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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

5 IN THE MATTER OF:

DOCKET NO. S-20938A-15-0308

6 U.S.A. BARCELONA REALTY ADVISORS,
LLC, an Arizona limited liability company,

**RESPONDENT'S, BRUCE ORR, POST-
HEARING BRIEF**

7 U.S.A. BARCELONA HOTEL LAND
COMPANY I, LLC, an Arizona limited liability
8 company,

9 RICHARD C. HARKINS, an unmarried man,

10 ROBERT J. KERRIGAN (CRD no. 268516) an
unmarried man,

Arizona Corporation Commission
DOCKETED

11 GEORGE T. SIMMONS and JANET B.
SIMMONS, husband and wife,

AUG 09 2016

13 BRUCE L. ORR and SUSAN S. ORR, husband
and wife,

DOCKETED BY *NA*

14 Respondents.

15 1. The Procedural History of this matter is stated in the Securities Division's
16 Amended Post-Hearing Brief.¹ It is stipulated that the Procedural History as described in that
17 section, and the reference to the hearing dates of May 9, 2016 through May 19, 2016 are true.
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21 ¹ Citations to the hearing transcript are cited a T.[page]. Line numbers are indicated by a
22 colon, e.g. T.101:3-5. Citations to the hearing exhibits are cited as the exhibits numbers, e.g.
S-1. Citations to the Securities Division's Brief are cited as SB.[page]. Citations to the
January 25, 2016 Amended Temporary Order to Cease and Desist and Notice of Opportunity
for Hearing are cited as TO.[page]. Line numbers are noted same as for transcript citations.
-- RESPONDENT'S, BRUCE ORR, POST-HEARING BRIEF - 1

1 2. While I find the way that the Arizona Corporation Commission
2 (“Commission”) handled this matter to be questionable at best, and fraudulent at worst, I will
3 take this statement to address the allegations against me, Bruce Orr (“Me, Mine, I, etc.”). I am
4 also responding on behalf of the marital community of my wife, Susan S. Orr. I will also
5 occasionally refer to the other Respondents, G. Tom Simmons (“Simmons”), Richard Harkins
6 (“Harkins”), and Robert Kerrigan (“Kerrigan”). I will take this opportunity to show that the
7 Commission presented no evidence that I was in any way responsible for presenting any
8 Securities Offerings to anyone, and that I was not a Control Person for USA Barcelona. I will
9 also point out that I have shown that I was not even in the State of Arizona for the meetings
10 that the Commission alleges I attended to solicit funds from the Eaves family. I will point out
11 in the testimonies that were given, and the exhibits that were presented, that my involvement
12 was limited to the expertise that I brought in the field of Hotel Development, and that it was
13 not my position to seek funds. As I stated, and so moved, at the end of the hearing, it is evident
14 that the Commission had no evidence to present that supported their allegations against Me,
15 and all charges / assertions / allegations / involvement / restitution requirements, against Me,
16 and/or my wife, should be dismissed².

17 **CONTROL PERSON ALLEGATIONS**

18 3. My role with the company was to find potential hotel development
19 projects, and handle the interactions with the Hotel Companies. I was also to do the due
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22 ² T.1269:11-25

1 diligence on potential projects, and present them to the company as targets for development³.
2 These responsibilities were confirmed by both Mr. Eaves, and Mr. Chanen in their testimonies⁴.
3 It was also confirmed by Mr. McDonough, as well as the fact that I was not in on decisions, in
4 his testimony⁵.

5 4. The Commission has alleged that I was a "Control Person" since February
6 1, 2013, and that the first Operating Agreement, which was in effect from October 18, 2012 to
7 April 25, 2013, was in effect during that time⁶. However, Mr. Eaves testimony, and the exhibit
8 that was provided as Exhibit S-170 by the Commission, show that when Mr. Eaves and I first
9 met, January 15, 2013, when I was an Advisor to the company⁷. The Commission alleges that
10 a further Second Operating Agreement was in effect after April 25, 2013⁸. Yet, the
11 Commission did not produce any of the Operating Agreements that had been signed by myself,
12 or any of the other respondents. The Commission points to Operating Agreements that were
13 in the Private Placement Memorandums, which were issued to others outside of my presence.
14 Just because these Operating Agreements were in the Offerings does not indicate that I knew
15 their entire content. If I had signed them, then I would be expected to know their content.

