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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

- BOB STUMP - Chairman
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

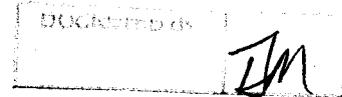
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ARIZONA CORPORATION COMMISSION

DOCKETED

MAR 5 2013

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL



In the matter of:

DOCKET NO. S-20846A-12-0135

ARIZONA GOLD PROCESSING, LLC, an  
Arizona limited liability company,  
  
AZGO, LLC, an Arizona limited liability company;  
and  
  
CHARLES L. ROBERTSON, a married man,  
  
Respondents.

**SEVENTH**  
**PROCEDURAL ORDER**  
**(Schedules Hearing)**

BY THE COMMISSION:

On April 6, 2012, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist ("T.O.") and a Notice of Opportunity for Hearing ("Notice") against Arizona Gold Processing, LLC ("AGP"), an Arizona limited liability company, AZGO, LLC ("AZGO"), an Arizona limited liability company, and Charles L. Robertson, a married man, (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 membership interests and/or investment contracts.

The Respondents were duly served with copies of the T.O. and Notice.

On April 29, 2012, Respondent Charles Robertson filed a request for a hearing in this matter on behalf of himself and as manager of AGP and AZGO.

On May 7, 2012, by Procedural Order, a pre-hearing conference was scheduled on May 30, 2012.

On May 30, 2012, at the pre-hearing conference, the Division and Respondents appeared through counsel. The Division and Respondents were to discuss the issues raised by the T.O. and Notice and were attempt to settle the proceeding. The Division requested that, in the interim, a

1 hearing be scheduled in the fall. Subsequently, by Procedural Order, a hearing was scheduled to  
2 commence on October 9, 2012.

3 On September 20, 2012, Respondents filed a Motion to Continue the hearing. Respondents  
4 stated that a key witness to their defense, Patrick Hayes, Ph.D., is scheduled to be in the Republic of  
5 China during most of the month of October 2012. Respondents stated that Dr. Hayes possesses  
6 unique and thorough knowledge to respond to the allegations which have been made by the Division.  
7 Respondents further stated that Dr. Hayes' testimony would be highly relevant to the issues raised by  
8 the Division.

9 On September 21, 2012, the Division filed a response to the Respondents' Motion to  
10 Continue. The Division argued that the proceeding should not be continued. The Division stated that  
11 the hearing should proceed as scheduled and that Dr. Hayes' testimony should be scheduled after the  
12 balance of the proceeding was concluded. The Division also filed a Motion to Allow Telephonic  
13 Testimony for five witnesses, all of whom reside outside of Arizona. Coincidentally, one of these  
14 five Division witnesses was also to be in China during the scheduled hearing, but the Division  
15 indicated he would be available to testify during the proceeding.

16 A review of the witness lists of the parties revealed that the Division had listed ten potential  
17 witnesses and Respondents had listed twelve witnesses. Based on the motions, it appeared that the  
18 proceeding would be fragmented at best and would not produce a coherent record upon which a  
19 sound decision could be reached. The Division's five telephonic witnesses alone create a logistical  
20 problem due to the time differences involved especially considering that one Division witness would  
21 be testifying from China with at least a fifteen-hour time difference. Additionally, due to the number  
22 of potential witnesses, it appeared that a longer hearing could be required.

23 On September 25, 2012, by Procedural Order, a continuance was granted, and a procedural  
24 conference scheduled in place of the hearing on October 9, 2012.

25 On October 2, 2012, Respondents filed a Motion *in Limine* to exclude certain evidence which  
26 is proposed to be offered by the Division at the hearing.

27 On October 9, 2012, the Division and Respondents appeared by counsel to discuss  
28

1 rescheduling the hearing. The parties agreed to a hearing being scheduled during the last week in  
2 February 2013. Respondents further requested that oral argument be heard on their Motion *in*  
3 *Limine*. Counsel for the Division indicated that the Division will be filing a response in opposition to  
4 the Motion *in Limine*.

5 On October 10, 2012, by Procedural Order, the proceeding was continued as agreed between  
6 the parties, and oral argument was scheduled on Respondent's Motion *in Limine* on November 6,  
7 2012.

