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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

SEP 2 2010

COMMISSIONERS:

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

2010 SEP -2 A 9:22

AZ CORP COMMISSION  
DOCKET CONTROL

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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.

**FOURTEENTH**  
**PROCEDURAL ORDER**  
**(Withdrawal of Counsel)**

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 had been reached with the Peterson Respondents and  
12 a Consent Order was submitted for Commission approval at its May 13, 2010 Open Meeting. The  
13 Division indicated that the remaining Respondents did not object to the Motion. The Division also  
14 requested 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 On April 27, 2010, by Procedural Order, the hearing was continued and a pre-hearing  
17 scheduled on May 20, 2010.

18 On May 13, 2010, the Commission approved a Consent Order with respect to the Peterson  
19 Respondents.

20 On May 20, 2010, the Division and the respective Respondents appeared through counsel.  
21 Counsel for the Peterson Respondents was granted leave to withdraw from the proceeding. Counsel  
22 for the Division and counsel for Energetics and the Guiffrida Respondents agreed to the scheduling of  
23 a hearing in September to avoid conflicts with other matters.

24 On May 24, 2010, by Procedural Order, a hearing with respect to the Energetics and the  
25 Guiffrida Respondents was scheduled on September 28 and 29, 2010.

26 On August 25, 2010, counsel for the Energetics and Guiffrida Respondents filed a Motion to  
27 Withdraw from the proceeding and represented that the Respondents had been advised of the  
28 upcoming hearing on the allegations in the Notice.

1 On August 31, 2010, the Division filed a response to the pending Motion to Withdraw of  
2 Respondents' counsel. The Division did not object to the withdrawal of counsel.

3 Accordingly, counsel for the Energetics and Guiffrida Respondents should be granted leave to  
4 withdraw and the hearing be held as previously ordered. Additionally, if the Respondents and the  
5 Division reach a settlement the Division should file a Motion to Vacate the hearing.

6 IT IS THEREFORE ORDERED that a **hearing shall be held on September 28 and 29,**  
7 **2010, at 9:30 a.m.,** at the Commission's offices, 1200 W. Washington Street, Hearing Room 1,  
8 Phoenix, Arizona, as previously ordered.

9 IT IS FURTHER ORDERED that that the counsel for the Energetics and Guiffrida  
10 Respondents, Mr. Jeffrey M. Proper, is hereby granted leave to withdraw.

11 IT IS FURTHER ORDERED that that in the event that a settlement is reached between  
12 Respondents and the Division prior to the hearing that a Motion to Vacate be filed by the Division.

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

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

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

25 ...

26 ...

27 ...

28 ...

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

4 DATED this 2nd day of September, 2010.

5  
6   
7 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered  
9 this 2nd day of September, 2010 to:

10 Jeffrey Proper  
11 JEFFREY M. PROPER, PLLC  
12 10645 North Tatum Blvd., Ste. C200-652  
13 Phoenix, AZ 85028  
14 Attorney for Steven and Michelle Giuffrida  
15 and Energetics, Inc.

16 Mr. and Mrs. Steven P. Guiffrida  
17 13543 East Bayview Drive  
18 Scottsdale, AZ 85259

19 Maureen Beyers  
20 OSBORN MALEDON, P.A.  
21 2929 North Central Avenue, Ste. 2100  
22 Phoenix, AZ 85012  
23 Attorneys for Respondents Rodney and  
24 Virginia Peterson

25 Matt Neubert, Director  
26 Securities Division  
27 ARIZONA CORPORATION COMMISSION  
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24 By:   
25 Debra Broyles  
26 Secretary to Marc E. Stern