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20 ³ T.706:20-25; T.710:18-24

21 ⁴ T.324:20-25; T.325:1-9; S.710; T.533:22-23; T.717:2-19

22 ⁵ T.93:1-25

-- ⁶ SB.4:12-14

⁷ S-170; T324:17-18; T.714:16-20

⁸ SB.4:14-16

1 5. As I testified, my advisory position morphed into the Executive Member
2 position⁹. In addition, this Executive Member position was to manage the Advisory company
3 when the original Holding Company was to be in place. This is the structure contemplated
4 prior to Mr. Weintraub being unable to perform on the Capital Raise for the Holding
5 Company¹⁰. Therefore, I did not fully consider myself an Executive Member until I started
6 making the weekly trips to Arizona in July of 2013. It was at that time I was issued the only
7 business card, with the address on Scottsdale Blvd. that had recently been rented, that I ever
8 carried for the company. The business card identified me as being in charge of development,
9 and as an Executive Member. Prior to that time, I carried only my business card that identified
10 me as an outside consultant to various companies, and I did not identify myself, in conversation
11 or correspondence, as a part of USA Barcelona. In addition, while filing documents were
12 presented by the Commission as to the formation of the company, they were only signed by
13 Mr. Harkins¹¹. They were not signed by any other Executive Members, and were filed without
14 the knowledge of people named in the documents.

15 6. As I stated in my EUO, and in my testimony, I understood that Executive
16 Members would make Major Decisions¹². As I also stated, there was only one full meeting of
17 the Executive Members where what I would consider a Major Decision was discussed¹³. Those
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21 ⁹ T.709:13-19

¹⁰ T.769:13-16; T.732:7-10

¹¹ S.3a; S.3b; T.996:2-11

¹² T.732:23-25; T.733:1-5

¹³ T.719:1-4

1 decisions were about potential members for the Board of Directors for the planned Holding
2 Company that was to be formed with the funds raised by Mr. Weintraub, Key-Man Life
3 Insurance, and E and O Insurance for Board Members. No vote was taken, follow-up
4 discussions were to take place after more information, and potential Board Member names
5 were collected. As I also testified, other so called "Executive Member Meetings" were more
6 informational in nature where "Major Decisions" were not brought forward for any vote¹⁴. As
7 all of the people who would have any working knowledge of how the company was controlled
8 testified (Harkins, Simmons, Kerrigan, Mr. Eaves, and myself), "Major Decisions" would have
9 been brought forward by Mr. Harkins for a vote, and that never happened¹⁵. As testimony
10 shows, meetings that were referred to as "Executive Member Meetings" were where we usually
11 discussed matters that had already been taken by Mr. Harkins, or projects that looked to fit the
12 criteria for our involvement¹⁶. As testimony also showed, there were no procedures followed
13 that would be normal for a controlling group. There were not set meeting dates, there were not
14 agendas provided to members prior to meetings, there were no minutes taken, and as stated,
15 votes were not taken¹⁷. Mr. McDonough confirmed this in his testimony when he said
16 Executive Member Meetings were usually pulled together at a moments notice¹⁸.

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21 ¹⁴ T.719:4-8; T.709:22-24; T.837:5-19

¹⁵ T.837:5-19; T.996:2-11

¹⁶ T.710:2-8; T.713:21-25

¹⁷ T.1174:15-25; T.1175:1-12

¹⁸ T.152:21 – T.153:8

1 7. Mr. Eaves also was an Executive Member of the company. He became
2 one at the meeting where I resigned on July 23, 2014¹⁹. The first order of business was to
3 make him an Executive Member, and the second order was to accept my resignation. Upon
4 my resignation, I was asked to leave the meeting, thus not knowing what else happened. Mr.
5 Eaves testified that he had no control as an Executive Member, and that no votes were ever
6 taken by Executive Members on any issues²⁰. This supports exactly what I have been saying.
7 The Commission does not feel that Mr. Eaves had any control responsibilities of the company,
8 even though he was an Executive Member.

