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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS:

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

2010 APR 27 P 1:58

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APR 27 2010

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY [Signature]

IN THE MATTER OF:

DOCKET NO. S-20648A-09-0010

ENERGETICS, INC., a Nevada corporation;

STEVEN P. GIUFFRIDA and MICHELLE
GIUFFRIDA, husband and wife;

RODNEY PETERSON and VIRGINIA
PETERSON, husband and wife,

RESPONDENTS.

**TWELFTH
PROCEDURAL ORDER**
**(Continues Hearing -
Schedules Pre-hearing)**

BY THE COMMISSION:

On January 12, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Energetics, Inc. ("Energetics"), Stephen P. Giuffrida and Michelle Giuffrida, 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 notes and/or investment contracts.

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

On January 23, 2009, a request for hearing was filed by the Respondents.

On January 27, 2009, by Procedural Order, a pre-hearing conference was scheduled on February 25, 2009.

On February 25, 2009, the Division and Respondents appeared with counsel to discuss issues arising from the Notice and stipulated to a status conference being scheduled after certain documents were reviewed.

On February 26, 2009, by Procedural Order, a status conference was scheduled for April 2, 2009.

1 On March 24, 2009, counsel for Respondents filed an Application for Withdrawal as Counsel
2 of Record ("Application") pursuant to A.A.C. R14-3-104(E) and consistent with ER 1.16 stating that
3 Respondents had failed to meet their financial obligation for counsel's services. Counsel further
4 stated that he had provided notice to the Respondents of pending matters related to the case, such as
5 discovery, and the previously scheduled Examination Under Oath of Mr. Giuffrida. Notice of the
6 Application was also provided to Respondents.

7 On April 1, 2009, by Procedural Order, the Application of counsel was granted.

8 On April 2, 2009, the status conference was held with the Division present with counsel and
9 Mr. Giuffrida appeared on his own behalf. The Division indicated that the parties are attempting to
10 reach a resolution in the proceeding, and requested that another status conference be scheduled in
11 approximately 30 days.

12 On April 3, 2009, by Procedural Order, a status conference was scheduled on May 7, 2009.

13 On May 7, 2009, at the status conference, the Division appeared with counsel and attorney
14 Jeffrey Proper entered an appearance on behalf of the Respondents. The parties indicated that they
15 are attempting to resolve the issues in the proceeding and the Division requested that a hearing be
16 scheduled in the fall. By Procedural Order, a hearing was scheduled on October 13, 2009.

17 On July 15, 2009, the Division filed a Motion to Amend the Notice filed on January 12, 2009,
18 by adding Rodney and Jane Doe Peterson as Respondents.

19 On July 30, 2009, counsel for the Giuffrida Respondents and Energetics filed a response
20 indicating that they did not oppose the amendment of the Notice. Subsequently, by Procedural Order,
21 the Division's Motion to Amend the Notice was granted, and Rodney and Jane Doe Peterson,
22 husband and wife, were added as Respondents. It was further ordered that a hearing commence on
23 October 13, 2009, with additional days of hearing on October 14 and 15, 2009, if necessary.

24 On August 18, and 31, 2009, the Giuffrida Respondents and Energetics filed a request for
25 hearing and Answer to the Amended Complaint, respectively.

26 On September 3, 2009, by Procedural Order, it was ordered that all prior orders remain in
27 effect with respect to the commencement of the hearing and hearing dates.

28 On September 8, 2009, the Division and Giuffrida Respondents and Energetics filed a Joint

1 Stipulation to Continue Hearing and the Exchange of Witness Lists and Exhibits due to the joinder of
2 new Respondents and because the Division, pursuant to A.A.C. R14-4-303, required additional time
3 to provide service by publication of the Notice in this proceeding and to allow time for the filing of a
4 request for a hearing by the newly-named Respondents. The parties further requested that a status
5 conference be scheduled after November 9, 2009, to allow for service by publication of the Notice
6 and any subsequent request for hearing.

