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1 BEFORE THE ARIZONA CORPORATIO

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3 IN THE MATTER OF: )  
 )  
 4 SECURE RESOLUTIONS, INC., an )  
 Arizona corporation, )  
 5 )  
 DOUGLAS COTTLE and KYLA COTTLE, )  
 6 husband and wife, )  
 )  
 7 Respondents. )

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DOCKET NO.  
S-20677A-09-0256

PREHEARING  
CONFERENCE

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10 At: Phoenix, Arizona  
 11 Date: November 19, 2009  
 12 Filed: **DEC 03 2009**

RECEIVED  
 2009 DEC - 31 P 4: 18  
 AZ CORP COMMISSION  
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Arizona Corporation Commission  
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 Phoenix, Arizona 85004-1481

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23 Prepared for:

By: Kate E. Baumgarth, RPR  
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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in Hearing Room 100, of  
4 said Commission, 1200 West Washington Street, Phoenix,  
5 Arizona, commencing at 10:00 a.m., on the 19th day, of  
6 November, 2009.

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9 BEFORE: MARC E. STERN, Administrative Law Judge

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11 APPEARANCES:

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13 For the Respondents Douglas Cottle and Kyla Cottle:

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MITCHELL & ASSOCIATES

By: Julie M. Beauregard, Attorney at Law

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18 For Arizona Corporation Commission Securities Division:

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KATE E. BAUMGARTH, RPR

Certified Reporter

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Certificate No. 50582

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1 ALJ STERN: All right. This matter is now open  
2 in the matter of Secure Resolutions, Douglas and  
3 Kyla Cottle in Docket No. S-20677A-09-0256.

4 My name is Marc Stern, and I will preside over  
5 the proceeding today.

6 And at this time we will take appearances.

7 And for the Securities Division?

8 MR. HUYHN: Paul Huyhn, Staff attorney for the  
9 Division, Judge.

10 ALJ STERN: And on behalf of the respondents, at  
11 least presently?

12 MS. BEAUREGARD: Good morning, Judge Stern.  
13 Julie Beauregard.

14 ALJ STERN: And, Mr. Huyhn, you know, I am not  
15 sure whether you are aware -- you probably are -- I know  
16 you are aware of the fact that Ms. Beauregard filed an  
17 application to withdraw.

18 You are aware of that?

19 MR. HUYHN: I am, Judge.

20 ALJ STERN: And I also imagine -- I don't know --  
21 it was docketed sort of late yesterday, the notice of an  
22 automatic stay. I didn't see the stay, but I saw the  
23 notice of it filed by an attorney for Mr. and Mrs. Cottle  
24 through the bankruptcy court, a Chapter 7 proceeding.

25 Is the Division going to pursue getting a release

1 from that stay?

2 MR. HUYHN: Judge, I will touch on that.

3 In regards to the notice of the automatic stay,  
4 because mine wasn't time stamped, so I didn't know if it  
5 was actually docketed. But if it was, I will briefly  
6 respond to it, but I believe Jim Webster is the  
7 respondents' counsel in regard to the bankruptcy matter,  
8 and he is not here at the present time.

9 ALJ STERN: Well, as I say, he just filed a  
10 notice of it. I don't know whether he's intending to  
11 participate in this proceeding at all, but you will have  
12 to go to the bankruptcy court to get the stay lifted.

13 MR. HUYHN: Well, that, I think, is where the  
14 Division's position, obviously, Judge, is, that under  
15 11-362(b)(4), you know, the governmental unit's actions  
16 from a regulatory or police power enforcement is not  
17 stayed by the automatic stay.

18 In regards to your question of the Division going  
19 to the bankruptcy court, I think, if I recall correctly,  
20 we have attempted to do that under a similar request, and  
21 basically we were somewhat admonished by the bankruptcy  
22 courts because in their opinion, B(4) already gives us  
23 statutorily the ability to prevent or not having to be  
24 subject to the automatic stay and us requesting it is sort  
25 of not required and duplicative and in their opinion a

1 waste of their time and resources to hear it.

2 I'm just repeating that.

3 ALJ STERN: Okay. I don't disbelieve you. I  
4 don't know because we had a discussion. Even this morning  
5 somebody raised that to me, how are you going forward with  
6 the stay?

7 Well, number one, I don't see any actual notice  
8 of the stay other than an attorney has filed a  
9 representation that there has been a stay granted in the  
10 proceeding, which I am reasonably sure has happened.

11 But, again, in the other proceeding -- and it's  
12 been a while -- I was under the impression that the  
13 Division did, in fact, secure a release of the stay.

14 Do you recall, since you are more aware of what  
15 the Division is doing in this area than I am, what case  
16 that might have been?

17 MR. HUYHN: I don't recall the case, Judge. I  
18 think our chief counsel enforcement, Julie Coleman, would  
19 be able to confirm that for me, and I can always pass that  
20 along.

21 But just generally speaking the Division's  
22 position is under B(4) in the statutory power to exempt it  
23 or exclude it from the automatic stay that we are looking  
24 to proceed in regards to the enforcement and the  
25 regulatory police power aspect of it.

1           The enforcement of any judgment, if there is one,  
2 that is what is presented or prevented in which we would  
3 need to go to the bankruptcy court to enforce and collect  
4 on a judgment. And we are in agreement that we are stayed  
5 from collecting an enforcement on the judgment until  
6 either dismissal or that gets provided to us or granted by  
7 the bankruptcy court itself.

8           ALJ STERN: So you are saying it's the Division's  
9 position, at least at this point, that the matter can go  
10 forward.