9 8. As Mr. Harkins testified, he was the only control person at the company²¹.
10 This testimony was supported by myself, Mr. Simmons, Mr. Kerrigan, Mr. Eaves, and no
11 witnesses were brought forward by the Commission that contradicted this testimony²². Mr.
12 McDonough also supports in his testimony that I was not in on the decision making process in
13 the company²³. The Commission, in their Brief, states that Mr. Harkins “...admitted that
14 *Kerrigan, Simmons, and Orr were involved in the management of Barcelona Advisors,...*”²⁴
15 This was in reference to a plan to save the company²⁵. While being involved in the
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19 ¹⁹ T.997:1-11; T.326:1-5

20 ²⁰ T.326:15-23; T.715:10-16

21 ²¹ T.835:7-9

22 ²² T.1014:6-7; T.1233:23-25; T.1234:1-6; T.715:10-16; T.718:23-25

23 ²³ T.93:1-20

24 ²⁴ SB.27:1-2

25 ²⁵ SB.27:3

1 management of a plan to do something in a company is important, it is not Control of the
2 company, as management and control are not the same thing.

3 **SALE OF SECURITIES**

4 9. The Commission has alleged that I was involved in the Sale and
5 Marketing of Securities offered by USA Barcelona, LLC²⁶. This allegation is blatantly false,
6 and the Commission has brought forward absolutely NO person who alleges I was involved.
7 In fact, almost ALL of the Witnesses / Investors brought forward by the Commission stated
8 that they had not met me, and did not know who I was²⁷. The only exceptions being Ms.
9 Carolin, who, as both she and I testified, met in the office, "in passing," when she was doing
10 some accounting work for the company, and Mr. Eaves, who testified that we met in January
11 of 2013, and I was described as an advisor to the company²⁸. Mr. Eaves further testified that
12 we did not meet again until the Sedona retreat of September 2013, well after he had made a
13 bulk of his investment dollars²⁹. In all cases of the people who invested in the company,
14 including those noted in the Commission' Brief who were not brought as witnesses, not one of
15 them indicated that I was involved in soliciting funds, or presenting the investment to them³⁰.

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20 ²⁶ SB.52:13

21 ²⁷ T.178:6-10; T.255:8-11; T.402:8-14; T.714:9-15; T.715:21-25; T.716:1-4;
T.716:6-10; T.716:20-23

²⁸ T.448:22-25; T.449:1-14

²⁹ T.325:10-20

³⁰ T.178:8-9; T.255:10-11; T.325:21-25; T.402:9-11; T.449:10-11

1 10. The sole thing that the Commission points to as to me being involved in
2 soliciting investors is the fact that I bought a round of drinks for a group at a bar one evening³¹.
3 As I testified, If I ever met any person who wanted to know more about our company, I referred
4 them to either Mr. Wilkerson or Mr. McDonough³². This was evidenced by the exhibit I
5 introduced which was an email from Mr. McDonough to Mr. Robert Lamachia, who I had met
6 playing golf³³. I simply gave Mr. Lamachia's card to Mr. McDonough, and Mr. McDonough
7 reached out to him³⁴. As far as I know, nothing ever happened after that email. The fact that
8 I passed along any names I may have come across to Mr. McDonough or Mr. Wilkerson could
9 have also been confirmed by Mr. Wilkerson, but the Commission never brought him as a
10 witness.

11 11. The Commission points to the entry on my expense report, where I bought
12 drinks, as me being out to solicit funds for the company³⁵. This was a group of people who I
13 met, I knew one of them before, Ms. Osias, who were out having a good time. I did not in any
14 way offer, nor was there any testimony that I offered, any type of investment, because I did
15 not know what investments were being offered at the time, and I simply told them I would give
16 their card to someone³⁶. The Commission did not allege that I had sold securities in their
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20 ³¹ SB.36:3-5; SB.52:13-15

21 ³² T.749:14-25; T.750:1-15

22 ³³ T.753:4-5; T.822:14-25; T.823:1-23; O-1

³⁴ T.822:14-25; T.823:1-23; O-1

³⁵ SB.36:3-5; SB.52:13-15

³⁶ T.749:14-25; T.750:1-15

1 original complaint, and they did not call any of the supposed potential investors as witnesses³⁷.
2 Had the Commission felt that I had made any offer in this meeting over drinks, they should
3 have alleged so, and called a witness to back the position. At the least, I could have called Ms.
4 Osias to rebut the allegation. The Commission points out in their Brief that, "An offer to sell
5 a security means any attempt to offer or dispose of a security."³⁸ In order to offer a security
6 for sale, the offer would have to include the providing of information, or an Offering
7 Memorandum, since that is how all of the company investments were sold. I did not carry, or
8 even have in my office, any type of Offering Memorandum, which is the only way an offer
9 could have been made. Quite frankly, in the meeting for drinks, it could have been that one of
10 the guys was just spouting off about being an investor to impress the woman in the group, I
11 don't know. I made no attempt to sell an investment, or to even vet the qualifications of the
12 gentleman.

