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AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MIKE GLEASON  
KRISTIN K. MAYES  
BARRY WONG

In the matter of:  
  
Trend Management Group., Inc., a Nevada corporation  
8601 Six Forks Road, Suite 400  
Raleigh, NC 27615  
  
Scott Renny Bogue, Sr. (DRD #1588216) and  
Arlene Jane Bogue, husband and wife  
12308 Camberwell Court  
Raleigh, NC 27614  
  
Ryan James Herndon and Lori Darlene  
Herndon  
(a.k.a. Lori J. Herndon a.k.a. Lori Jordan,  
husband and wife  
609 East Silverwood Drive  
Phoenix, AZ 85048  
  
Trend Capital, LLC, an Arizona limited  
liability company  
4025 East Chandler Blvd., Suite 70F15  
Phoenix, AZ 85048  
Linda Bryant Jordan (a.k.a. Linda Van

DOCKET No. S-20476A-06-0557

**REPLY RE MOTION FOR  
SUMMARY JUDGMENT**

Arizona Corporation Commission  
**DOCKETED**

**MAY 10 2007**

DOCKETED BY ne

1 Vranken a.k.a. Linda Jordan-Van Vranken), a  
2 married person, individually and doing  
3 business as The Trend Group, Inc.

4 3641 East Park Avenue  
5 Phoenix, AZ 85044

6 Russell Langdon Van Vranken, husband of  
7 Linda Bryant Jordan  
8 3641 East Park Avenue  
9 Phoenix, AZ 85044

10 Easy Street Financial Group, Inc., an Arizona  
11 corporation  
12 9949 West Bell Road, #202  
13 Sun City, AZ 85371

## 14 I. INTRODUCTION

15 The ALJ should grant Mrs. Bogue's Motion for Summary Judgment for four  
16 additional reasons. First, Arizona has control over people within the State of Arizona  
17 *today*, not a resident of North Carolina that might move here *someday*. Second, although  
18 the Commission has statutory authority to join a spouse in any action to "determine the  
19 liability of the marital community," no "marital community" exists here, because North  
20 Carolina is not a community property state. Indeed, the Commission confuses Arizona's  
21 "community property" with North Carolina's post-divorce equitable distribution of  
22 marital property. Third, naming Mrs. Bogue is not necessary. *If* the Commission obtains  
23 a Judgment against Mr. Bogue, *if* Mrs. Bogue eventually moves to another community  
24 property state, and *if* the Commission seeks to enforce a possible Judgment in another  
25 state, then the Commission can name Mrs. Bogue when it attempts to domesticate the  
26 Judgment in another community property state. Fourth, and finally, the Commission's  
27 decision to name Mrs. Bogue, despite the fact that no marital community exists, is not a  
28 mere annoyance; rather, the Commission's decision has real consequences.

1       **II.    LEGAL ARGUMENT**

2               **A.    The Division's Position is Premised on *Someday* and Hypotheticals**  
3               **Rather Than *Today* and Reality.**

4               The Division concedes Mrs. Bogue is correct. *Today*, and every day since the  
5 filing of the Administrative Complaint, Mrs. Bogue does not reside in Arizona. *Today*,  
6 Mrs. Bogue does not reside in another community property state. *Today*, Mrs. Bogue  
7 resides in North Carolina, a non-community property state. *Today*, there is no marital  
8 community. *Today*, the Bogues are going through divorce proceedings. The  
9 Commission's position, however, is not premised on *today*; rather, it is premised on  
10 *someday*. *Someday*, there might be a marital community. *Someday*, the Bogues might  
11 munificently migrate to Arizona. *Someday*, the Commission might be able to execute a  
12 possible Judgment in Arizona. The Division urges the ALJ to disregard *today*, pretend it  
13 is *someday*, and operate accordingly.  
14

15              A simple hypothetical illustrates the ridiculous nature of the Commission's  
16 position. Following the Division's *someday* logic, if Mr. Bogue were single when the  
17 underlying, alleged acts occurred, then the Division should properly name and seek a  
18 Judgment against "Jane Doe Bogue," because Mr. Bogue might *someday* marry and  
19 might *someday* bring his future bride to Arizona.<sup>1</sup>  
20  
21  
22

