
TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING**

Mr. Simmons.

Arizona Corporation Commission

DOCKETED

MAR 07 2016



25
 26 Respondent George T. Simmons ("*Mr. Simmons*") answers or otherwise responds to the
 27 allegations of the Securities Division (the "*Division*") of the Arizona Corporation Commission (the
 28

1 “*Commission*”) set forth in the Amended Temporary Order to Cease and Desist and Notice of
2 Opportunity for Hearing dated August 26, 2015 (the “*Notice*”). Mr. Simmons filed an Answer to an
3 original Notice dated August 26, 2015. An Amended Notice dated January 22, 2016 was filed
4 January 25, 2016. Janet B. Simmons is joined in this action and named as Respondent Spouse solely
5 for purposes of determining the liability of her marital community; when used in this pleading, the
6 term “Mr. Simmons” includes the marital community of George T. Simmons and Janet B.
7 Simmons.
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9 Mr. Simmons denies engaging in any acts, practices or transactions that constitute violations
10 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* (the “*Securities Act*”), and denies that
11 the public welfare requires immediate action.
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13 Mr. Simmons denies that he ever directly or indirectly controlled USA Barcelona Realty
14 Advisors, LLC (“*Barcelona Advisors*”) within the meaning of A.R.S. § 44-1999, and denies that he
15 is jointly and severally liable under A.R.S. § 44-1999 to the same extent as Barcelona Advisors for
16 any alleged violations of the Securities Act.

17 Mr. Simmons denies that he directly or indirectly controlled USA Barcelona Hotel Land
18 Company I, LLC (“*Barcelona Land Company*”) within the meaning of A.R.S. § 44-1999, and
19 denies that he is jointly and severally liable under A.R.S. § 44-1999 to the same extent as Barcelona
20 Land Company for any alleged violations of the Securities Act.
21

22 Mr. Simmons responds to specific allegations of the Notice as follows:

23 **I.**

24 **JURISDICTION**

25 1. Answering paragraph 1, Mr. Simmons admits only that the Commission has
26 jurisdiction over certain matters pursuant to Article XV of the Arizona Constitution and the
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1 Securities Act; the other allegations of paragraph 1 call for a legal conclusion, and on that basis,
2 those allegations are denied.

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4 **II.**

5 **RESPONDENTS**

6 2. The allegations of paragraph 2 do not specifically pertain to Mr. Simmons, and Mr.
7 Simmons lacks sufficient knowledge and information to form a belief as to the truth of the
8 allegations in paragraph 2, and on that basis, the allegations are denied.

9 3. The allegations of paragraph 3 do not specifically pertain to Mr. Simmons, and Mr.
10 Simmons lacks sufficient knowledge and information to form a belief as to the truth of the
11 allegations in paragraph 3, and on that basis, the allegations are denied.

12 4. Mr. Simmons admits the allegations in paragraph 4.

13 5. The allegations of paragraph 5 do not specifically pertain to Mr. Simmons, and Mr.
14 Simmons lacks sufficient knowledge and information to form a belief as to the truth of the
15 allegations in paragraph 5, and on that basis, the allegations are denied.

16 6. Mr. Simmons admits that Barcelona Advisors is a limited liability company that was
17 organized under Arizona law, and that Respondents Richard C. Harkins ("**Harkins**"), Robert J.
18 Kerrigan ("**Kerrigan**"), Bruce Orr ("**Orr**") and Mr. Simmons were Members of Barcelona Advisors.
19 Mr. Simmons denies that he was a manager of Barcelona Advisors. Mr. Simmons avers that he was
20 not involved with Barcelona Advisors prior to July 2013. Mr. Simmons lacks sufficient knowledge
21 and information to form a belief as to the truth of the other allegations in paragraph 6, and on that
22 basis, those allegations are denied.

23 7. Mr. Simmons admits that Barcelona Land Company is a limited liability company
24 that was organized under Arizona law, that Barcelona Advisors was a member of Barcelona Land
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1 Company, and that USA Barcelona Hotel Holding Company, LLC was named as manager. Mr.
2 Simmons lacks sufficient knowledge and information to form a belief as to the truth of the other
3 allegations in paragraph 7, and on that basis, those allegations are denied.