13 12. I also stated in my EUO testimony that I did not know how investors were
14 obtained for the company³⁹. The Commission alleges that I did know because I bought drinks
15 for someone⁴⁰. If the company had to rely on me to find investors by marketing in bars, we
16 never would have raised a dime. I never brought in investors, and, as I stated in my testimony,
17 that was not my job⁴¹. I don't know how all of the people who did invest with the company

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21 ³⁷ TO.16:13-25; TO.17:1-11

³⁸ SB.50:7

³⁹ S-136: p.16:1-3

⁴⁰ SB.36:3-5; SB.52:13-15

⁴¹ T.743:9-25

1 came be investors, and I don't know how Mr. McDonough would have tried to find Broker-
2 Dealers to market to. I know that Mr. McDonough testified that he knew Mr. Simmons was a
3 member of Paradise Valley Country Club, and that there was high net worth individuals there,
4 and the Commission points out that I testified in my EUO that I knew of this as well⁴². I don't
5 know if he ever introduced any of those people to either Mr. McDonough, but Mr. McDonough
6 testified that nothing ever materialized from that⁴³. Basically, as far as my involvement is
7 concerned, the Commission showed absolutely no evidence that I knew anything about finding
8 any of the investors who did invest, and the Commission also did not produce anyone who
9 even said that I showed them any Offering, because there is no such person.

10 **MY CREDIBILITY AND THAT OF THE COMMISSION**

11 13. I find it insulting that the Commission states that I am not credible in my
12 testimony⁴⁴. They base this solely on the fact that I bought drinks one evening, and that I
13 handed a business card to Mr. McDonough, and that I don't give a specific date as to when I
14 became an Executive Member⁴⁵. As I also stated previously, I did not know how the company
15 marketed the investment products, nor to whom, and my position transformation to an
16 Executive Member happened over time⁴⁶. I was unaware if Mr. Kerrigan was reaching into a
17 data base, or talking to friends. I did not know how Mr. McDonough was reaching out to the
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20 ⁴² T.92:4-8; SB.33:14

21 ⁴³ T.92:10-11

22 ⁴⁴ SB.47:14-21; SB.48:1-7

⁴⁵ SB.47:15-17; SB.48:1-2

⁴⁶ T.743:9-25; T.709:11-19

1 Broker-Dealers of the world, and I don't know how Alan Weintraub was to raise the initial
2 promised investments. I can assure you, our Marketing Plan was not for me to meet people by
3 chance in a bar, or on the golf course, and have them invest.

4 14. In addition, I did testify that I knew about the 12-6-12 Notes⁴⁷. I knew
5 about their general structure, that is how I imagined what the 10-5-10 Notes were⁴⁸. I was
6 unaware that 10-5-10 Notes had been issued. I also testified that Mr. Teets and I gave input
7 on drafts of Private Placement Memorandum that were being contemplated⁴⁹. However, the
8 input for the 12-6-12 Notes would not have been the Memorandum we were reviewing as Mr.
9 Teets did not join the company until later in 2013, after those Memorandum we published⁵⁰. I
10 knew there was talk of another idea that had Warrants and Options attached, but that was too
11 complicated, and it never went further. Also, I knew other ideas were circulating toward the
12 end of my engagement with the company, but I don't know what. That is why I would not
13 have been able to market to the people I had drinks with, I did not know what to market.

14 15. The Commission also alleges that I became an Executive Member long
15 before I was⁵¹. Like I said in my testimony, and as I have already pointed out in this brief, my
16 role as an Executive Member did not have a solid time that it started⁵². My advisory role kind
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20 ⁴⁷ T.737:1-2

21 ⁴⁸ T.739:7-9

22 ⁴⁹ T.725:1-25; T.726:1-17

⁵⁰ S-57

⁵¹ SB.48:1-4

⁵² T.709:13-19

1 of Morphed into that of an Executive Member⁵³. And, I did not have any defined
2 responsibilities with the company until I started making a trip to Arizona on a weekly basis.
3 As I also testified, I did know that Executive Members would be there for "Major Decisions,"
4 but, as I indicated earlier in this brief, and as Mr. Eaves testified, no "Major Decisions" were
5 brought forth, and we did not have Executive Member meetings where any votes were taken⁵⁴.

