

ORIGINAL OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSIONERS

COMMISSIONERS

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Arizona Corporation Commission

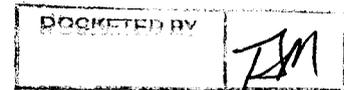
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BOB STUMP - Chairman
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AZ CORP COMMISSION
DOCKET CONTROL



IN THE MATTER OF:

DOCKET NO. S-20856A-12-0409

DONNA KAY BEERS, CRD#1172038, and
JAMES BEERS, wife and husband,

SEVENTH
PROCEDURAL ORDER
(Vacates Hearing)

RESPONDENTS.

BY THE COMMISSION:

On September 20, 2012, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Donna Kay Beers and James Beers, husband and wife, (collectively "Respondents") in which the Division alleged multiple violations of the Arizona Securities Act ("Act") and the Investment Management Act ("IMA") in connection with the offer and sale of securities in the form of membership interests and/or investment contracts.

The spouse ("Respondent Spouse") of Respondent Donna Beers is 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 October 4, 2012, a request for hearing was filed on behalf of the Respondents.

On October 9, 2012, by Procedural Order, a pre-hearing conference was scheduled on November 5, 2012.

On November 5, 2012, at the pre-hearing conference, the Division and Respondents appeared through counsel. The parties indicated that they were attempting to settle the proceeding, and if a resolution was not concluded would request a status conference be scheduled.

On December 14, 2012, the Division filed a request for a status conference.

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

1 2013.

2 On February 14, 2013, at the status conference, the Division and Respondents appeared
3 through counsel. Although the parties are continuing to discuss a resolution of the issues raised by
4 the Notice, the Division requested that a hearing be scheduled in the interim and the parties agreed
5 that it be held the week of July 8, 2013.

6 On February 13, 2013, by Procedural Order, a hearing was scheduled to commence on July 8,
7 2013, as agreed.

8 On February 15, 2013, counsel for Respondents filed an "Application to Withdraw as
9 Attorney for Respondents" ("Application") stating that Respondents had failed to comply with the
10 terms of a written agreement which they had with him. Counsel further stated that he had advised the
11 Respondents in writing of all pending matters and the hearing dates. No objections were filed to the
12 Application.

13 On February 19, 2013, by Procedural Order, a hearing was scheduled as agreed at the status
14 conference.

15 On March 4, 2013, by Procedural Order, the Application filed by Respondents' counsel to
16 withdraw was granted.

17 On May 23, 2013, the Division filed a Motion to Allow Telephonic Testimony ("Motion").
18 There have been no objections filed to the Division's Motion.

19 On June 3, 2013, by Procedural Order, the Division's Motion was granted.

20 On July 2, 2013, the Division filed a Motion to Vacate the hearing because the parties had
21 reached a resolution of the issues raised by the Notice and would submit a proposed Consent Order to
22 the Commission for its approval at its next Open Meeting.

23 Accordingly, the hearing should be vacated.

24 IT IS THEREFORE ORDERED the **hearing** scheduled on **July 8, 2013, is hereby vacated.**

25 IT IS FURTHER ORDERED that **the Division shall file a Motion to Reschedule the**
26 **hearing in the event that the Commission does not approve the proposed Consent Order.**

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

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

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

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

12 DATED this 3rd day of July, 2013.

13
14
15 
16 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 3rd day of June, 2013 to:

19 Donna Kay and James Beers
15925 E. Sunflower Dr.
Fountain Hills, AZ 85268

20 Matt Neubert, Director
Securities Division
21 ARIZONA CORPORATION COMMISSION
1300 West Washington Street
22 Phoenix, AZ 85007

23 By: 
24 Tammy Velarde
Assistant to Marc E. Stern