4 8. Mr. Simmons admits the allegations in paragraph 8 relating to Mr. Simmons and
5 Janet B. Simmons. With respect to the allegations relating to Orr and Susan S. Orr, Mr. Simmons
6 lacks sufficient knowledge and information to form a belief as to the truth of such allegations in
7 paragraph 8, and on that basis, those allegations are denied.

9 9. Mr. Simmons admits the allegations in paragraph 9 relating to Mr. Simmons and
10 Janet B. Simmons. With respect to the allegations relating to Orr and Susan S. Orr, Mr. Simmons
11 lacks sufficient knowledge and information to form a belief as to the truth of such allegations in
12 paragraph 9, on that basis, those allegations are denied.

13 10. Answering paragraph 10, that paragraph contains no allegations of fact to which Mr.
14 Simmons need respond.

16 III.

17 FACTS

18 11. Mr. Simmons admits that Harkins acted as president of Barcelona Advisors. The
19 allegations in paragraph 11 do not apply to Mr. Simmons; thus, no response from him is required.
20 To the extent that Mr. Simmons must respond to these allegations, he lacks sufficient knowledge
21 and information to form a belief as to the truth of the allegations in paragraph 11, and on that basis,
22 the allegations are denied.

23 12. Answering paragraph 12, Mr. Simmons admits he served as an Executive Member of
24 Barcelona Advisors beginning July 2013 until August 2014, and that Respondents Harkins,
25 Kerrigan and Orr served as Executive Members during that time. Mr. Simmons denies that he was
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1 an Executive Member of Barcelona Advisors prior to July 2013. Mr. Simmons avers that Rodney
2 L. Eaves ("*Eaves*"), who is referred to in the Notice only as "*married investor R.E.*", also served as
3 an Executive Member of Barcelona Advisors for some period of time. Further answering, Mr.
4 Simmons lacks sufficient knowledge and information to form a belief as to the truth of the other
5 allegations in paragraph 12, and on that basis, those allegations are denied.
6

7 13. The allegations of paragraph 13 do not specifically pertain to Mr. Simmons, and Mr.
8 Simmons lacks sufficient knowledge and information to form a belief as to the truth of the
9 allegations in paragraph 13, and on that basis, the allegations are denied.

10 14. The allegations in paragraph 14 do not apply to Mr. Simmons; thus, no response
11 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
12 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
13 14, and on that basis, the allegations are denied.
14

15 15. Mr. Simmons denies the allegations of paragraph 15.

16 16. Answering paragraph 16, the paragraph contains no allegations of fact to which Mr.
17 Simmons need respond. To the extent that Mr. Simmons must respond to these allegations, he lacks
18 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
19 16, and on that basis, the allegations are denied.
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21 17. The allegations in paragraph 17 do not apply to Mr. Simmons; thus, no response
22 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
23 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
24 17, and on that basis, the allegations are denied.

25 18. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
26 truth of the allegations in paragraph 18, and on that basis, the allegations are denied.
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1 19. The allegations in paragraph 19 do not apply to Mr. Simmons; thus, no response
2 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
3 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
4 18, and on that basis, the allegations are denied.

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6 20. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
7 truth of the allegations in paragraph 20, and on that basis, the allegations are denied.

8 21. Answering paragraph 21, the paragraph contains no allegations of fact to which Mr.
9 Simmons need respond. Mr. Simmons avers that the October 2012 PPM, as defined in the Notice,
10 (the "**October 12 PPM**") speaks for itself and any allegations made to the contrary are denied. To
11 the extent that Mr. Simmons must respond to the allegations, he lacks sufficient knowledge and
12 information to form a belief as to the truth of the allegations in paragraph 21, and on that basis, the
13 allegations are denied.

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15 22. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
16 truth of the allegations in paragraph 22, and on that basis, the allegations are denied.

17 23. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
18 truth of the allegations in paragraph 23, and on that basis, the allegations are denied.

19 24. Answering paragraph 24, the paragraph contains no allegations of fact to which Mr.
20 Simmons need respond. Mr. Simmons avers that the "**stated business plan**" referred to in the Notice
21 speaks for itself and any allegations made to the contrary are denied.

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23 25. The allegations in paragraph 25 do not apply to Mr. Simmons; thus, no response
24 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
25 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
26 25, and on that basis, the allegations are denied.

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1 26. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
2 truth of the allegations in paragraph 26, and on that basis, the allegations are denied.

3 27. The allegations in paragraph 27 do not apply to Mr. Simmons; thus, no response
4 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
5 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
6 27, and on that basis, the allegations are denied.

