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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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ARIZONA CORP COMMISSION  
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COMMISSIONERS

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

IN THE MATTER OF:

FIVE STAR TREE SERVICE AND  
LANDSCAPING, LLC, an Arizona limited  
liability company,

RICHARD MCCULLUM, JR., a married man,

LEAH ATWOOD, a married woman,

Respondents.

DOCKET NO. S-20715A-09-0564

**SECOND**  
**PROCEDURAL ORDER**  
**(Schedules Pre-Hearing**  
**Conference and Hearing)**

**BY THE COMMISSION:**

On December 17, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist ("T.O.") and Notice of Opportunity for Hearing ("Notice") against Five Star Tree Service and Landscaping, LLC ("FSTL"), Richard McCullum, Jr. and Leah Atwood, 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 investment contracts.

The Respondents were duly served with a copy of the Notice.

On February 16, 2010, a request for hearing was filed by Respondents Leah Atwood and FSTL. Respondents also requested that an attorney be appointed to represent them.

On February 17, 2010, by Procedural Order, a pre-hearing conference was scheduled on March 30, 2010, and Respondents advised that since this is an administrative proceeding and not a criminal proceeding, Respondents did not have a right to the appointment of counsel pursuant to the Arizona Rules of Criminal Procedure. Respondents were further advised that they could either retain counsel or they could represent themselves pursuant to the Commission's Rules of Practice and Procedure A.A.C. R14-3-101 *et seq.* and the Rules of the Arizona Supreme Court.

1 On March 30, 2010, at the pre-hearing conference, the Division appeared with counsel and  
2 Respondent, Leah Atwood, appeared on her own behalf. The Division presented a request from  
3 hearing by Respondent McCullum, which the Division indicated would be filed after the initial pre-  
4 hearing conference. The Division requested that a hearing also be scheduled.

5 Accordingly, an additional pre-hearing conference should be scheduled in response to Mr.  
6 McCullum's request for hearing and a hearing should also be scheduled.

7 IT IS THEREFORE ORDERED that a **pre-hearing conference** shall be held on **April 29,**  
8 **2010, at 11:30 a.m.,** at the Commission's offices, 1200 West Washington Street, Room 100,  
9 Phoenix, Arizona.

10 IT IS FURTHER ORDERED that if any party is unable to appear personally and wishes to  
11 appear telephonically at the pre-hearing conference, they shall contact the *Hearing Division* at 602-  
12 542-4250 at least **three days prior to the pre-hearing conference** for instructions on how to appear  
13 telephonically.

14 IT IS FURTHER ORDERED that a **hearing** shall be held on **June 29, 2010, at 9:30a.m.,** at  
15 the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona.

16 IT IS FURTHER ORDERED that the parties shall also set aside **June 30, 2010, for an**  
17 **additional day of hearing,** if necessary.

18 IT IS FURTHER ORDERED that the **Division and Respondents shall exchange copies of**  
19 **their Witness Lists and copies of their Exhibits by May 31, 2010,** with courtesy copies provided to  
20 the presiding Administrative Law Judge.

21 IT IS FURTHER ORDERED that **if the case is resolved by proposed Consent Orders prior**  
22 **to the hearing, the Division shall file a Motion to vacate the proceeding.**

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.

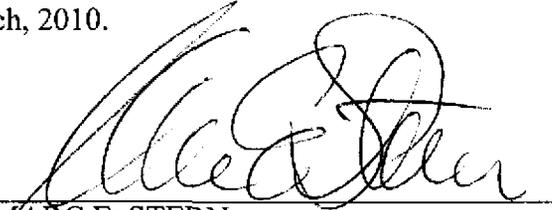
25 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance  
26 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
27 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
28

1 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
2 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
3 Administrative Law Judge or the Commission.

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

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

10 DATED this 31<sup>ST</sup> day of March, 2010.

  
MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered  
16 this 31<sup>ST</sup> day of March, 2010 to:

17 Leah Atwood  
18 5746 South Estrella Road, No. 2  
19 Gold Canyon, AZ 85118

20 Richard McCullum, Jr.  
21 5703 Laurel Canyon Blvd., #306  
22 Valley Village, CA 91607

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

28 ARIZONA REPORTING SERVICE, INC.  
2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004

By:   
Debra Broyles  
Secretary to Marc E. Stern