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*Attorneys for Respondents*

**BEFORE THE ARIZONA CORPORATION COMMISSION**

In the matter of,

Docket No. S-20973A-16-0199

TRACY N. WENGERT-CRD #3182678,  
and JEANETTE WENGERT, husband  
and wife,

**RESPONDENTS TRACY N.  
WENGERT AND JEANETTE  
WENGERT’S ANSWER TO THE  
NOTICE OF OPPORTUNITY FOR  
HEARING REGARDING PROPOSED  
ORDER TO CEASE AND DESIST,  
ORDER OF REVOCATION, ORDER  
OF RESTITUTION, ORDER FOR  
ADMINISTRATIVE PENALTIES,  
AND ORDER FOR OTHER  
AFFIRMATIVE ACTION**

Respondents.

Respondents Tracy “Trace” N. Wengert (“Wengert”) and Jeanette Wengert (collectively “Respondents”) submit their Answer to the Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order of Revocation, Order of Restitution, Order for Administrative Penalties, and Order for Other Affirmative Action (hereinafter “Notice”), as follows:

**I. JURISDICTION**

- 1. Respondents admit the allegations of paragraph 1 of the Notice.

**II. RESPONDENT**

- 2. Respondents admit the allegations of paragraph 2 of the Notice.
- 3. Respondents admit the allegations of paragraph 3 of the Notice

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- 29. Respondents admit the allegations of paragraph 29.
- 30. Respondents admit the allegations of paragraph 30.
- 31. Respondents admit the allegations of paragraph 31.
- 32. Respondent admits that he agreed to a bar but denies it was permanent.
- 33. Respondents admit the allegations of paragraph 33.
- 34. Respondents are without sufficient knowledge or information to admit or deny the allegations of paragraph 34, and therefore deny those allegations.

**IV. VIOLATION OF A.R.S. § 44-1991**

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

- 35. Respondents deny the allegations of paragraph 35.
  - a. Respondents deny the allegations of paragraph 35(a).
  - b. Respondents deny the allegations of paragraph 35(b).
  - c. Respondents deny the allegations of paragraph 35(c).
  - d. Respondents deny the allegations of paragraph 35(d).
  - e. Respondents deny the allegations of paragraph 35(e).
  - f. Respondents are without sufficient knowledge or information to admit or deny the allegations of paragraph 35(f), and therefore deny those allegations.
  - g. Respondents are without sufficient knowledge or information to admit or deny the allegations of paragraph 35(g), and therefore deny those allegations.
  - h. Respondents are without sufficient knowledge or information to admit or deny the allegations of paragraph 35(h), and therefore deny those allegations.
  - i. Respondents are without sufficient knowledge or information to admit or deny the allegations of paragraph 35(i), and therefore deny those allegations.
- 36. Respondents are without sufficient knowledge or information to admit or deny the allegations of paragraph 36, and therefore deny those allegations.

1                                   **V.    REMEDIES PURSUANT TO A.R.S. § 44-1962**  
2                                   **(Denial, Revocation, or Suspension of Registration of Salesman;**  
3                                   **Restitution, Penalties, or Other Affirmative Action)**

4           37.    Respondents are without sufficient knowledge or information to admit or  
5 deny the allegations of paragraph 37, and therefore deny those allegations.

6                    a.    Respondents are without sufficient knowledge or information to  
7 admit or deny the allegations of paragraph 37(a), and therefore deny those allegations.

8                    b.    Respondents are without sufficient knowledge or information to  
9 admit or deny the allegations of paragraph 37(b), and therefore deny those allegations.

10                    i.    Respondents are without sufficient knowledge or information  
11 to admit or deny the allegations of paragraph 37(b)(i), and therefore deny those  
12 allegations.

13                    ii.   Respondents are without sufficient knowledge or information  
14 to admit or deny the allegations of paragraph 37(b)(ii), and therefore deny those  
15 allegations.

16                    iii.   Respondents are without sufficient knowledge or information  
17 to admit or deny the allegations of paragraph 37(b)(iii), and therefore deny those  
18 allegations.

19           38.    [There is no paragraph 38 in the Notice.]

20           39.    [There is no paragraph 39 in the Notice.]

21           40.    [There is no paragraph 40 in the Notice.]

22           41.    [There is no paragraph 41 in the Notice.]

23           42.    [There is no paragraph 42 in the Notice.]

24           43.    [There is no paragraph 43 in the Notice.]

25           44.    [There is no paragraph 44 in the Notice.]

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Eighth Affirmative Defense

Wengert did not act within the requisite scienter.

Ninth Affirmative Defense

The Division has failed to plead fraud with reasonable particularity as required by Rule 9(b) of the Arizona Rules of Civil Procedure.

Tenth Affirmative Defense

Wengert did not employ a device, scheme or artifice to defraud the alleged investors.

EleventhFourth Affirmative Defense

Wengert did not make or intentionally make any untrue statements of material fact that were misleading.

Twelfth Affirmative Defense

The alleged investors could not have reasonably relied upon any statement or action by Wengert.

Thirteenth Affirmative Defense

Wengert did not engage in any transaction, practice or concourse of business that operated or would operate as a fraud or deceit upon the alleged investors.

Fourteenth Affirmative Defense

The AZCC's claims are barred as either vague, ambiguous, overbroad, or a combination of the three.

Fifteenth Affirmative Defense

The AZCC's claims are barred as a violation of due process.

Sixteenth Affirmative Defense

Any damages are due to the fault of others.

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Seventeenth Affirmative Defense

If the instruments are determined to be securities, Wengert did not offer or sell them within the meaning of the Securities Act of Arizona.

EighteenthFifth Affirmative Defense

Wengert made neither material omissions nor material misrepresentations, nor did Wengert otherwise violate A.R.S. § 44-1991.

Nineteenth Affirmative Defense

Any statements or omissions allegedly attributed to Wengert are attributed to them are not material.

Twentieth Affirmative Defense

Any statements or omissions allegedly attributed to Wengert are attributed to them are not false.

Twenty-first Affirmative Defense

Wengert had reasonable grounds to believe, and did in good faith believe, that all statements, whether written or oral, allegedly made by him and others were true, and that there were no omissions to state a material fact required to be stated therein or necessary to make these statements not misleading.

Twenty-second Affirmative Defense

Wengert alleges such other affirmative defenses set forth in the Arizona Rules of Civil Procedure 8(c) or elsewhere as may be determined to be applicable during the conduct of this litigation.

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RESPECTFULLY SUBMITTED this 22nd day of July, 2016.

BUNTROCK & GARDNER LAW, PLLC



Shane D. Buntrock, Esq.  
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*Attorneys for Respondents*

**ORIGINAL** and **13 COPIES** of the foregoing  
**FILED** this 22nd day of July, 2016, with:

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

**COPY** of the foregoing **HAND-DELIVERED**  
this same date to:

Hearing Division – Mark Preny  
Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Michael Shaw  
Arizona Corporation Commission  
Securities Division  
1300 West Washington, 3rd Floor  
Phoenix, Arizona 85007