7 28. The allegations in paragraph 28 do not apply to Mr. Simmons; thus, no response
8 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
9 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
10 28, and on that basis, the allegations are denied.

11 29. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
12 truth of the allegations in paragraph 29, and on that basis, the allegations are denied.

13 30. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 30, and on that basis, the allegations are denied.

15 31. The allegations in paragraph 31 do not apply to Mr. Simmons; thus, no response
16 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
17 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
18 31, and on that basis, the allegations are denied.

19 32. The allegations in paragraph 32 do not apply to Mr. Simmons; thus, no response
20 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
21 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
22 32, and on that basis, the allegations are denied. Further answering, the October 2012 PPM speaks
23 for itself and any allegations made to the contrary are denied.
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1 33. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
2 truth of the allegations in paragraph 33, and on that basis, the allegations are denied. Further
3 answering, the October 2012 PPM speaks for itself and any allegations made to the contrary are
4 denied.

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6 34. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
7 truth of the allegations in paragraph 34, and on that basis, the allegations are denied. Further
8 answering, the October 2012 PPM speaks for itself and any allegations made to the contrary are
9 denied.

10 35. Mr. Simmons admits that Paul Meka ("*Meka*") had experience evaluating land
11 parcels and commercial property. Mr. Simmons lacks sufficient knowledge and information to
12 form a belief as to the truth of the remaining allegations in paragraph 35, and on that basis, the
13 allegations are denied. Further answering, the October 2012 PPM speaks for itself and any
14 allegations made to the contrary are denied.
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16 36. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
17 truth of the allegations in paragraph 36, and on that basis, the allegations are denied. Further
18 answering, the October 2012 PPM speaks for itself and any allegations made to the contrary are
19 denied.
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21 37. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
22 truth of the allegations in paragraph 37, and on that basis, the allegations are denied. Further
23 answering, the October 2012 PPM speaks for itself and any allegations made to the contrary are
24 denied.

25 38. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
26 truth of the allegations in paragraph 38, and on that basis, the allegations are denied.
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1 39. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
2 truth of the allegations in paragraph 39, and on that basis, the allegations are denied.

3 40. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
4 truth of the allegations in paragraph 40, and on that basis, the allegations are denied. Further
5 answering, the October 2012 PPM speaks for itself and any allegations made to the contrary are
6 denied.
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8 41. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
9 truth of the allegations in paragraph 41, and on that basis, the allegations are denied.

10 42. Mr. Simmons avers that the person referred to in the Notice as "*married investor*
11 *R.E.*" is in fact Eaves, who served for some time as an Executive Member of Barcelona Advisors.
12 Mr. Simmons lacks sufficient knowledge and information to form a belief as to the truth of the
13 allegations in paragraph 42, and on that basis, the allegations are denied.
14

15 43. Mr. Simmons denies that he had any role in offering and selling what is referred to in
16 the Notice as the "*December 30, 2013 Investment*" or requesting that any person make the
17 December 30, 2013 Investment. Mr. Simmons lacks sufficient knowledge and information to form a
18 belief as to the truth of the remaining allegations in paragraph 43, and on that basis, those
19 allegations are denied.
20

21 44. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
22 truth of the allegations in paragraph 44, and on that basis, the allegations are denied.

23 45. Mr. Simmons denies that he had any role in offering and selling what is referred to in
24 the Notice as the "*February 28, 2014 Investment*" or requesting that any person make the February
25 28, 2014 Investment. Mr. Simmons lacks sufficient knowledge and information to form a belief as
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1 to the truth of the remaining allegations in paragraph 45, and on that basis, those allegations are
2 denied.

3 46. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
4 truth of the allegations in paragraph 46, and on that basis, the allegations are denied.

5 47. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
6 truth of the allegations in paragraph 47, and on that basis, the allegations are denied.

7 48. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
8 truth of the allegations in paragraph 48, and on that basis, the allegations are denied.

9 49. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
10 truth of the allegations in paragraph 49, and on that basis, the allegations are denied.

11 50. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
12 truth of the allegations in paragraph 50, and on that basis, the allegations are denied.

13 51. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 51, and on that basis, the allegations are denied.

15 52. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
16 truth of the allegations in paragraph 52, and on that basis, the allegations are denied.