6 16. The Commission implies that since things were discussed in open staff
7 meetings, and that Mr. McDonough said that decisions were made, that Executive Members
8 made those decisions⁵⁵. However, Mr. McDonough does not know what type of decisions. He
9 never states that they were any type of "Major Decision," only that some decision was made⁵⁶.
10 Mr. McDonough also testifies that Mr. Harkins would overrule Mr. Simmons' decisions if he
11 did not like them⁵⁷. Thus showing that Mr. Harkins was the Control Person. Mr. Eaves also
12 testified that no decisions were made at these meetings⁵⁸. As I testified, and as Mr. Harkins
13 testified, these meetings usually took place on Mondays, and I did not usually travel to Arizona
14 until Tuesdays⁵⁹. Sometimes I was there on Monday for these meetings, or they may have
15 been later in the week, but, I was not always present. Also, Mr. McDonough was not always

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19 ⁵³ T.709:13-19

20 ⁵⁴ T.723:3-10; T.719:1-8

21 ⁵⁵ SB.31:3;

22 ⁵⁶ T.151:18 – T.152:11

⁵⁷ T.153:17 – T.154:1

⁵⁸ T.326:19-21

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1 at the meetings, which is the source of the Commissions allegation that we made decisions at
2 the staff meetings.

3 17. I find it interesting, and somewhat insulting, that the Commission
4 questions my credibility⁶⁰. The Commission took a complaint from a disgruntled former
5 employee, Mr. McDonough, who quite frankly never did his job, and turned it into this witch
6 hunt. Mr. McDonough testified that due diligence was not done on the properties we looked
7 at, because he never saw anyone do it⁶¹. He had no idea about things that were being done
8 when I was in California, or other places away from the office⁶². He did not mention the full
9 due diligence packages that were done on every property before we even discussed it as a
10 possible target for the company⁶³.

11 18. One of the key witnesses brought forward by the Commission was Mr.
12 Eaves. In Mr. Eaves testimony there are a number of things that have been shown to not be
13 true. It appears that Mr. Eaves testified in such a way as to meet the expectations for which he
14 was coached. He claimed that he met me, and Mr. Simmons (among others), at the meeting in
15 January of 2013⁶⁴. Testimony shows that Mr. Simmons was not at that meeting⁶⁵. Furthermore,
16 testimony also shows that Mr. Simmons and I did not meet in person until July of 2013⁶⁶. If
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19 ⁶⁰ SB.47:14-21; SB.48:1-7

20 ⁶¹ T.67: - T.73:3

21 ⁶² T.105:10 – T.109:23; T.712:22 – T.713:16

22 ⁶³ T.713:17 – T.714:2; T.326:24-25; T.327:1-25

⁶⁴ T.196:16-25; T.197:1-8

⁶⁵ T.720:11-14; T.1161:7-16

⁶⁶ T.720:11-14; T.1147:24-25; T.1148:1-20

1 Mr. Simmons was at that meeting, he and I would have met. Also, within the allegations
2 brought forward in the Commission's complaint were two meetings where Mr. Eaves had
3 indicated I was in attendance⁶⁷. I clearly showed, through testimony and the exhibits of my
4 expense accounts, that I was not even in the State of Arizona, but had returned to California⁶⁸.
5 The Commission alleges that Mr. Eaves became an Executive Member on August 8, 2014,
6 after his investment of August 1, 2014.⁶⁹ However, Mr. Eaves testified that he became an
7 Executive Member in when I resigned, but my testimony, and the testimony of Mr. Harkins,
8 shows that I resigned in July of 2014, and at that meeting Mr. Eaves became an Executive
9 Member, thus, Mr. Eaves did make an investment after becoming an Executive Member⁷⁰.

10 19. It is interesting that the Commission's witnesses were asked a series of
11 questions about their investments based on half-truths. They were asked about a felon being
12 part of the company, but they were not told that his role was clerical only⁷¹. They were asked
13 about Mr. Harkins' previous company going bankrupt, but they were not told that the decision
14 was controlled by a Board of Directors⁷². They were asked about Mr. Kerrigan's unpaid debts,
15 but not given the circumstances or eventual outcomes of those debts⁷³. They were asked about
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19 ⁶⁷ TO.9:1-4; TO.9:8-12

20 ⁶⁸ T.718:2-19; S-173:ACC007315 & ACC007319

21 ⁶⁹ SB.17:11-13

22 ⁷⁰ T.326:1-5; T.997:1-11

⁷¹ T.173:23-25; T.229:25 – T.226:2; T.306:4-7; T.398:2-5

⁷² T.173:23-25; T.229:15-16; T.303:23-25; T.397:15-17

⁷³ T.307:13-15

1 money not being paid back to Mr. Kerrigan, but not informed that he could not be paid back
2 as an Executive Member until others were repaid⁷⁴.

