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Arizona Corporation Commission
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Attorney for Respondents.

BEFORE THE ARIZONA CORPORATION COMMISSION

In the matter of:

8
 9 **OUT OF THE BLUE PROCESSORS, LLC**, an
 10 Arizona limited liability company, d/b/a Out of
 11 the Blue Processors II, LLC;

and

12 **MARK STEINER and SHELLY STEINER**,
 13 husband and wife.

Respondents

Docket No. S-20837A-12-0061

**RESPONDENT'S MOTION TO VACATE
 PRE-HEARING CONFERENCE
 SCHEDULED FOR NOVEMBER 6, 2012
 AT 9:30 A.M.**

**(ASSIGNED TO: HON. MARC E. STERN,
 ADMINISTRATIVE LAW JUDGE**

18 Respondents, Out of the Blue Processors, LLC. and Mark Steiner MOVE for an Order
 19 vacating the hearing at present scheduled for November 6, 2012 at 9:30 a.m. and rescheduling
 20 the same on a date convenient for the Commission and the Hearing Officer on or after November
 21 25, 2012. In support of their motion, Respondents, by counsel, show:

22 A further submission of documentation was demanded by the Commission's subpoena
 23 duces tecum mailed on October 24, 2012. The subpoena is returnable on November 2, 2012.
 24 That is insufficient notice because: (1) Counsel already had a substantial filing due that date in an
 25 unrelated matter and (2) Counsel must file his client's Opening Brief on Appeal in the Arizona

1 Court of Appeals, Division One, on Monday, November 5, 2012. Under those circumstances, it is
2 unreasonable to expect production of the materials subpoenaed on November 2 or, indeed, before
3 a reasonable time for counsel to assist Respondent to locate and prepare to produce the
4 documentation required. Compliance will require substantial effort.

5
6 Notwithstanding that the pre-hearing conference was scheduled in early October, counsel
7 has not, because of the appellate brief and the other filings required of him during the intervening
8 period been able adequately to prepare for the conference following the interview of Respondent
9 Steiner on October 17.

10 On a personal note, the Arizona Supreme Court announced on Wednesday, October 30,
11 2012, an induction ceremony for applicants who successfully passed the Summer bar exam will
12 be held on November 6, 2012 at 9:30 a.m. Counsel's daughter is among those to be admitted to
13 the bar that morning. Since (i) the Securities Division will not have received the further
14 documentation its subpoena seeks by the date at present scheduled for the pre-hearing
15 conference; (ii) Counsel will not have had sufficient time following the October 17, interview of his
16 client by the Securities Division to prepare for the pre-hearing conference because of his previously
17 scheduled commitments for other matters; and (iii) it seems reasonable, in view of those
18 circumstances to relieve counsel of his obligation to appear so that he may attend his daughter's
19 admission ceremony scheduled for the same day and time. Accordingly Counsel seeks to vacate
20 the scheduled pre-hearing conference.
21

22
23 A meeting in Nigeria for what is expected to be the signing of the Equipment Purchase
24 Contract the execution of which is the trigger which will release some or all the \$1.5 billion
25 (approximately) to be provided by the China-Africa Development Fund of the Chinese government
for the Kogi State, Nigeria electrical generating project is imminent. Respondent Out of the Blue

1 Processors, LLC anticipates distribution of monies in amounts equal to or greater than their
2 investments to its Members from the payment to be made when those funds are released. The
3 date of the meeting has not been fixed at this time, but it is anticipated that it will occur soon.
4 Respondent Steiner must attend the meeting. Respondent Steiner's travel schedule is not within
5 his control, inasmuch as it is governed in part by the needs and desires of the Chinese business
6 organizations involved and in part by the Nigerian participants in the proposed transaction, and,
7 in addition, by the difficulties and delays involved in obtaining travel visas from the Nigerian
8 government for the Chinese participants. The meeting is expected to occur very quickly following
9 the delivery of the Nigeria visas in China, which may occur soon.
10

11 Subject to his need to attend the meeting in Nigeria, and the duration of that and related
12 meetings and discussions, Respondent Steiner expects to devote substantial time and effort after
13 November 6 to assisting counsel to provide the additional documentation demanded by the
14 Commission's October 24 subpoena as soon as reasonably possible and to assisting Counsel to
15 prepare for the pre-hearing conference. Counsel cannot reasonably be available for that purpose
16 until after November 6, 2012.
17

18 DATED: November 1, 2012.

19 Respectfully submitted,

20 

21 Arthur P. Allsworth
22 Attorney for Out of the Blue Processors LLC
23 and Mark Steiner
24
25

1 Original filed BY HAND DELIVERY on
2 November 1, 2012, to:

3 Docket Control, Arizona Corporation Commission
4 1200 West Washington
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6 Copy served by email, on the above date,
7 addressed as follows:

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