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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF:

SECURE RESOLUTIONS, INC., an Arizona corporation,
DOUGLAS COTTLE and KYLA COTTLE, husband and wife,
Respondents.

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2010 MAR 31 P 2:46

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

MAR 31 2010

DOCKETED BY

DOCKET NO. S-20677A-09-0256

ELEVENTH
PROCEDURAL ORDER

BY THE COMMISSION:

On May 21, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Secure Resolutions, Inc. ("SRI") and Douglas Cottle and Kyla Cottle, husband and wife (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of stock, notes, warrants and/or investment contracts.

The Respondents were duly served with copies of the Notice.

On June 8, 2009, a request for hearing was filed by the Respondents, Douglas and Kyla Cottle. A request for hearing was also filed on behalf of SRI, but it could not be determined by whom the request was filed.

On June 12, 2009, by Procedural Order, a pre-hearing conference was scheduled on June 30, 2009.

On June 24, 2009, the Cottle Respondents filed a Motion for a Continuance in order to obtain legal counsel and to file an Answer. The Division did not object to this request.

On June 26, 2009, by Procedural Order, the pre-hearing conference was continued to July 23, 2009.

1 On July 23, 2009, at the pre-hearing conference, the Division appeared with counsel and
2 Respondents appeared on their own behalf. The parties indicated that they are discussing a possible
3 resolution of the proceeding by means of a Consent Order and requested that a status conference be
4 scheduled in approximately 45 days. By Procedural Order, a status conference was scheduled on
5 September 24, 2009.

6 On September 22, 2009, Notice of Appearance of counsel for Respondents was filed and
7 subsequently corrected to indicate that only the Cottle Respondents were being represented by
8 counsel.

9 On September 24, 2009, the Division and Cottle Respondents appeared through counsel.
10 Counsel for the Division indicated that a settlement has not yet been concluded between the parties
11 and requested that a status conference be scheduled in approximately 45 days. The parties also
12 agreed to the scheduling of a hearing in February 2010 to last approximately two weeks, if they are
13 unable to conclude a form of Consent Order for Commission approval.

14 On September 25, 2009, by Procedural Order, dates for a status conference and hearing and
15 other procedural matters were ordered.

16 On November 17, 2009, counsel for the Cottle Respondents filed an application to withdraw
17 as their counsel indicating that the Cottle Respondents had been notified in writing of the status of the
18 case including the dates and times of all proceedings and all procedural matters. It was further
19 indicated that Respondents had sought Chapter 7 bankruptcy protection and no longer desired legal
20 representation in this proceeding.

21 On November 18, 2009, the bankruptcy attorney for the Cottles filed a Notice of Automatic
22 Stay pursuant to 11 USC § 362(a)(1) of the United States Bankruptcy Code with respect to the Cottle
23 Respondents.

24 On November 19, 2009, at the status conference, the Division appeared with counsel and the
25 Respondents' attorney who had filed an application to withdraw as their counsel appeared.
26 Respondents were not present. A brief discussion ensued and the proceeding was recessed.

27 On November 20, 2009, the Division filed its Response to Respondents' Petition to Enforce
28

1 Automatic Stay. With the filing of its Response, the Division caused a copy of its filing to be mailed
2 to the Cottles' bankruptcy counsel. The Division, in its Response, pointed out that the Automatic
3 Stay did not preclude the Commission's action regarding possible violations of the Act because the
4 Division's action on behalf of the Commission falls within its police or regulatory powers, and are
5 exempt from the Automatic Stay pursuant to 11 USC § 362(b)(4). Further, the Division cited a
6 number of cases in support of its position and also included a copy of a previously secured release of
7 an Automatic Stay granted on January 26, 2006, by the United States Bankruptcy Court as an exhibit
8 to its filing in this proceeding before the Commission.¹

9 On December 3, 2009, by Procedural Order, counsel for the Cottle Respondents in the
10 proceeding was permitted to withdraw, and absent a specific stay from the bankruptcy court which
11 ordered the Commission to stay its action herein, the parties were ordered to appear for the hearing as
12 scheduled.

13 On January 5, 2010, a Notice of Appearance of Counsel for the Cottle Respondents was filed
14 by the Baker Law Firm, LLC by Mr. Michael S. Baker.

15 On January 7, 2010, a teleconference was held with the Division and Respondents represented
16 by counsel. A discussion related to the exchange of Witness Lists and Exhibits took place and
17 Respondents requested a continuance which was denied.

18 On January 19, 2010, Respondents filed an Expedited Motion for Order to Disclose
19 Information by Securities Division Re-Urging of Original Motion to Continue ("Expedited Motion").

20 On January 20, 2010, the division filed Securities Division's Motion to Allow Telephonic
21 Testimony citing relevant case law and prior Commission proceedings where such testimony had
22 been permitted.

23
24 ¹ This release had been secured with respect to another proceeding in Docket No. S-03550A-04-0000 in which the
Respondents, Arthur B. Cooper and Linda A. Cooper, sought bankruptcy protection. Therein, the Court found as follows:

- 25 "1) The Arizona Corporation Commission is a governmental agency enforcing its police and regulatory power;
26 2) Pursuant to 11 U.S.C. § 362(b)(4), police and regulatory actions commenced by the Arizona Corporation
Commission are not stayed by these bankruptcy proceedings; and,
27 3) The Arizona Corporation Commission may proceed with their investigation, and also proceed to exercise their
regulatory powers as provided by law.

