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BEFORE THE ARIZONA CORPORAT

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COMMISSIONERS

GARY PIERCE – Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2013 MAY 21 P 2:31

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF:

DOCKET NO. S-20823A-11-0407

THOMAS LAURENCE HAMPTON,
CRD #2470192, and STEPHANIE YAGER,
husband and wife;

Arizona Corporation Commission
DOCKETED

MAY 21 2013

TIMOTHY D. MORAN, CRD #2326078,
and PATRICIA MORAN, husband and wife;

DOCKETED BY

PATRICK MORAN, CRD #1496354, and
KELLY MORAN, husband and wife; and

HAMPTON CAPITAL MARKETS, LLC,
an Arizona limited liability company,

ELEVENTH
PROCEDURAL ORDER
(Grants Motion to Schedule a Status
Conference)

RESPONDENTS.

BY THE COMMISSION:

On November 10, 2011, 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 Thomas Laurence Hampton and Jane Doe Hampton, husband and wife, and Hampton Capital Markets, L.L.C. (“HCM”), an Arizona limited liability company, (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 stock or investment contracts.

The spouse (“Respondent Spouse”) of Respondent Thomas Hampton was joined in the action pursuant to A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the marital community.

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

On November 30, 2011, a request for hearing was filed on behalf of all Respondents who had

1 been named in the November 10, 2011, T.O. and Notice.

2 On December 6, 2011, by Procedural Order, a pre-hearing conference was scheduled on
3 January 5, 2012. Subsequently, the Division filed a Motion to File Amended T.O. and Notice in
4 order to state the correct name of Mr. Hampton's spouse.

5 On December 12, 2011, the Division and Respondent filed a Joint Stipulation regarding the
6 Amended T.O. and Notice. Respondents had no objections to the filing of the Amended T.O. and
7 Notice to correct the name of Mr. Hampton's spouse (Stephanie Yager) and the parties stipulated that
8 Respondents' initial request for hearing filed November 30, 2011, would be applicable as to the
9 Amended T.O. and Notice. Additionally, the parties stipulated that Respondents' would have at least
10 30 days to file an Answer from the date of an Order which authorizes the filing of the Amended T.O.
11 and Notice.

12 On December 15, 2011, the Division was granted leave to file an Amended T.O. and Notice
13 as stipulated by the parties.

14 On January 5, 2012, at the pre-hearing conference, the Division and Respondents, Thomas
15 Hampton and HCM appeared through counsel. Counsel for Mr. Hampton and HCM indicated that he
16 did not represent Mr. Hampton's spouse, Stephanie Yager, and that Mr. Hampton's spouse would be
17 represented by separate counsel in the proceeding. The Division and Mr. Hampton and HCM were
18 conducting settlement discussions, but the Division indicated that it intended to further amend the
19 T.O. and Notice. In the interim, the Division requested that a status conference be scheduled in
20 approximately 90 days.

21 On January 6, 2012, by Procedural Order, a status conference was scheduled on April 26, 2012.

22 On February 6, 2012, counsel for Respondents, Thomas Hampton and HCM, filed a Motion to
23 Withdraw as counsel stating that he and his clients had a conflict which rendered his representation
24 "untenable," and that to disclose the reason would violate the attorney client privilege.

25 On February 9, 2012, by Procedural Order, counsel for Respondents, Thomas Hampton and
26 HCM, was granted leave to withdraw.

27 On April 24, 2012, the Division and Respondents filed a Joint Stipulation to Continue the
28 status conference scheduled on April 26, 2012, for at least 60 days because Mr. Hampton was

1 currently traveling outside of Arizona, and because the Division intended to file an Amended T.O.
2 and Notice.

3 On April 25, 2012, by Procedural Order, the status conference was continued to July 10, 2012.

4 On June 27, 2012, the Division filed a Motion to Amend the caption and Notice in the
5 proceeding, and requested that the status conference scheduled on July 10, 2012, be vacated. The
6 Division included a copy of the Amended Notice as Exhibit "A".

7 On July 6, 2012, the Division and Respondents, Mr. Hampton and HCM, filed a Joint
8 Stipulation to amend the caption and the Notice in this proceeding and to vacate the status
9 conference. Respondent Stephanie Yager had not yet signed the Joint Stipulation.

10 On July 9, 2012, by Procedural Order, leave to amend the caption and the Notice was granted
11 and the status conference was vacated.

12 On July 12, 2012, the Division filed the Amended Notice naming additional Respondents and
13 adding more allegations to the Notice. Additionally, the respective spouses were joined in the action
14 pursuant to A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the respective
15 marital communities.

16 The additional Respondents were duly served with copies of the Amended Notice.

17 On August 6, 2012, Respondents Timothy D. Moran and Patricia Moran filed a request for
18 hearing.

19 On August 7, 2012, Respondents Patrick Moran and Kelly Moran filed a request for hearing.

20 On August 8, 2012, by Procedural Order, a pre-hearing conference was scheduled on August
21 21, 2012.

22 On August 20, 2012, Respondents Timothy and Patricia Moran filed a Motion to Stay
23 Proceedings based on what was termed "a reasonable fear of criminal prosecution" and requested
24 protection for Mr. Timothy Moran's constitutional rights under both the United States and Arizona
25 Constitutions.

26 On August 21, 2012, at the pre-hearing conference, the Division, Respondents Timothy
27 Moran and Patricia Moran and Respondents Patrick Moran and Kelly Moran were represented by
28 counsel. No appearances were made by Respondents Thomas Hampton, Stephanie Yager or HCM or

1 anyone on their behalf. Based on the August 20, 2012, motion filed by Timothy and Patricia Moran
2 to stay the proceeding, the parties who were present agreed that the pre-hearing conference should be
3 continued for at least 60 days. Counsel for the Division further indicated that the Division had not yet
4 had time to thoroughly review the pending Motion to Stay.