17 53. Answering paragraph 53, Mr. Simmons denies that he ever offered or sold
18 promissory notes issued by Barcelona Advisors within or from Arizona, and denies that he had any
19 role in offering or selling what is referred to in the Notice as the "*January 2014 Offering*". Further
20 answering, Mr. Simmons lacks sufficient knowledge and information to form a belief as to the truth
21 of the remaining allegations in paragraph 53, and on that basis, those allegations are denied.

22 54. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
23 truth of the allegations in paragraph 54, and on that basis, the allegations are denied.

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1 55. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
2 truth of the allegations in paragraph 55, and on that basis, the allegations are denied.

3 56. The allegations in paragraph 56 do not apply to Mr. Simmons; thus, no response
4 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
5 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
6 56, and on that basis, the allegations are denied. Further answering, the stated business plan speaks
7 for itself and any allegations made to the contrary are denied.

8 57. Answering paragraph 57, Mr. Simmons admits that he, together with Harkins,
9 Kerrigan and Orr, signed a letter dated December 31, 2013, directed to certain persons who had to
10 existing relationships with Barcelona Advisors. Further answering, the December 31, 2013 letter
11 speaks for itself and any allegations made to the contrary are denied.

12 58. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
13 truth of the allegations in paragraph 58, and on that basis, the allegations are denied. Further
14 answering, the January 2014 PPM, as defined in the Notice (the "*January 2014 PPM*") speaks for
15 itself and any allegations made to the contrary are denied.

16 59. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
17 truth of the allegations in paragraph 59, and on that basis, the allegations are denied.

18 60. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
19 truth of the allegations in paragraph 60, and on that basis, the allegations are denied.

20 61. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
21 truth of the allegations in paragraph 61, and on that basis, the allegations are denied.

22 62. Mr. Simmons admits that he executed one subscription agreement. Mr. Simmons
23 avers that he had no knowledge of, or involvement in the transaction, but signed on behalf of
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1 Harkins when he was asked to do so, and only after speaking directly to Harkins by telephone, and
2 being directed to sign by Harkins, who was not available. The remaining allegations in paragraph
3 62 do not apply to Mr. Simmons; thus, no response from him is required. To the extent that Mr.
4 Simmons must respond to these allegations, he lacks sufficient knowledge and information to form
5 a belief as to the truth of the allegations in paragraph 62, and on that basis, those allegations are
6 denied.
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8 63. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
9 truth of the allegations in paragraph 63, and on that basis, the allegations are denied. Further
10 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
11 denied.
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13 64. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 64, and on that basis, the allegations are denied. Further
15 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
16 denied.
17

18 65. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
19 truth of the allegations in paragraph 65, and on that basis, the allegations are denied. Further
20 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
21 denied.
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23 66. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
24 truth of the allegations in paragraph 66, and on that basis, the allegations are denied. Further
25 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
26 denied.
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1 67. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
2 truth of the allegations in paragraph 67, and on that basis, the allegations are denied. Further
3 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
4 denied.

5 68. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
6 truth of the allegations in paragraph 68, and on that basis, the allegations are denied. Further
7 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
8 denied.

9 69. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
10 truth of the allegations in paragraph 69, and on that basis, the allegations are denied. Further
11 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
12 denied.

13 70. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 70, and on that basis, the allegations are denied. Further
15 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
16 denied.

17 71. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
18 truth of the allegations in paragraph 71, and on that basis, the allegations are denied. Further
19 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
20 denied.

21 72. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
22 truth of the allegations in paragraph 72, and on that basis, the allegations are denied. Further
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1 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
2 denied.

3 73. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
4 truth of the allegations in paragraph 73, and on that basis, the allegations are denied. Further
5 answering, the January 2014 PPM speaks for itself and any allegations made to the contrary are
6 denied.
7

8 74. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
9 truth of the allegations in paragraph 74, and on that basis, the allegations are denied.