28 Specifically, the Court recognizes the authority of the Arizona Corporation Commission to enter Orders in
administrative and civil proceedings, including but not limited to, those that provide for injunctive relief, for penalties, for
restitution and for the revocation of licenses as provided by law; however, the Arizona Corporation Commission may not
attempt to execute upon any monetary judgment so long as the Bankruptcy Court has jurisdiction over the debtor."

1 On January 27, 2010, the Division filed its response to Respondents' Expedited Motion. The
2 Division cited relevant law to deny the Expedited Motion. Subsequently, by Procedural Order,
3 Respondents' Expedited Motion was denied as was the request to continue the proceeding.

4 Additionally, on January 27, 2010, Respondents filed Respondents' Response to Securities
5 Division's Motion to Allow Telephonic Testimony. Respondents argued that they would be denied
6 due process and cited case law in support of their position.

7 On January 29, 2010, by Procedural Order, the Division's Motion to Allow Telephonic
8 Testimony was granted, and the hearing was to commence on February 8, 2010, as previously
9 ordered.

10 On February 8, 2010, prior to the outset of the hearing, the parties telephonically requested
11 that the hearing be continued until February 9, 2010 because they were negotiating to settle the
12 proceeding.

13 On February 9, 2010, the Division and the Cottle Respondents filed a Joint Stipulation to
14 Continue the proceeding because they had reached a settlement with respect to the Cottle
15 Respondents and would submit a proposed Consent Order for Commission approval at the
16 Commission's March 18, 2010, Open Meeting. The parties further requested that a proceeding be
17 scheduled after March 22, 2010, in the event the Consent Order was not approved. The Division
18 further indicated that it was working to resolve the remaining issues with respect to SRI.

19 On February 10, 2010, by Procedural Order, the stipulation was granted, the hearing was
20 vacated and a status conference was scheduled on March 31, 2010.

21 On February 18, 2010, counsel for the Cottle Respondents filed a Motion to Withdraw as
22 counsel for SRI stating that he had erroneously included SRI in his January 5, 2010, Notice of
23 Appearance and SRI had not authorized him to appear on its behalf.

24 On February, 25, 2010, by Procedural Order, the Baker Law firm, LLC, by Mr. Michael S.
25 Baker, was granted leave to withdraw its representation with respect to SRI, and a status conference
26 was scheduled on March 31, 2010, in the event the Cottle Consent Order was not approved.

27 On March 18, 2010, the Commission approved the Consent Order with respect to the Cottle
28 Respondents, negating the need for the status conference.

1 Upon a review of this matter, it was determined that as of the initial pre-hearing conference on
2 July 23, 2009, that a valid request for hearing had not been filed on behalf of Respondent SRI.
3 Subsequently, all counsel involved in the proceeding who represented the Cottle Respondents
4 indicated that they did not represent SRI. Commission records further revealed that SRI's corporate
5 status was revoked on October 29, 2009, for failure to file its Annual Report. Additionally, it was
6 disclosed that SRI had filed for bankruptcy.

7 On March 22, 2010, by Procedural Order, the status conference scheduled on March 31, 2010,
8 was vacated, and the Division was directed to take whatever steps it deemed necessary to close the
9 docket with respect to SRI.

10 On March 29, 2010, the Division filed a Motion for Clarification to determine whether a June
11 26, 2009, filing on behalf of SRI constituted a valid answer and/or request for hearing. The filing
12 consists of a multipage document similar to filings by the individual Cottle Respondents in this
13 proceeding. However, the signature on the filing is illegible and there is no evidence that the
14 corporate entity was represented by an attorney licensed to practice law in Arizona or anyone
15 authorized to act on behalf of SRI.

16 Therefore, the June 26, 2009, filing does not constitute a valid request for hearing or an
17 answer by an attorney licensed to practice law in Arizona or anyone authorized to act on behalf of
18 SRI.

19 IT IS THEREFORE ORDERED that the filing on behalf of SRI on June 26, 2009, does not
20 constitute either a valid request for hearing or a valid answer.

21 IT IS FURTHER ORDERED that the Division shall take whatever steps which are necessary
22 to close this docket.

23 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized
24 Communications) applies to this proceeding as the matter is now set for public hearing.

25 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
26 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
27 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
28 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is

1 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
2 Administrative Law Judge or the Commission.

3 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
4 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
5 *pro hac vice*.

6 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
7 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
8 ruling at hearing.

9 DATED this 31ST day of March, 2010.

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13 _____
14 MARC E. STERN
15 ADMINISTRATIVE LAW JUDGE

16 Copies of the foregoing mailed/delivered
17 this 31ST day of March, 2010 to:

18 Michael S. Baker
19 THE BAKER LAW FIRM, LLC
20 702 East Coronado Road
21 Phoenix, AZ 85006
22 Attorney for Cottle Respondents

23 Matt Neubert, Director
24 Securities Division
25 ARIZONA CORPORATION COMMISSION
26 1300 West Washington Street
27 Phoenix, AZ 85007

28 By: 
29 _____
30 Debra Bjoyles
31 Secretary to Marc E. Stern