5 On August 22, 2012, by Procedural Order, another pre-hearing conference was scheduled on
6 November 8, 2012. It was also noted that although a request for a hearing was filed pursuant to
7 A.R.S. § 44-1972 and A.A.C. R14-4-306 for Respondent Stephanie Yager neither she nor an attorney
8 on her behalf had entered an appearance in subsequent proceedings. Additionally, Respondents
9 Patrick and Kelly Moran filed joinder in Respondents Timothy and Patricia Moran's Motion to Stay.

10 On August 24, 2012, Respondents Timothy and Patricia Moran filed an Answer and Motion
11 to Dismiss the Amended Notice. A key argument in support of the motion filed by Timothy and
12 Patricia Moran was the extremely vague nature of the allegations against Mr. Timothy Moran in the
13 Amended Notice.

14 On September 6, 2012, the Division filed its response to the Motion to Stay filed by Timothy
15 and Patricia Moran and the joinder of Patrick and Kelly Moran to the aforementioned motion. The
16 Division argued that the Motion to Stay should be denied because "there is no substantial prejudice to
17 any Respondent or their respective spouses by proceeding forward." The Division argued this point
18 despite the fact that an adverse order against the Moran Respondents could possibly subject them to a
19 substantial order of restitution and administrative penalties. The Division further did not take into
20 account the credible affidavits of two well-respected Arizona attorneys who both agreed that
21 Respondent Timothy Moran is the subject of a United States Department of Justice federal criminal
22 investigation and that he faces a realistic threat of criminal prosecution.

23 On September 17, 2012, the Division filed its response to the Motion to Dismiss filed by
24 Respondents Timothy and Patricia Moran. In its response the Division argued that the Amended
25 Notice is sufficient to put Respondent Timothy Moran on notice of his alleged violations of the Act
26 and that the requirements of the Arizona Administrative Code ("A.A.C.") and the rules of the
27 Commission had been met. As a result, the Division argued that the Motion to Dismiss should be
28 denied. However, in concluding its response, the Division acknowledged that the Administrative

1 Law Judge ("ALJ") could order the Division to further amend the Amended Notice to add additional
2 allegations, if he determined the current allegations should be amended or supplemented.

3 On September 18, 2012, Respondents Timothy and Patricia Moran filed their reply in support
4 of their Motion to Stay in which it was argued that the test was whether there is a realistic threat of
5 criminal prosecution and not whether there is a pending criminal prosecution or whether a substantial
6 prejudice will result from the proceeding going forward.

7 On September 28, 2012, Respondents Timothy and Patricia Moran filed their reply in support
8 of their Motion to Dismiss in which it was argued that the Commission's rule A.A.C. R14-3-106(L)
9 and also A.R.S. § 41-1061(B)(4) both required the Division to state more succinctly in its Amended
10 Notice allegations which stated in greater detail the charges against Mr. Moran to enable him to
11 present a defense.

12 On November 2, 2012, by Procedural Order, Respondents Timothy and Patricia Moran's
13 Motion to Stay, which was joined by Respondents Patrick and Kelly Moran, was granted and the pre-
14 hearing conference scheduled on November 8, 2012, was vacated. The Motion to Dismiss was taken
15 under advisement.

16 On February 22, 2013, a Motion to Withdraw was filed by counsel for Respondents Timothy
17 D. Moran and Patricia Moran stating that his clients had failed to fulfill their financial obligations
18 which were owed for legal services despite warnings that counsel would withdraw "if his bills were
19 not made current." In support of his Motion to Withdraw, counsel cited Rule 1.16 of the Arizona
20 Rules of Professional Conduct where the rule is set forth. Counsel served a copy of his Motion to
21 Withdraw upon his clients and certified that his clients had been notified in writing of the status of the
22 case including pending matters related to the proceeding.

23 No objections were filed to the Motion to Withdraw filed by counsel for Respondents
24 Timothy D. Moran and Patricia Moran.

25 On March 4, 2013, by Procedural Order, the Motion to Withdraw was granted.

26 On May 3, 2013, the Division filed a Motion to Set a Status Conference and Order Lifting the
27 Stay stating that criminal action would soon be concluded against Respondent Thomas Hampton
28 since he had recently consented to a plea agreement, and there have been no criminal indictments

1 against the Moran Respondents.

2 There have been no objections filed to the Division's Motion to schedule a status conference
3 and to issue an Order to lift the stay.

4 Accordingly, a status conference should be scheduled to examine the present circumstances
5 and whether the stay should be lifted.

6 IT IS THEREFORE ORDERED that a **status conference shall be held on June 12, 2013, at**
7 **2:00 p.m., at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2,**
8 **Phoenix, Arizona.**

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

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

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

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

3 DATED this 21st day of May, 2013.

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6 
7 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered
9 this 21 day of May, 2013 to:

10 Thomas Hampton
11 HAMPTON CAPITAL MARKETS, LLC
12 9026 East Calle De Las Brisas
13 Scottsdale, AZ 85255

14 Stephanie Yager
15 9026 East Calle De Las Brisas
16 Scottsdale, AZ 85255

17 Michael D. Curran
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19 CURRAN & REITER, P.L.C.
20 3200 North Central Avenue, Suite 1800
21 Phoenix, AZ 85012
22 Attorneys for Respondents
23 Patrick and Kelly Moran

24 Timothy and Patricia Moran
25 4545 E. Joshua Tree Lane
26 Scottsdale, AZ 85253

27 Matt Neubert, Director
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24 By: Rebecca Unquera
25 Rebecca Unquera
26 Assistant to Marc E. Stern
27
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