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AZ CORP COMMISSION
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6 Counsel for George T. Simmons and Janet B. Simmons

7
8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 **COMMISSIONERS**

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

14 In the matter of:

15 USA BARCELONA REALTY ADVISORS,
16 LLC, an Arizona limited liability company,

17 USA BARCELONA HOTEL LAND
18 COMPANY I, LLC, an Arizona limited liability
company,

19 RICHARD C. HARKINS, an unmarried man,

20 ROBERT J. KERRIGAN (CRD no. 268516)
An unmarried man,

21 GEORGE T. SIMMONS and JANET B.
22 SIMMONS, husband and wife,

23 BRUCE ORR, an unmarried man,
24

DOCKET NO. S-20938A-15-0308

**GEORGE T. SIMMONS' REPLY TO
SECURITIES DIVISION'S RESPONSE
TO RESPONDENTS' MOTION TO
MAINTAIN JUDGE PRENY'S ORDER
THAT ALL RESPONDENT'S POST-
HEARING BRIEFS BE FILED
SIMULTANEOUSLY.**

Arizona Corporation Commission

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26 The Division's Response claims that "Respondents do not need and are not entitled to
27 simultaneous submission of their briefs." But the simultaneous filing of briefs was ordered by Judge
28

1 Preny on May 19, 2016. His order established “July 8th as the deadline date for the initial brief from
2 the Division, then we’d go August 8th for post-hearing brief from the Respondents, then August 23rd
3 for a reply brief from the Division.” *Hearing transcript, page 1267, line 23 through page 1268, line*
4 *2.*

5
6 Mr. Simmons, with the consent of Respondent Bruce Orr, agreed with the Joint Stipulation
7 of Respondent Richard C. Harkins and the Division to extend the due date of Harkins’ post-hearing
8 brief to August 22, 2016, and moved that all Respondents’ post-hearing briefs to be filed
9 simultaneously to comply with the letter and spirit of Judge Preny’s May 19, 2016 order setting a
10 single date (August 8) for all respondents to file post-hearing briefs.

11 The Division ignores the real possibility for prejudice, in that one Respondent would have
12 the distinct advantage of reviewing and utilizing the significant work product of other Respondents
13 (to their detriment). Fundamental fairness requires that all Respondents’ be treated equally.

14
15 Of course, counsel for the Division argues it would be “highly prejudiced by such an
16 extension” because he has another brief due about the time that a reply brief would be due (which
17 will be the case as to the reply to Harkins’ brief anyway), he will be out of town for two vacation
18 days, and he needs to prepare for other hearings. Most lawyers would relish a schedule with so few
19 conflicts. That is clearly no hardship.

20
21 The Division’s suggestion that Respondents should “request leave to file sur-reply briefs”
22 acknowledges the legitimacy of Respondents’ concerns, and proposes the typical governmental
23 solution to a problem which need not arise. Rather than keep the simple simultaneous briefing
24 schedule set by Judge Preny, the Division proposes additional motions and additional briefings,
25 wasting all parties time and money.

26
27
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1 Mr. Simmons respectfully renews his request that the due date set by Judge Preny for all
2 Respondents to file their post-hearing briefs simultaneously be extended to August 22, 2016.

3 DATED this 8th day of August, 2016.

4 Clark Hill PLC

5
6
7 By: 
8 Charles R. Berry, 003379
9 Stanley R. Foreman, 032320
10 14850 N. Scottsdale Road, Suite 500
11 Scottsdale, AZ 85254
12 *Counsel for Respondents*
George T. Simmons and
Janet B. Simmons

13 ORIGINAL and thirteen copies of the foregoing
14 filed this 8th day of August, 2016 with:

15 Docket Control
16 Arizona Corporation Commission
17 1200 West Washington Street
18 Phoenix, AZ 85007

19 COPY of the foregoing hand-delivered
20 This 8th day of August, 2016 to:

21 Mark Preny
22 Administrative Law Judge
23 Hearing Division
24 Arizona Corporation Commission
25 1200 W. Washington Street
26 Phoenix, AZ 85007

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

1 Paul Kitchin
2 Securities Division
3 Arizona Corporation Commission
4 1300 W. Washington, 3rd Floor
5 Phoenix, AZ 85007

6 COPY of the foregoing mailed
7 this 8 day of August, 2016 to:

8 USA Barcelona Realty Advisors, LLC
9 c/o Richard C. Harkins
10 4422 East Lupine Avenue
11 Phoenix, AZ 85028

12 USA Barcelona Hotel Land Company I, LLC
13 c/o Richard C. Harkins
14 4422 East Lupine Avenue
15 Phoenix, AZ 85028

16 Richard C. Harkins
17 4422 East Lupine Avenue
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19 Robert J. Kerrigan
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