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23              <sup>1</sup> The worst that can be said about naming Mrs. Bogue and persisting in keeping her in the case after the  
24 legal flaws in so doing were pointed out to Michelle Allen, the Division's former attorney on this file, is  
25 what she said to Bogue's counsel: Arlene's presence in the case was, if nothing else, a good "bargaining  
26 chip"—her words—for the Division. The Bogues referenced this in an oblique and discreet fashion in the  
27 Motion for Summary Judgment in the hope that the Commission would take the reference to heart and  
28 drop this part of the suit, lest Ms. Allen's actual comments be disclosed. Alas, it is obvious Ms. Allen did  
not inform Mr. Johnson of her comment, because, if she had, Mr. Johnson would not respond by  
disavowing the "bargaining chip" statement. The bluntness of the Division's remark, its stubbornness in  
the face of the clear import of the law against it, and the substantive impotence of the Response, continues  
to fuel Mrs. Bogue's demand for sanctions.

1           **B. There is No “Marital Community,” Because North Carolina is Not a**  
2           **“Community Property” State; Rather, North Carolina Equitably**  
3           **Distributes Marital Property After a Separation and Divorce.**

4           Mrs. Bogue concedes that A.R.S. § 44-2031(C) allows the Commission to join a  
5           spouse in any action to determine the liability of the marital community. The Bogues,  
6           however, live in North Carolina where there is no marital community. Indeed, in North  
7           Carolina, no married person is liable for the damages, costs or fines incurred by their  
8           spouse as a result of torts or proceedings. *See* N.C. Gen. Stat § 52-12 (2007).  
9           Additionally, other provisions of North Carolina law also protect Mrs. Bogue’s pre and  
10          post-nuptial assets and earnings. *See* Art. X, § 4 N.C. Const.<sup>2</sup>; N.C. Gen. Stat § 52-1  
11          (2007).<sup>3</sup>

12          The Division incorrectly makes the rather bold pronouncement that a “marital  
13          community does in fact exist in north Carolina.” *See* Resp. MSJ at 6:19. If the Division  
14          asserts North Carolina is a “community property” state, then it mistakes the distinction  
15          between community property, a legal estate, and equitable distribution of property, an  
16          equitable remedy fashioned in North Carolina (and many other states). *See* N.C. Gen. Stat  
17          § 52-20 (2007) (after separation and divorce, “the court shall determine what is the  
18          marital property and divisible property and shall provide for an equitable distribution of  
19          the marital property...”). Accordingly, the Commission’s reliance on divorce cases  
20          employing the remedy of equitable distribution to support the naming a non-resident,  
21          spouse as a Defendant in an Arizona Administrative Action, because of community  
22          property principles, is misplaced. *See* Resp. MSJ at 6:19-26.

23          

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24          <sup>2</sup> “The real and personal property of any female in this State acquired before the marriage, and all  
25          property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and  
26          remain the sole and separate estate and property of such female, and shall not be liable for any debts,  
27          obligations, or engagements of her husband....”

28          <sup>3</sup> “The real and personal property of any married person in this State, acquired before marriage or to  
29          which he or she may after marriage become in any manner entitled, shall be and remain the sole and  
30          separate estate and property of such married person...”

1  
2 **C. The Commission Need Not Name Mrs. Bogue to Eventually Enforce a  
3 Potential Judgment Against Her.**