7 On September 9, 2009, the Joint Stipulation was granted and the hearing date vacated along
8 with the related date for the exchange of documents and witness lists. A status conference was
9 scheduled on November 19, 2009.

10 On September 28, 2009, Attorney Ron Kilgard of Keller Rohrback, P.L.C. filed a request for
11 hearing on behalf of Respondent Rodney Peterson.

12 On September 30, 2009, by Procedural Order, the hearing date was vacated and the newly
13 added Respondent, Rodney Peterson, was provided with notice of the present status of the proceeding
14 and with notice of the status conference scheduled on November 19, 2009.

15 On October 23, 2009, Notice of Appearance and Motion for an Extension of Time was filed
16 by a new attorney on behalf of Respondents Rodney and Virginia Peterson. Therein, it was
17 represented that Attorney Maureen Beyers of Osborn Maledon, P.A. would be substituting in place of
18 Mr. Peterson's first attorney who she indicates had withdrawn as counsel. Further, Ms. Beyers
19 requested the following extensions of time: to produce documents by October 28, 2009; to file an
20 Answer by November 23, 2009; and to appear for an examination under oath on December 3, 2009.

21 The Division's counsel indicated telephonically that there were no objections to the requested
22 extensions of time.

23 On October 29, 2009, by Procedural Order, the requested extensions were granted, and
24 Attorney Ron Kilgard was permitted to withdraw from the representation of the Peterson
25 Respondents. It was further ordered that the status conference take place as was previously ordered
26 on November 19, 2009

27 On November 19, 2009, at the status conference, the Division and Respondents appeared
28 through counsel. Although the parties were discussing a possible resolution of the proceeding, the

1 Division requested that a hearing be scheduled in the interim. The parties stipulated to a three day
2 hearing to commence on May 4, 2010. The parties also agreed to an exchange of Witness Lists and
3 copies of Exhibits prior to the hearing.

4 On November 20, 2009, by Procedural Order, a hearing was scheduled to commence on May
5 4, 2010, and other procedural matters were also addressed.

6 On April 9, 2010, the Division filed a Motion to Amend Caption to replace "Jane Doe
7 Peterson" with "Virginia Peterson," the correct name of Respondent Peterson's spouse.

8 On April 12, 2010, by Procedural Order, the caption was amended to reflect the correct name
9 of Mr. Peterson's spouse.

10 On April 23, 2010, the Division filed a Motion to Continue ("Motion") the hearing scheduled
11 on May 4, 2010, because a tentative settlement has been reached with the Peterson Respondents and a
12 Consent Order will be submitted for Commission approval at its May 13, 2010 Open Meeting. The
13 Division indicates that the remaining Respondents do not object to the Motion. The Division also
14 requests that a pre-hearing conference be scheduled after the Commission's May 13, 2010 Open
15 Meeting to review the status of the proceeding.

16 Accordingly, the hearing should be continued and another pre-hearing conference should be
17 scheduled.

18 **IT IS THEREFORE ORDERED that the hearing scheduled on May 4, 2010, shall be**
19 **continued.**

20 **IT IS FURTHER ORDERED that the a pre-hearing conference shall be held on May 20,**
21 **2010, at 9:30 a.m., at the Commission's offices, 1200 W. Washington, Room 100, Phoenix, Arizona.**

22 **IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized**
23 **Communications) is in effect and shall remain in effect until the Commission's Decision in this**
24 **matter is final and non-appealable.**

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

28

1 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
2 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
3 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation
4 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the
5 matter is scheduled for discussion, unless counsel has previously been granted permission to
6 withdraw by the Administrative Law Judge or the Commission.

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 27th day of April, 2010.

11
12
13 
14 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered
16 this 27th day of April, 2010 to:

17 Jeffrey Proper
18 JEFFREY M. PROPER, PLLC
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By: 
Debra Broyles
Secretary to Marc E. Stern