

DA  
9

REC. K. JEANES, CLERK  
Y. Pacheco DEP  
FILED

2003 AUG -6 PM 4:21

9

TERRY GODDARD  
ATTORNEY GENERAL  
(FIRM BAR No: 14000)

PROSECUTING ATTORNEYS:  
JEFFREY A. RUETER  
State Bar No. 015277  
Assistant Attorneys General  
Criminal Prosecutions Section  
1275 W. Washington  
Phoenix, Arizona 85007  
(602) 542-3881

Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

STATE OF ARIZONA,

Plaintiff,

vs.

STEPHEN BARRY BEIZER,

Defendant.

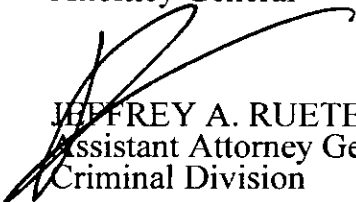
No. CR2001-003702-001 DT

**STATE'S RESPONSE TO  
DEFENDANT MOTION TO REDUCE  
BOND**

The State of Arizona, by and through undersigned counsel, hereby responds to Defendant's Motion for Reduction in Bond and for the reasons set forth in the attached Memorandum of Points and Authorities, requests that the Court deny the same.

RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of August, 2003

TERRY GODDARD  
Attorney General



JEFFREY A. RUETER  
Assistant Attorney General  
Criminal Division

1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. Introduction**

4 On March 15, 2001, the Defendant was indicted by the State Grand Jury on 3 counts of  
5 Fraudulent Schemes and Artifices, 11 counts of Theft and one count of Illegally Conducting  
6 an Enterprise. The conduct that gave rise to these charges occurred between 1995 and 1999.  
7 The Defendant bilked two elderly women out of approximately \$135,000.00. The  
8 Defendant solicited both women to invest in a non-existent hydroponic farming operation.  
9 The Defendant used the money to pay credit card debt, insurance premiums, car repair bills  
10 and other personal expenses. The Defendant convinced one of the women to purchase a  
11 condominium in Scottsdale. The investment was pitched as a quick turn around sale with  
12 substantial profit. The Defendant moved into the condo and was an obstructionist with  
13 realtor's attempts to sell the property. The Defendant lived in the condo for several months  
14 while the victim footed the bill.

15 The charges arose from an investigation conducted by the Securities Division of the  
16 Arizona Corporation Commission. The investigation began in March of 1999. The  
17 Defendant was brought in for an Examination Under Oath on September 21, 1999. During  
18 the course of the investigation, the Defendant's business associates and friends were  
19 contacted and interviewed. In May of 2000, it was learned that the Defendant had left the  
20 State of Arizona. Attempts to locate the Defendant were unsuccessful.

21 In the summer of 2003, Agent John Walsh, with the Arizona Corporation Commission  
22 developed information that the Defendant was located in Las Vegas, Nevada. With the  
23 assistance of local authorities, it was learned that the Defendant's telephone service was  
24 taken out in his son's name. The Defendant's utilities were held in another person's name.  
25 The Defendant's Las Vegas apartment was rented in a name other than his own.  
26  
27  
28

1       **II. Legal Argument**

2       By his motion, Defendant argues that his \$177,000 bond is more than necessary to  
3 secure future appearances before the Court. However, as set forth more fully below, given  
4 the nature and circumstances of the charged offenses and the lack of ties to the community,  
5 the current bond is an amount reasonably calculated to assure future appearances.

6       Bail set at a figure higher than an amount reasonably calculated to assure the presence  
7 of an accused to stand trial is excessive under the Eighth Amendment. *Malone v. Superior*  
8 *Court*, 181 Ariz. 223, 224, 889 P.2d 16, 17 (Ariz. App. 1995); *see also, Stack v. Boyle*, 342  
9 U.S. 1, 5, 72 S.Ct. 1, 3, 96 L.Ed. 3 (1951). "Bail is exacted for the sole purpose of securing  
10 the attendance of the defendant in court at all times when his presence may be lawfully  
11 required . . . and any bail fixed at more than is necessary to secure that appearance is  
12 excessive within the meaning of the [Arizona] constitution ." *Id.*; *Gusick v. Boies*, 72 Ariz.  
13 233, 236, 233 P.2d 446, 448 (1951) (citations omitted).

14       A.R.S. § 13-3967(B) provides, in pertinent part:

15           In determining the method of release or the amount of bail, the judicial officer  
16           . . . shall take into account all of the following:

- 17           1. The views of the victim.
- 18           2. The nature and circumstances of the offense.
- 19           3. The weight of evidence against the accused.
- 20           4. The accused's family ties, employment, financial resources, character and  
21           mental condition.
- 22           5. The results of any drug test submitted to the court.
- 23           6. Whether the accused is using any substance if its possession or use is  
24           illegal pursuant to chapter 34 of this title.
- 25           7. The length of residence in the community.
- 26           8. The accused's record of arrests and convictions
- 27           9. The accused's record of appearances at court proceedings or of flight to  
28           avoid prosecution or failure to appear at court proceedings.

24       **A. Nature and Circumstances of the Offense**

25       The Defendant is charged with 15 counts involving fraud and theft. The loss  
26 amount to the two elderly victims is in excess of \$135,000.00. The Defendant's conduct  
27  
28

1 falls within the sentencing provisions of A.R.S. § 13-702.02. Thus, if convicted, the  
2 Defendant is facing a mandatory prison sentence. In determining bond amount, a court  
3 may consider the measure of punishment which could be inflicted in a given case. *See*  
4 *Gusick v. Boles*, 72 Ariz. 233, 233 P.2d 46 (1951).

5 **B. Weight of the Evidence**

6 The Defendant solicited funds from the victims for investment in hydroponic  
7 farms and a condominium. The evidence shows that no such business existed and that  
8 the funds were used for personal expenses of the Defendant.

9 **C. Family Ties, Employment, Financial Resources, Character, Mental Condition**

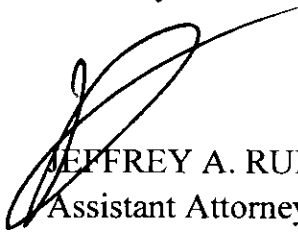
10 The Defendant left the state in 2000. He has been living in Las Vegas in an  
11 apartment leased in someone else's name. The utilities to that apartment were listed in  
12 another's name. The Defendant has no employment in Arizona. The Defendant has  
13 minimal ties to the state.  
14

15 **III. Conclusion**

16 In conclusion, given the circumstances of this case, the amount of bond currently  
17 set in this matter is clearly not excessive and no more than reasonably necessary to secure  
18 the Defendant's appearance at all future court appearances.  
19

20 RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of August, 2003

21 TERRY GODDARD  
22 Attorney General

23   
24 JEFFREY A. RUETER  
25 Assistant Attorney General  
26 Criminal Division  
27  
28

1 Copy of the foregoing  
2 mailed\delivered this  
3 6<sup>th</sup> day of August, 2003,  
4 to:

5 The Honorable Barry Schneider  
6 Judge of the Maricopa County Superior Court

7 Alan S. Baskin, Esq.  
8 James M. McGuire, Esq.  
9 One Arizona Center  
10 400 East Van Buren Street, Suite 800  
11 Phoenix, Arizona 85004  
12 Attorney for Defendant

13  
14 By: *Julia Shaw*