10 75. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
11 truth of the allegations in paragraph 75, and on that basis, the allegations are denied.
12

13 76. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 76, and on that basis, the allegations are denied. Mr. Simmons
15 avers that a draft private placement memorandum for Barcelona Land Company was created in May
16 2014 (the "**2014 Draft Memorandum**"); however no final private placement memorandum,
17 including, but not limited to, the May 2014 PPM, as defined in the Notice (the "**May 2014 PPM**"),
18 was ever approved for use or used. Mr. Simmons avers that Barcelona Land Company never
19 offered or sold any membership interests, and that no "**May 2014 Offering**", as defined in the
20 Notice, ever occurred as alleged. Further answering, Mr. Simmons avers that the May 2014 PPM,
21 speaks for itself and any allegations to the contrary are denied.
22

23 77. Answering paragraph 77, the paragraph contains no allegations of fact to which Mr.
24 Simmons need respond. Mr. Simmons lacks sufficient knowledge and information to form a belief
25 as to the truth of the allegations in paragraph 77, and on that basis, the allegations are denied.
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1 78. Answering paragraph 78, Mr. Simmons admits that the 2014 Draft Memorandum
2 referred to Chanen Construction Company, Inc., a specific major general contracting company
3 (defined in the Notice as the “*Contractor*”), and avers that the 2014 Draft Memorandum contains
4 draft disclosures approved by the Contractor that accurately describe an agreement in principle that
5 had been negotiated with the Contractor. Mr. Simmons also avers that no final agreement was
6 signed with the Contractor, and no offering memorandum was ever approved for use. Further
7 answering, Mr. Simmons avers that neither the 2014 Draft Memorandum nor the May 2014 PPM
8 was never used in connection with an offer or sale of securities, that the May 2014 PPM speaks for
9 itself and any allegations to the contrary are denied.
10

11 79. Mr. Simmons denies the allegations in paragraph 79, and avers that an agreement in
12 principle was reached with the Contractor, and that the Contractor approved draft disclosures that
13 were set forth in the 2014 Draft Memorandum.
14

15 80. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
16 truth of the allegations in paragraph 80, and on that basis, the allegations are denied. Further
17 answering, Mr. Simmons avers that the May 2014 PPM speaks for itself, that the May 2014 PPM
18 was never approved for use, nor was it used, for the offer or sale of securities, and any allegations to
19 the contrary are denied.
20

21 81. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
22 truth of the allegations in paragraph 81, and on that basis, the allegations are denied. Further
23 answering, Mr. Simmons avers that the May 2014 PPM speaks for itself, that the May 2014 PPM
24 was never approved for use, nor was it used, for the offer or sale of securities, and any allegations to
25 the contrary are denied.
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1 82. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
2 truth of the allegations in paragraph 82, and on that basis, the allegations are denied. Further
3 answering, Mr. Simmons avers that the May 2014 PPM speaks for itself, that the May 2014 PPM
4 was never approved for use, nor was it used, for the offer or sale of securities, and any allegations to
5 the contrary are denied.
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7 83. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
8 truth of the allegations in paragraph 83, and on that basis, the allegations are denied. Further
9 answering, Mr. Simmons avers that the May 2014 PPM speaks for itself, that the May 2014 PPM
10 was never approved for use, nor was it used, for the offer or sale of securities, and any allegations to
11 the contrary are denied.
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13 84. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 84, and on that basis, the allegations are denied. Further
15 answering, Mr. Simmons avers that the May 2014 PPM speaks for itself, that the May 2014 PPM
16 was never approved for use, nor was it used, for the offer or sale of securities, and any allegations to
17 the contrary are denied.
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19 85. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
20 truth of the allegations in paragraph 85, and on that basis, the allegations are denied. Further
21 answering, Mr. Simmons avers that the May 2014 PPM speaks for itself, that the May 2014 PPM
22 was never approved for use, nor was it used, for the offer or sale of securities, and any allegations to
23 the contrary are denied.
24

25 86. The allegations in paragraph 86 do not apply to Mr. Simmons; thus, no response
26 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
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1 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
2 86, and on that basis, the allegations are denied.

3 87. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
4 truth of the allegations in paragraph 87, and on that basis, the allegations are denied.

5 88. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
6 truth of the allegations in paragraph 88, and on that basis, the allegations are denied.

7 89. The allegations in paragraph 89 do not apply to Mr. Simmons; thus, no response
8 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
9 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
10 89, and on that basis, the allegations are denied.

11 90. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
12 truth of the allegations in paragraph 90, and on that basis, the allegations are denied.

13 91. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 91, and on that basis, the allegations are denied.

15 92. The allegations in paragraph 92 do not apply to Mr. Simmons; thus, no response
16 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
17 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
18 92, and on that basis, the allegations are denied.

19 93. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
20 truth of the allegations in paragraph 93, and on that basis, the allegations are denied.

