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Arizona Corporation Commission
DOCKETED

NOV 16 2012

4 *Attorney for Respondents.*

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

6 **BEFORE THE ARIZONA CORPORATION COMMISSION**

DOCKETED BY
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8 **In the matter of:**

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

11 and

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

14 Respondents.

) **Docket No. S-20837A-12-0061**

) **RESPONDENT'S MOTION TO VACATE**
) **PRE-HEARING CONFERENCE**
) **SCHEDULED FOR NOVEMBER 20, 2012**
) **AT 10:00 A.M.**

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

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17
18 Respondents, Out of the Blue Processors, LLC. and Mark Steiner MOVE for an Order
19 vacating the hearing at present scheduled for November 20, 2012 at 10:00 a.m. and
20 rescheduling the same on a date convenient for the Commission and the Hearing Officer on or
21 after December 14, 2012. In support of their motion, Respondents, by counsel, show:

22 Respondent Mark Steiner is at present out of the country for meetings in China or Nigeria.
23 His itinerary is not within his control and Counsel does not expect he will return before November
24 20 and it is uncertain whether he will be back for the Thanksgiving holiday. If he is able to be
25 here for the holiday, he expects to leave again for China or Uganda promptly following the holiday

1 weekend, but cannot estimate the real meaning of "promptly." The Uganda market and office
2 building transaction is considered extremely urgent by the Ugandan government and the speed
3 with which needed approvals have been accomplished demonstrates that fact.

4 Counsel assisted another client to comply fully with the request for further information that
5 was due on November 2 and obtained an extension of the due date for his client's Opening Brief.
6 He has worked on the brief diligently since. That effort and Mr. Steiner's departure on November
7 12 prevented any effort to comply with the Commission's subpoena duces tecum mailed October
8 24, 2012.

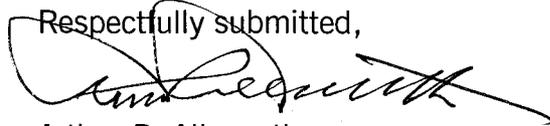
9
10 When the November 1, 2012 Motion to Vacate was filed, Counsel reasonably believed his
11 client would be in Arizona during the week of November 19 and sought the hearing on or after
12 November 25, allowing time to accomplish compliance with the subpoena and to prepare for the
13 pre-hearing conference. Counsel's estimates, based on his belief his client would leave earlier
14 than November 12, were incorrect and reflect the truth of the statement that the timing of Mr.
15 Steiner's travels is totally out of his control and that, in addition to the Nigeria project, there are
16 several other projects at various stages of completion and urgency to the African governments
17 involved. Mr. Steiner's role, on which his compensation and the monies to be paid to the Out of
18 the Blue Processors' investors depends, is to keep all those projects moving toward a closing of
19 an Equipment Purchase Contract (or comparable documentation appropriate to the transaction
20 involved) on which financing depends.
21

22
23 Subject to his need to attend a meeting regarding the Uganda project, and the duration of
24 that and related meetings and discussions out of the country, Respondent Steiner expects to
25 devote substantial time and effort after his return from his current trip to assisting counsel to

1 provide the additional documentation demanded by the Commission's current subpoena as soon
2 as reasonably possible and to assisting Counsel to prepare for the pre-hearing conference.

3 DATED: November 16, 2012.

4 Respectfully submitted,



5
6 Arthur P. Allsworth
7 Attorney for Out of the Blue Processors LLC
8 and Mark Steiner

9
10 Original filed BY HAND DELIVERY on
11 November 16, 2012, to:

12 Docket Control, Arizona Corporation Commission
13 1200 West Washington
14 Phoenix AZ 85007

15 Copy served by email, on the above date,
16 addressed as follows:

17 Paul Huynh, Esquire at
18 at PHUYNH@AZCC.GOV