8 On October 11, 2012, the Division filed a response to Respondents' Motion *in Limine* arguing  
9 that Respondents offered and sold securities "within or from" Arizona by describing Respondents'  
10 business-related activities within the State of Arizona.

11 On November 2, 2012, Respondents filed what was captioned Respondents' Objection to  
12 Subpoena; Motion to Quash Subpoena; and Motion for Protective Order" arguing primarily that its  
13 business activities were not conducted in Arizona and that the Division only had jurisdiction in  
14 securities matters involving Arizona residents and domiciliaries.

15 On November 6, 2012, the Division filed a response to Respondents' November 2, 2012,  
16 filing to quash the subpoena and for a protective order. The Division cited A.A.C. R14-3-109(O)  
17 arguing that the only basis to quash a subpoena *duces tecum* is if it is "unreasonable or oppressive"  
18 and there had been no such showing.

19 On November 6, 2012, the Division and Respondents appeared with counsel to present their  
20 respective arguments with respect to Respondents' Motion *in Limine*.

21 On November 16, 2012, the Division filed a Motion to File an Amended Temporary Order to  
22 Cease and Desist and Notice of Opportunity for Hearing. There was no response filed to this motion  
23 by the Respondents.

24 On November 30, 2012, Respondents filed their Reply in Support of Their Objection to  
25 Subpoena; Motion to Quash Subpoena; and Motion for Protective Order restating their arguments  
26 against the extent of the Division's authority over their business activities.

27 On February 5, 2013, by Procedural Order, after a review of the arguments and  
28 documentation filed herein, the Motion *in Limine* was denied and the Respondents' Objection to

1 Subpoena; Motion to Quash Subpoena; and Motion for Protective Order was also denied. The  
2 Division's Motion to File Amended Temporary to Cease and Desist and Notice of Opportunity for  
3 Hearing was granted. Additionally, the parties were advised that if more time was needed to prepare  
4 for this proceeding as a result of the rulings, they should file for a continuance by February 15, 2013,  
5 and the presently scheduled first day of hearing would be utilized as a procedural conference.

6 On February 6, 2013, by Procedural Order, the Division's Motion to Allow Telephonic  
7 Testimony was granted.

8 On February 13, 2013, Respondents filed a Motion to Continue the hearing which is  
9 scheduled to commence on February 25, 2013, citing the granting of the Division's Motion to file an  
10 Amended T.O. and Notice and the denial of Respondents' Motion in Limine and related motions.

11 On February 15, 2013, the Division filed its response to Respondents' Motion to Continue  
12 arguing that Respondents failed to show good cause for the continuance.

13 On February 20, 2013, by Procedural Order, the hearing was continued, and the time and date  
14 of the hearing was used as a procedural conference to discuss rescheduling the hearing to July 29,  
15 2013.

16 Under the circumstances, there is cause to continue the proceeding as requested.

17 **IT IS THEREFORE ORDERED that the hearing shall be held on July 29, 2013, at 10:00**  
18 **a.m., at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix,**  
19 **Arizona.**

20 **IT IS FURTHER ORDERED that the parties shall reserve July 30, 31, and August 1,**  
21 **and 2, 2013, for additional days of hearing, if necessary.**

22 **IT IS FURTHER ORDERED that if the parties reach a resolution of the issues raised in**  
23 **the Notice prior to the hearing, the Division shall file a Motion to Vacate the proceeding.**

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

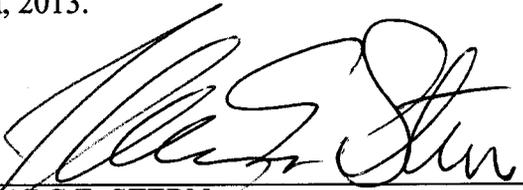
27 **IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules**  
28 **of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission**

1 *pro hac vice.*

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

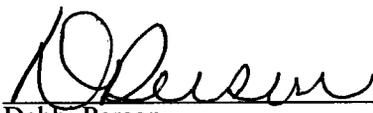
8 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,  
9 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
10 ruling at hearing.

11 DATED this 5<sup>TH</sup> day of March, 2013.

12  
13   
14 \_\_\_\_\_  
15 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

16 Copies of the foregoing mailed/delivered  
this 5<sup>TH</sup> day of March, 2013 to:

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