21 94. The allegations in paragraph 94 do not apply to Mr. Simmons; thus, no response
22 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
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1 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
2 94, and on that basis, the allegations are denied.

3 95. The allegations in paragraph 95 do not apply to Mr. Simmons; thus, no response
4 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
5 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
6 95, and on that basis, the allegations are denied.

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8 96. The allegations in paragraph 96 do not apply to Mr. Simmons; thus, no response
9 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
10 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
11 96, and on that basis, the allegations are denied.

12
13 97. Mr. Simmons lacks sufficient knowledge and information to form a belief as to the
14 truth of the allegations in paragraph 97, and on that basis, the allegations are denied.

15 98. The allegations in paragraph 98 do not apply to Mr. Simmons; thus, no response
16 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
17 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
18 98, and on that basis, the allegations are denied.

19 99. The allegations in paragraph 99 do not apply to Mr. Simmons; thus, no response
20 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
21 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
22 99, and on that basis, the allegations are denied.

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24 100. The allegations in paragraph 100 do not apply to Mr. Simmons; thus, no response
25 from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks
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1 sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph
2 100, and on that basis, the allegations are denied.

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5 **IV.**

6 **VIOLATIONS OF A. R. S. § 44-1841**

7 **(Offer of Sale of Unregistered Securities)**

8 1(IV). The allegations in Part IV, paragraph 1, of the Notice do not apply to Mr. Simmons;
9 thus, no response from him is required. To the extent that Mr. Simmons must respond to these
10 allegations, he lacks sufficient knowledge and information to form a belief as to the truth of such
11 allegations, and on that basis, the allegations are denied.

12 2(IV). The allegations in Part IV, paragraph 2 of the Notice do not apply to Mr. Simmons;
13 thus no response from him is required. To the extent that Mr. Simmons must respond to these
14 allegations, he lacks sufficient knowledge and information to form a belief as to the truth of such
15 allegations, and on that basis, the allegations are denied.

16 3(IV). The allegations in Part IV, paragraph 3 of the Notice do not apply to Mr. Simmons;
17 thus no response from him is required. To the extent that Mr. Simmons must respond to these
18 allegations, he lacks sufficient knowledge and information to form a belief as to the truth of such
19 allegations, and on that basis, the allegations are denied.
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22 **V.**

23 **VIOLATIONS OF A. R. S. § 44-1842**

24 **(Transactions by Unregistered Dealers or Salesmen)**

25 4(V). The allegations in Part V, paragraph 4 of the Notice do not apply to Mr. Simmons;
26 thus no response from him is required. To the extent that Mr. Simmons must respond to these
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1 allegations, he lacks sufficient knowledge and information to form a belief as to the truth of such
2 allegations, and on that basis, the allegations are denied.

3 5(V). The allegations in Part V, paragraph 5 of the Notice do not apply to Mr. Simmons;
4 thus no response from him is required. To the extent that Mr. Simmons must respond to these
5 allegations, he lacks sufficient knowledge and information to form a belief as to the truth of such
6 allegations, and on that basis, the allegations are denied.
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8 VI.

9 VIOLATIONS OF A.R.S. § 44-1991

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

11 101. The allegations in paragraph 101 do not apply to Mr. Simmons; thus no response
12 from him is required. To the extent that Mr. Simmons must respond to these allegations, he denies
13 the allegations in paragraph 101, which call for a legal conclusion. Mr. Simmons specifically
14 denies that, in connection with the offer or sale of securities within or from Arizona, he directly or
15 indirectly: (a) employed a device, scheme or artifice to defraud; (b) made untrue statements of
16 material fact or omitted to state material facts that were necessary in order to make the statements
17 made not misleading in light of circumstances under which they were made; or (c) engaged in
18 transactions, practices, or courses of business that operated or would operate as a fraud or deceit
19 upon offerees and/or investors.
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21 102. The allegations in paragraph 102 do not apply to Mr. Simmons; thus no response
22 from him is required. To the extent that Mr. Simmons must respond to these allegations, he denies
23 the allegations in paragraph 102 that call for legal conclusions. With respect to clauses (a) through
24 (k) of paragraph 102, Mr. Simmons lacks knowledge and information sufficient to form a belief as
25 to such allegations, and on that basis the allegations are denied. Mr. Simmons specifically denies:
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1 (a) any alleged omissions, (b) that any additional alleged disclosures were required; and (c) that he
2 had any responsibility for making any alleged misrepresentations or any alleged omissions.