3 20. When Mr. Berry, attorney for Mr. Simmons, asked Ms. Stewart about
4 where she got the information she was being questioned on, she stated that it came from an
5 investigator for the Commission who sought her out⁷⁵. The Commission even has tried to get
6 testimony in by having their investigator, Mr. Taylor, testify to what he heard in an EUO of
7 Mr. Richard Wood, which could not be cross examined by anyone from the Respondents⁷⁶.
8 Mr. Taylor stated that Mr. Wood was not going to testify because he did not want to say
9 anything against Mr. Kerrigan, which indicates that Mr. Wood could possibly be a good
10 witness for the Respondents⁷⁷. Thus, they are trying to get selected testimony in with no
11 opportunity for the Respondents to cross examine a witness. These tactics are questionable at
12 best, and fraudulent at worst. If tactics such as these were researched, and proven, they could
13 possibly lead to sanctions against the Commission.

14 **CONFORMING TO THE EVIDENCE, AND FURTHER CREDIBILITY**

15 **ISSUES**

16 21. The Commission has asked to have the Notice Conform to the Evidence⁷⁸.
17 This is interesting to me, a non-attorney, in that it seems the Commission is trying to just
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20 ⁷⁴ T.176:11-13; T.229:23-25; 399:5-9

21 ⁷⁵ T.263:16 – T.267:16

22 ⁷⁶ T.659:19 – T.672:18

⁷⁷ T.667:5-10

⁷⁸ SB.43:12

1 change their case once they have been caught in a situation that does not fit their narrative.
2 One case in point is: The original Complaint from the Commission alleged that I attended two
3 meetings with Mr. and Mrs. Eaves where they invested⁷⁹. In my testimony I proved that I was
4 not even in the State of Arizona on those days⁸⁰. Since this allegation completely questions
5 the credibility of the case, the Commission now wants to act like it did not happen by excluding
6 it from their Post-Hearing Brief. These alleged meetings show even further that I was not
7 involved with investors.

8 22. In the brief presented by the Commission it is stated that no objection was
9 made to the move to have the Complaint Conform to the Evidence⁸¹. In fact, Mr. Berry,
10 attorney for Mr. Simmons, did make an objection to the move to have the Complaint Conform
11 to the Evidence⁸². The Judge stated that he was unable to rule on the issue, so the objection is
12 still open⁸³. I must object to any changes such as these as they completely change what was
13 alleged, and what was defended.

14 CONCLUSION

15 23. The case brought against me by the Commission is based upon the
16 complaints of a disgruntled former employee, and the less than fully informed, or questionable,
17 testimony of former investors⁸⁴. Mr. McDonough testified to facts that I had not done due

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20 ⁷⁹ TO.9:1-15

⁸⁰ T.718:2-19; S-173:ACC007315; S-173:ACC007319

⁸¹ SB.43:15-16

⁸² T.700:3 – T.701:17

⁸³ T.702:14-19;

⁸⁴ See paragraph 19 of this Brief

1 diligence on properties included in our development targets, when testimony shows that full
2 due diligence was done on any project prior to listing it as a possible development opportunity⁸⁵.
3 Most witnesses presented by the Commission had not ever met me⁸⁶, and they had all been
4 asked questions that did not consider all pertinent information⁸⁷. The one investor who knew
5 me in a more than passing manner, Mr. Eaves, did not get to know me in more than a casual
6 way until he came into the office on a full time basis⁸⁸. Even then, he had many questionable
7 memories in his testimony, such as when he became an Executive Member, if I was at alleged
8 meetings, when he had met Mr. Simmons, and the fact that he did invest on August 1, 2014,
9 which was after he had become an Executive Member in July of 2014⁸⁹. However, if his
10 testimony is allowed to stand, he did confirm my testimony that Executive Members did not
11 have control of the company⁹⁰.