11           MR. HUYHN: Correct, but collection on the matter  
12 is a different issue.

13           ALJ STERN: That is assuming, of course, you  
14 prevail.

15           MR. HUYHN: Correct.

16           ALJ STERN: Okay. At this time, if I recall  
17 correctly we are already set for hearing on this matter,  
18 aren't we?

19           MR. HUYHN: Yes, Judge. I believe February 8th  
20 is the first day of the of hearing scheduled for this  
21 matter.

22           ALJ STERN: Unless somehow you resolve this  
23 matter with the Cottles or Secure Resolutions, wherever  
24 they are at. That is a corporation, I guess.

25           All right. So in other words, let's say the

1 bankruptcy is still pending at that time, you would need a  
2 release from the stay, assuming you are able to exercise  
3 under the judgment, if the Commission approved an order in  
4 favor of the Division.

5 MR. HUYHN: Yes, Judge.

6 ALJ STERN: And if the bankruptcy had been  
7 completed by that time, you would have to go back into  
8 bankruptcy court and reopen the bankruptcy proceeding and  
9 seek a release from that adjudication, I guess; right? Is  
10 that how I understand it?

11 MR. HUYHN: To some extent. I think -- I'm not  
12 trying -- I'm not a bankruptcy expert by any stretch of  
13 the imagination on it, Judge, but, yeah, either that  
14 and/or -- I think it's under 523(a)(19), certain  
15 obligations are not discharged, and one of them being  
16 certain -- if my memory serves me correctly, certain  
17 enforcement matters.

18 ALJ STERN: And that is under bankruptcy code?

19 MR. HUYHN: Yes.

20 ALJ STERN: Okay. Ms. Beauregard, I know you  
21 probably don't have much feeling one way or the other.

22 MS. BEAUREGARD: That's right.

23 ALJ STERN: You are done.

24 I have a procedural order I will be issuing  
25 shortly on this matter.

1           The Cottles have been advised of everything as  
2 far as the status of everything? I think that is what  
3 your application stated.

4           MS. BEAUREGARD: That's correct, and the Cottles  
5 have requested that we have consented that we remove  
6 ourselves from the case and asked that we cease all work  
7 because of the bankruptcy and requested their unused  
8 retainer back and their documents, which we have complied  
9 with. So that is where we are at on that.

10           ALJ STERN: Yeah, I will deal with that  
11 appropriately.

12           What I'm going to do is take this matter under  
13 advisement, take a look a little bit of where we stand on  
14 this, Mr. Huyhn, and if it's my feeling that we have to  
15 have something from the bankruptcy court to go forward, I  
16 will put out a procedural order directing you to do that,  
17 you know, secure something or file some sort of a filing  
18 so that everyone is aware of the status.

19           At present I know the Cottles aren't here today.  
20 I believe -- I don't know whether it was Mr. or  
21 Mrs. Cottle or the bankruptcy attorney, somebody called  
22 our office this morning and asked what the status of the  
23 proceeding was, and they were told it was going forward.

24           And I assume you gentlemen are either an attorney  
25 and/or people that invested?

1 MEMBERS OF THE AUDIENCE: Correct.

2 ALJ STERN: Did you want to enter an appearance?

3 MEMBERS OF THE AUDIENCE: No.

4 ALJ STERN: With that, anything else, Mr. Huyhn?

5 MR. HUYHN: No, Judge, just that I will briefly  
6 comment that the Division will file a response in regards  
7 to the notice of the automatic stay. I wasn't sure if  
8 there was an actual notice filed.

9 ALJ STERN: I haven't seen it.

10 MR. HUYHN: That is why I didn't want to file a  
11 response and jump the gun there.

12 So in that regards if there is one -- and I will  
13 wait approximately a day or so or until I see it -- I will  
14 file my response.

15 ALJ STERN: I imagine it was granted -- let's  
16 see. They filed on November 4th. I don't know when the  
17 stay was issued, but perhaps you can go online and see it.  
18 I don't know whether they have that facility over there or  
19 not.

20 MR. HUYHN: Okay. And in regards to Mr. Mitchell  
21 and Ms. Beauregard no longer representing the Cottles,  
22 obviously I have no opposition to that so long as it's  
23 clear in the procedural order that unless and until you  
24 grant their notice to vacate our proceedings that the  
25 proceedings are still scheduled to go forward in February.

1 ALJ STERN: They do, pending any further filings  
2 from you and/or a further procedural order from me.

3 We have enough time here that it's not eminent  
4 anyhow. So if further research indicates that somehow,  
5 someday the Division ought to take some time in the  
6 bankruptcy court to get a release to go forward, that  
7 might involve some time, but that really is something that  
8 is a little bit down the road and I don't know what might  
9 happen.

10 MR. HUYHN: Okay.

11 ALJ STERN: Okay. Anything else?

12 Then the hearing presently as it stands right  
13 now, as you said, it starts February 8th at 10:00 here in  
14 this room if the schedule is how it stands.

15 With that we are concluded, and thank you for  
16 your time today.

17 (The hearing concluded at 10:09 a.m.)

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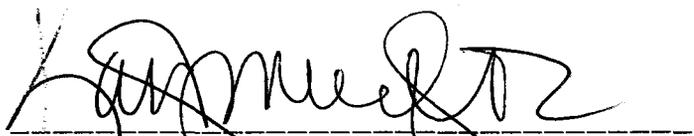
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1 STATE OF ARIZONA )  
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I, KATE E. BAUMGARTH, RPR, Certified Reporter  
 No. 50582, for the State of Arizona, do hereby certify  
 that the foregoing printed pages constitute a full, and  
 accurate transcript of the proceedings had in the  
 foregoing matter, all done to the best of my skill and  
 ability.

WITNESS my hand this 25th day of November, 2009.



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 Kate E. Baumgarth, RPR  
 Certified Reporter, No. 50582