3 103. The allegation in paragraph 103 is a legal conclusion for which no response is
4 required of Mr. Simmons, and, therefore, none is given. In the event that a response is required from
5 Mr. Simmons, the allegation is denied. Mr. Simmons specifically denies that he engaged in any
6 conduct that violated A.R.S. § 44-1991.
7

8 VII.

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

10 104. Mr. Simmons denies the allegations in paragraph 104, which call for legal
11 conclusions. Mr. Simmons specifically denies that he directly or indirectly controlled Barcelona
12 Advisors within the meaning of A.R.S. § 44-1999, and denies that he is therefore jointly and
13 severally liable under A.R.S. § 44-1999 to the same extent as Barcelona Advisors for any alleged
14 violations of A.R.S. § 44-1991.
15

16 105. Mr. Simmons denies the allegations in paragraph 105, which call for legal
17 conclusions. Mr. Simmons specifically denies that he directly or indirectly controlled Barcelona
18 Land Company within the meaning of A.R.S. § 44-1999, and denies that he is therefore jointly and
19 severally liable under A.R.S. § 44-1999 to the same extent as Barcelona Land Company for any
20 alleged violations of A.R.S. § 44-1991. Mr. Simmons denies that Barcelona Land Company ever
21 offered or sold securities in Arizona.
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VIII.

REMEDIES PURSUANT TO A.R.S. § 44-1962

(Denial, Revocation, Or Suspension of Salesman Registration; Restitution, Penalties, or Other Affirmative Action)

106. The allegations in paragraph 1, Part VIII of the Notice do not apply to Mr. Simmons; thus, no response from him is required. To the extent that Mr. Simmons must respond to these allegations, he lacks sufficient knowledge and information to form a belief as to the truth of the allegations, and on that basis, the allegations are denied.

107. Mr. Simmons denies the allegations of paragraph 2, Part VIII of the Notice, which call for a legal conclusion.

IX.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

108. Responding to the Division's request for a Temporary Order against Mr. Harkins, to the extent, if any, that allegations may be deemed to affect Mr. Simmons, he denies the Division's allegations and requests that the Commission dismiss the Complaint and deny the Division's request for relief to the extent that they apply to Mr. Simmons.

X.

REQUESTED RELIEF

109. Responding to the Division's request for relief against Mr. Simmons, Mr. Simmons requests that the Commission dismiss the Complaint and deny the Division's request for relief in its entirety, including but not limited to: (1) a "cease and desist order"; (2) an order to take corrective

1 action, including restitution; (3) an order to pay administrative penalties; (4) that Mr. Simmons'
2 marital community be subject to orders or other affirmative action; or (5) any other relief.

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4 **XI.**

5 **HEARING OPPORTUNITY**

6 110. Mr. Simmons previously filed a request for hearing and a pre-hearing conference.
7 Mr. Simmons reiterates his request for a hearing.

8 **XII.**

9 **ANSWER REQUIREMENT**

10 111. Mr. Simmons reiterates his request for a hearing, and files this Answer to the Notice
11 as required.

12 **GENERAL DENIAL**

13 112. Mr. Simmons expressly denies each and every allegation of the Notice not expressly
14 admitted above. Mr. Simmons avers that he has never violated any Arizona securities law, nor has
15 he been a control person of any entity which has violated any Arizona securities law, nor has he
16 authorized any other person to violate any Arizona securities law on his behalf.

17 **AFFIRMATIVE DEFENSES**

18 113. Mr. Simmons alleges that the Notice fails to state a claim upon which relief can be
19 granted, and this matter should be dismissed against Mr. Simmons in its entirety, with prejudice.
20

21 114. Mr. Simmons alleges that to the extent that any securities were involved in the
22 alleged transactions, the securities, and/or the transactions in which they were offered and sold,
23 were exempt from the registration and/or licensing provisions of the Securities Act.
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1 115. Mr. Simmons alleges that he did not offer or sell any securities under Arizona law,
2 nor was he a control person of any entity, including Barcelona Advisors or Barcelona Land
3 Company, which is alleged to have offered or sold securities under Arizona law.

4 116. Mr. Simmons alleges that the alleged investors did not rely, reasonably or otherwise,
5 on any misrepresentation made by Mr. Simmons.

6 117. Mr. Simmons alleges that he has not taken any illegal or improper actions within or
7 from the State of Arizona.