12 24. Based on the evidence presented, and the testimonies received, it is quite
13 clear that I, Bruce Orr, was not a "Control Person" in regards to this case. Testimony showed
14 that Mr. Harkins was the sole control person, and that Mr. Simmons, Mr. Kerrigan, Mr. Eaves,
15 and myself, did not have control⁹¹. As testimony shows, no "Major Issues" were ever voted
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19 ⁸⁵ T.67:12 – T.73.3

20 ⁸⁶T.178:6-10; T.255:8-11; T.402:8-14; T.714:9-15; T.715:21-25; T.716:1-4;
T.716:6-10; T.716:20-23

21 ⁸⁷ See paragraph 19 of this Brief

22 ⁸⁸ T.714:23-25

⁸⁹ T.326:1-5; T.997:1-11

⁹⁰ T.715:8-16; T.326:15-23

⁹¹ T.897:23 – T.899:5; T.902:9-12; T.761:14-20

1 upon in my tenure⁹². Therefore, the allegation that I violated A.R.S. § 44-1991 or A.R.S. § 44-
2 1999 should be completely dismissed.

3 25. The original complaint by the Commission, as amended, and filed January
4 25, 2016, did not allege any direct violation against me of A.R.S. § 44-1841, A.R.S. § 44-1842,
5 nor A.R.S. § 44-1991, which has not been changed⁹³. The complaint alleged that I was a
6 control person for the company, not that I was directly involved in the sale of securities⁹⁴. Also,
7 in Mr. Kitchin's opening remarks for the Commission, he stated that the complaint against me
8 was as a "Control Person," and that the complaints on securities issues were against Mr.
9 Harkins, Mr. Kerrigan and Mr. Simmons, not against me⁹⁵. That original complaint also
10 alleges that I was at the two meetings previously referenced with Mr. Eaves⁹⁶. Since I have
11 proven that I was not present in those meetings, the Commission wants to change their case to
12 hide my innocence⁹⁷. Therefore, now changing the allegations to include me as directly
13 involved in the sale of securities is certainly objectionable, and, I thus object!

14 26. The Commission also provided no evidence that I had involvement with
15 the offer or sale of any of the investment securities of USA Barcelona Advisors, LLC, nor that
16 I had any involvement with Barcelona Land Company. Since all investors presented by the
17 Commission had been issued Offering Memorandum for the investments they made, it is clear

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20 ⁹² T.898:6 – T.899:1; T.761:14-20;

⁹³ TO.16:13-25; TO.17:1-11;

⁹⁴ TO.19:11-14

⁹⁵ T.21:16-18; T.25:1-6

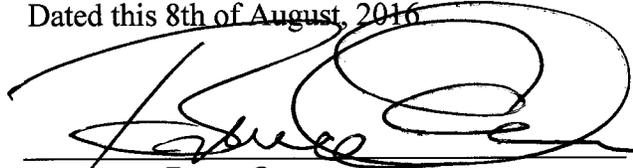
⁹⁶ TO.9:1-15

⁹⁷ T.718:2-19; S-173:ACC007315; S-173:ACC007319

1 that any offer for sale of securities involved the presentation of an Offering Memorandum
2 and/or other paperwork⁹⁸. Since there is no evidence presented that I ever gave anyone any
3 Offering Memorandum, or other such paperwork that even alluded to any investment, it is clear
4 I did not make any offer. Thus, the Commission presented no evidence that shows that I was
5 directly involved in the sales in any way, and this allegation that I violated A.R.S. § 44-1841
6 or A.R.S. § 44-1842, or any other similar section, should be completely dismissed against me
7 as well.

8 27. Because there is no evidence that I was in any way involved with the
9 marketing of securities, and since there clearly is no controlling issue that can be attributed to
10 me, I should also not have any liability under A.R.S. § 44-1201 or any other statute referenced
11 by the Commission. Additionally, my wife, Susan Orr, therefore has no liability under A.R.S.
12 § 44-2031, or any other section of the code. In fact, the Commission should have to reimburse
13 me for the expense and time that I had to incur for the hearings and other issues related to this
14 case. The Commission knew from the start that they had no case against me, and that my
15 involvement was strictly as the head of Hotel Development.

16
17 Dated this 8th of August, 2016

18 
19 Bruce Orr

20 _____
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22 ⁹⁸ T.162:3-7; T.192:15 – T.193:15; T.225:10 – T.226:3; T.384:8-14; T.429:2-

1 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing filed
2 this 8th day of August, 2016, with:

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7 Copies of the forgoing sent via mail this 8th of August, 2016 to:

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