4 Naming Mrs. Bogue now is not necessary. *If* the Commission obtains a Judgment  
5 against Mr. Bogue, and *if* Mrs. Bogue eventually moves to another community property  
6 state, and *if* the Commission seeks to enforce a possible Judgment in another state, then  
7 the Commission can simply name Mrs. Bogue when it domesticates the Judgment in  
8 another community property state. *See Alberta Sec. Com'n v. Ryckman*, 200 Ariz. 540,  
9 548, 30 P.3d 121, 129 (2001) (Arizona enforced a money judgment entered against a  
10 husband only by the Alberta (Canada) Securities Commission against both husband's  
11 separate property and community property, because the Commission properly joined the  
12 wife in the Arizona domestication action).<sup>4</sup> Furthermore, states do not punish one  
13 another for failing to comply with the procedure of all forty-nine other states when a  
14 Judgment is initially obtained. *See Nat'l Union Fire Ins. Co. of Pittsburgh v. Greene*, 195  
15 Ariz. 105, 985 P.2d 590 (App. 1999) (Arizona recognized New York judgment against  
16 community property despite the fact that the New York action did not name both spouses,  
17 because "[i]t would be asking too much to require [a] creditor to foresee [an eventual  
18 move to a community property state], and to comply with Arizona laws at the time it file  
19 the original suit ); *Oyakawa v. Gillett*, 175 Ariz. 226, 229, 854 P.2d 1212, 1215 (App.  
20 1993) (an Arizona court may not refuse to recognize another state's judgment simply  
21 because the plaintiff did not there comply with Arizona's spousal joinder requirement,  
22 because a creditor cannot foresee all states to which a debtor may move). Accordingly,  
23 the joinder of Mrs. Bogue now is unnecessary.  
24

25 <sup>4</sup> Accordingly, the Commission's citation to North Carolina's tenancy in the entirety, *Edwards v. Arnold*,  
26 109 S.E.2d 205, 209 (1959), and a joint bank account are misplaced. *See* Resp. MSJ at 7:1-12. *If* the  
27 Commission eventually obtains a judgment against Mr. Bogue only, *if* the Bogues were still married, *if*  
28 they moved to another community property state, and *if* they held property in another community property  
state through a tenancy in the entirety or opened a joint bank account, then the Commission could simply  
name Mrs. Bogue in the action to domesticate the Commission's Judgment.

1           **D.     The Division’s Decision to Name Mrs. Bogue, Despite the Fact that No**  
2           **“Marital Community” Exists, Has Real Consequences.**

3           Respondents Arlene and Scott Bogue are divorcing. On April 10, 2006, they  
4           separated; on April 27, 2007, the Bogues executed a property settlement; and on April 30,  
5           2007, Mr. Bogue filed a Complaint for Divorce in Wake County, North Carolina. The  
6           Commission’s decision to name Mrs. Bogue played no small part in the Bogues’ divorce.

7           The Division nonchalantly states that whether a North Carolina court will *someday*  
8           enforce a judgment the Commission might *someday* obtain against her is “irrelevant.”  
9           *See* Resp. MSJ at 7:13-15. Perhaps the Commission’s employees have never executed a  
10          financial statement, answered questions regarding pending litigation, applied for a  
11          mortgage, or worried about their credit score? In the real world, when the State of  
12          Arizona names you in a suit for fraud, despite the fact that you did (and the State accuses  
13          you of) no wrong, it is a big deal that causes a problem or two. Indeed, the Division does  
14          itself a disservice by likening itself to a mere annoyance. In short, the Division asserts  
15          that, if a court won’t enforce a judgment it never actually should have sought, then there  
16          is no harm and Mrs. Bogue has no reason to complain. The real world begs to differ.

17          **III.    CONCLUSION**

18          Mrs. Bogue respectfully requests the ALJ to grant her Motion for Summary  
19          Judgment for four additional reasons: (1) Arizona has control over people within the  
20          State of Arizona *today*, not a resident of North Carolina that might move here *someday*;  
21          (2) no “marital community” exists here, because North Carolina is not a community  
22          property state; (3) naming Mrs. Bogue now is not necessary, because the Commission  
23          may simply name her later in an action to domesticate a Judgment in another state; and  
24          (4) the Commission’s decision to name Mrs. Bogue is not a mere annoyance; rather, the  
25          Commission’s decision has real world consequences.  
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DATED this 10<sup>th</sup> day of May, 2007.

HARPER, CHRISTIAN, DICHTER & GRAIF, P.C.

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of the foregoing hand-delivered this  
10<sup>th</sup> day of May, 2007, with:

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Arizona Corporation Commission  
1200 W. Washington  
Phoenix, Arizona 85007

1 CERTIFICATE OF SERVICE

2 I hereby certify that I have, this 10<sup>th</sup> day of May 2007, served the foregoing  
3 document on all parties of record in this proceeding by mailing a copy thereof, properly  
4 addressed with first class postage prepaid, to:

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