8 118. Mr. Simmons alleges that the claims in the Notice are barred by applicable statutes
9 of limitation.

10 119. Mr. Simmons alleges that the claims in the Notice are barred by the doctrines of
11 waiver, estoppel, laches, unclean hands, and contributory negligence.

12 120. Mr. Simmons alleges that the claims in the Notice are barred by assumption of risk.

13 121. Mr. Simmons alleges that the Commission has failed to allege securities fraud with
14 reasonable particularity as required by applicable law and the Arizona Rules of Civil Procedure.

15 122. Mr. Simmons alleges that he did not know, and in the exercise of reasonable care,
16 could not have known, of any untrue statements or material omissions as alleged in the Notice.

17 123. Mr. Simmons alleges that he did not act with the requisite scienter.

18 124. Mr. Simmons alleges that he did not employ a deceptive or manipulative device, or
19 scheme or artifice to defraud in connection with the offer, purchase or sale of any security.

20 125. Mr. Simmons alleges that he did not make any misrepresentations or omissions,
21 material or otherwise, in connection with the offer or sale of any securities.

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1 126. Mr. Simmons alleges that violations of the Securities Act, if any, were proximately
2 caused and contributed to by the improper conduct of intervening acts of the other persons or
3 entities named in the Notice and/or other third persons who were not named in the Notice.
4

5 127. Mr. Simmons alleges that he acted in good faith and did not directly or indirectly
6 induce any of the conduct at issue.

7 128. Mr. Simmons alleges that no investors have suffered any damages as a result of any
8 acts or omissions of Mr. Simmons.

9 129. Mr. Simmons alleges that any damages alleged to have been suffered by investors
10 were caused by the actions of parties not under the control of Mr. Simmons.

11 130. Mr. Simmons alleges that the investors relied on other culpable parties in connection
12 with the matters alleged in the Notice.
13

14 131. Mr. Simmons alleges that restitution is barred because damages, if any, were caused
15 by the investors' own acts or omissions and/or by the investors' failure to mitigate their damages.

16 132. Mr. Simmons alleges that certain claims in the Notice are barred, in whole or in part,
17 because the investors' damages, if any, were caused by the acts of other persons or entities that Mr.
18 Simmons did not control, and for which Mr. Simmons is not legally responsible.

19 133. Mr. Simmons alleges that certain claims in the Notice are barred, in whole or in part,
20 because the investors' damages, if any, were caused by the intervening and superseding acts of
21 other persons or entities that Mr. Simmons did not control, and for which Mr. Simmons is not
22 legally responsible.
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24 134. Mr. Simmons alleges that certain claims in the Notice are barred, in whole or in part,
25 because of mutual mistake.
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DATED this 3rd day of March, 2016.

Clark Hill PLC

By: Charles R. Berry
Charles R. Berry, 003379
Stanley R. Foreman, 032320
14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Counsel for Respondents
George T. Simmons and
Janet B. Simmons

ORIGINAL and thirteen copies of the foregoing
filed this 3rd day of March, 2016 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

COPY of the foregoing hand-delivered
This 3rd day of March, 2016 to:

Matthew J. Neubert
Director of Securities
Securities Division
Arizona Corporation Commission
1300 W. Washington Street, 3rd Floor
Phoenix, AZ 85007

Hearing Officer
Hearing Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Paul Kitchin
Securities Division
Arizona Corporation Commission
1300 W. Washington, 3rd Floor
Phoenix, AZ 85007

1 COPY of the foregoing mailed
2 this 3rd day of March, 2016 to:

3 USA Barcelona Realty Advisors, LLC
4 c/o Richard C. Harkins
4422 East Lupine Avenue
5 Phoenix, AZ 85028

6 USA Barcelona Hotel Land Company I, LLC
7 c/o Richard C. Harkins
4422 East Lupine Avenue
8 Phoenix, AZ 85028

9 Richard C. Harkins
4422 East Lupine Avenue
10 Phoenix, AZ 85028

11 Robert J. Kerrigan
12 c/o Robert Mitchell
Tiffany & Bosco, P.A.
13 Camelback Esplanade II, Seventh Floor
2525 East Camelback Road
14 Phoenix, AZ 85016
Counsel for Robert J. Kerrigan

15 Bruce Orr
16 3757 Falcon Avenue
17 Long Beach, CA 90807

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