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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

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

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MAR 6 2013

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

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In the matter of:

DOCKET NO. S-20864A-12-0439

MARK DANA HUGHES, CRD#1843511,
and DOLLY A. HUGHES, husband and wife,

and

LEGACY FINANCIAL ADVISORS, L.L.C.,
CRD# 114029, an Arizona limited liability
company,

Respondents.

THIRD
PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On October 17, 2012, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Mark Dana Hughes and Dolly A. Hughes, husband and wife, and Legacy Financial Advisors, L.L.C. ("LFA") (collectively "Respondents"), in which the Division alleged multiple violations of the Investment Management Act ("IMA") in connection with his conduct as an investment adviser representative while not licensed or in compliance with the IMA and by committing fraud in the provision of his services.

The spouse ("Respondent Spouse") of Respondent Mark Hughes was joined in the action pursuant to A.R.S. §§ 44-2031(C) and 44-3291 solely for the purpose of determining the liability of the marital community.

The Respondents were duly served with copies of the Notice.

On November 2, 2012, a request for hearing was filed on behalf of the Respondents.

On November 6, 2012, by Procedural Order, a pre-hearing conference was scheduled on November 20, 2012.

On November 20, 2012, at the pre-hearing conference, the Division appeared through counsel.

1 Mr. Hughes appeared on his own behalf, and it was indicated that his spouse had a schedule conflict
2 with the proceeding and could not attend. At that time, counsel for the Division stated the parties
3 were discussing a possible settlement of the proceeding.

4 On December 10, 2012, the Division filed a request for a status conference to be scheduled
5 because Mr. and Mrs. Hughes had filed for bankruptcy in the United States Bankruptcy Court in
6 Tucson, Arizona.¹ Respondent LFA was not named as a party in the bankruptcy filing. The Division
7 indicated that it had attempted to contact Respondents concerning settlement, but had not received
8 any response.

9 On January 24, 2013, by Procedural Order, a status conference was scheduled on February 14,
10 2013.

11 On February 14, 2013, at the status conference, the Division appeared and requested that a
12 hearing be set. Respondents failed to appear. The presiding Administrative Law Judge directed the
13 Division to attempt to contact the Respondents to inquire if they intended to present a defense and to
14 file a Status Report by March 1, 2013.

15 On February 28, 2013, the Division filed a Status Report and Request for Hearing Dates. The
16 Division indicated that it had both mailed and e-mailed Respondents and received no responses. The
17 Division's counsel stated that on February 25, 2013, she received a letter from the Hughes'
18 bankruptcy attorney who has not entered an appearance in this proceeding. He maintained that the
19 Division's action was stayed by the federal Bankruptcy Code, and that Respondents would seek a
20 federal injunction against the Division if it proceeded against his clients with its action at the
21 Commission.

22 The Division states that on February 26, 2013, its counsel informed Respondents' bankruptcy
23 counsel by letter that he had misinterpreted the law and that government agencies are exempt from
24 the automatic stay in the exercise of their police and regulatory powers.

25 Accordingly, a hearing should be scheduled as requested by the Division..

26 IT IS THEREFORE ORDERED that a **hearing** shall be held on **August 26, 2013, at 10:00**
27 **a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing Room No.1, Phoenix,

28 ¹ On December 5, 2012, a Notice of Bankruptcy was filed with the Commission.

1 Arizona.

2 IT IS FURTHER ORDERED that the parties shall reserve **August 27, 28, 29 and 30, 2013**, for
3 additional days of hearing, if necessary.

4 IT IS FURTHER ORDERED that the **parties shall exchange copies of their Exhibits and**
5 **Witness Lists by July 12, 2013**, with courtesy copies to the presiding Administrative Law Judge.

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

8 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
9 Communications) applies to this proceeding as the matter is now set for public hearing.

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

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 the Presiding Officer may rescind, alter, amend, or waive
20 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

21 DATED this 6th day of March, 2013.

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26 MARC E. STERN
27 ADMINISTRATIVE LAW JUDGE
28

1 Copies of the foregoing mailed/delivered
this 6th day of March, 2013 to:

2 Mark Dana Hughes
3 Dolly Anna Hughes
4 LEGACY FINANCIAL ADVISORS, L.L.C.
5 4549 North Camino Campero
6 Tucson, AZ 85750

7 Matt Neubert, Director
8 Securities Division
9 ARIZONA CORPORATION COMMISSION
10 1300 West Washington Street
11 Phoenix, AZ 85007

12 ARIZONA REPORTING SERVICE, INC.
13 2200 North Central Avenue, Suite 502
14 Phoenix, AZ 85004

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By: 
Debbi Person
Assistant to Marc E. Stern