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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

IN THE MATTER OF:

TOWER EQUITIES, INC.
8141 N. Main Street
Dayton, OH 45415-1747

PHILIP A. LEHMAN
Tower Equities, Inc.
8141 N. Main Street
Dayton, OH 45415-1747,

Respondents.

DOCKET NO. S-03439A-00-0000

DECISION NO. 64851

ORDER

Open Meeting
May 23, 2002
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On February 22, 2002, the Arizona Corporation Commission ("Commission") issued Decision No. 64559 ("Decision") in the above-captioned matter.
2. On April 11, 2002, pursuant to A.A.C. R14-3-112, Tower Equities, Inc. ("Tower") and Mr. Philip A. Lehman (collectively "the Respondents") filed with the Commission an Application for Rehearing and Review ("Application") of the Decision on the grounds that the Decision is not justified by the evidence and is contrary to law.
3. Although it appeared that Tower's and Mr. Lehman's Application was not timely filed, Respondents stated that their attorneys had not been served with a copy of Decision No. 64559 and attached affidavits which attested to the non-delivery of the Decision at their offices.
4. On April 19, 2002, the Commission's Securities Division ("Division") filed its Response to the Respondent's Application and requested that the Application be denied on the basis that the Decision is based on the evidence and is not contrary to law. The Division pointed out that A.R.S. § 12-901 renders moot the question of the exact date of service if the Commission treats the

1 Application as timely filed. The Division also filed an affidavit of service that indicated that personal
2 service of Decision No. 64559 had been made upon local counsel on April 17, 2002.

3 5. For purposes of this proceeding, Respondents' Application should be treated as timely
4 filed.

5 6. Upon review of the Decision, the Division's Response to the Application is well made
6 and should be adopted.

7 **CONCLUSIONS OF LAW**

8 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
9 Arizona Constitution, A.R.S. §§ 44-1901 et seq. and A.A.C. R14-3-112.

10 2. The Respondents have not demonstrated adequate grounds to justify further review of
11 the Decision pursuant to A.A.C. R14-3-112.

12 3. The Application of Tower and Mr. Lehman should be denied.

13 **ORDER**

14 IT IS THEREFORE ORDERED that the Application for Rehearing and Review of Tower
15 Equities, Inc. and Mr. Philip Lehman is hereby denied.

16 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

17 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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20 CHAIRMAN COMMISSIONER COMMISSIONER

21 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
22 Secretary of the Arizona Corporation Commission, have
23 hereunto set my hand and caused the official seal of the
24 Commission to be affixed at the Capitol, in the City of Phoenix,
25 this ____ day of _____, 2002.

26 DISSENT _____
27 MES:mlj
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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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SERVICE LIST FOR: TOWER EQUITIES, INC.

DOCKET NO. S-03439A-00-0000

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