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BEFORE THE ARIZONA CORPORATION COMMISSION

REGISTER

AZ CORP COMMISSION
DOCKET CONTROL

2013 OCT 25 AM 9 34

COMMISSIONERS

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

In the matter of:

DOCKET NO. S-20867A-12-0459

TRI-CORE COMPANIES, LLC, an Arizona limited liability company,

SECURITIES DIVISIONS' MOTION FOR PRE-HEARING CONFERENCE

TRI-CORE MEXICO LAND DEVELOPMENT, LLC, an Arizona limited liability company,

TRI-CORE BUSINESS DEVELOPMENT, LLC, an Arizona limited liability company,

ERC COMPACTORS, LLC, an Arizona limited liability company,

ERC INVESTMENTS, LLC, an Arizona limited liability company,

C&D CONSTRUCTION SERVICES, INC., a Nevada corporation;

PANGAEA INVESTMENT GROUP, LLC, an Arizona limited liability company, d/b/a Arizona Investment Center,

JASON TODD MOGLER, an Arizona resident,

BRIAN N. BUCKLEY and CHERYL BARRETT BUCKLEY, husband and wife,

CASIMER POLANCHEK, an Arizona resident,

NICOLE KORDOSKY, an Arizona resident,

Respondents.

Arizona Corporation Commission

DOCKETED

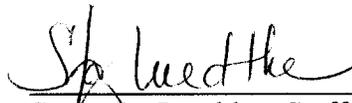
OCT 25 2013

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1 The Securities Division of the Arizona Corporation Commission ("the Division") requests
2 a pre-hearing conference be scheduled to address outstanding issues related to the continued
3 hearing dates in this matter beginning on February 3, 2014. In an attempt to avoid further delays
4 in this matter, the Division requests that this conference take place as soon as possible, no later
5 than November 15, 2013. This motion is supported by the following Memorandum of Points and
6 Authorities.

7 RESPECTFULLY SUBMITTED this 25th day of October, 2013.

8 
9 _____
10 Stacy D. Luedtke, Staff Attorney for the Securities
11 Division

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. Background.**

14 The Division filed this action on November 8, 2012. Respondents Tri-Core Companies,
15 LLC, Tri-Core Business Development, LLC, ERC Compactors, LLC, ERC Investments, LLC, and
16 Jason Mogler are represented by the same counsel, Bobby Thrasher, who appeared in late
17 November 2012. These respondents all requested a hearing.

18 The hearing in this matter began on October 21, 2013, and was scheduled to proceed for
19 two weeks, and continue for three weeks in February 2014. See Sixth Procedural Order dated
20 October 4, 2013. On October 21-23, 2013, Mr. Thrasher appeared and participated on behalf of
21 Tri-Core Companies, LLC, Tri-Core Business Development, LLC, ERC Compactors, LLC, ERC
22 Investments, LLC, and Jason Mogler. On October 21 and 22, the Division presented a substantial
23 amount of evidence through its investigator, Annalisa Weiss. Mr. Thrasher began his cross
24 examination of Ms. Weiss late in the afternoon on October 22, 2013.

25 At 10:20 PM on October 22, 2013, Mr. Thrasher advised undersigned counsel via email
26 that in early March 2013, Mr. Mogler had sold ERC Compactors, LLC, ERC Investments, LLC

1 (“ERC Entities”) to an Illinois LLC owned by Guy Quinn (an Illinois resident), and provided the
2 Purchase Contract for the transaction. According to Mr. Thrasher, Mr. Thrasher had reviewed
3 drafts of the Purchase Contract prior to its execution in March 2013, but did not represent the
4 parties in those negotiations. The ERC Entities, all Arizona LLCs, are now managed by Mr.
5 Quinn. Mr. Thrasher brought this information to ALJ Stern on October 23, 2013, and advised that
6 Mr. Thrasher intended to withdraw his appearance for the ERC Entities, because the ERC Entities
7 had not separately engaged Mr. Thrasher after the sale of the ERC Entities. Mr. Thrasher stated
8 that he had contacted Mr. Quinn on October 22, 2013 to advise him of this “oversight.”

9 ALJ Stern determined that Mr. Thrasher should file a motion to withdraw for the ERC
10 Entities, and that Mr. Quinn should be provided time to retain new counsel for the ERC Entities, if
11 he so chose. The October portion of the hearing was continued until February for that purpose.
12 This matter is scheduled to resume for three weeks of hearing beginning on February 3, 2014. *See*
13 *Sixth Procedural Order* dated October 4, 2013.

14 Undersigned counsel has sent, via email, Mr. Quinn copies of the Notice, the Answer and
15 Request for Hearing filed by Mr. Thrasher for the relevant ERC Entities, as well as the Sixth
16 *Procedural Order* which sets the February 2014 hearing dates.

17 **II. Request.**

18 The Division requests that this matter be set for a pre-hearing conference as soon as
19 possible, but no later than November 15, 2013, to resolve certain outstanding issues related to the
20 continued hearing. The Division requests that Mr. Quinn be provided with notice of the pre-
21 hearing conference (and is providing him with notice of this Motion), and allow him or the ERC
22 Entities’ new counsel to participate, including telephonically if he so chooses. The Division
23 requests that the following matters be addressed at the pre-hearing conference so that there are no
24 further delays in these proceedings:

- 25 (1) Setting a deadline for the ERC Entities to retain new counsel, if they so choose, and for
26 that new counsel to appear in this matter, or for the ERC Entities to enter an appearance

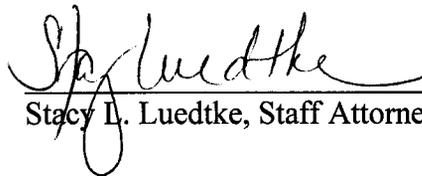
1 through Mr. Quinn. Whether it is through counsel or otherwise, the Division also
2 requests that a deadline be set for the ERC Entities to determine if they intend to
3 proceed to hearing or instead want to withdraw their Requests for Hearing. The
4 Division suggests the deadline for both of these items be no later than December 16,
5 2013 so that counsel or the ERC Entities directly can be provided with copies of all
6 parties' lists of witnesses and exhibits that were previously disclosed before the
7 October hearing.

8 (2) Determining whether the Division will be required to reintroduce testimony and
9 evidence already admitted in the October hearing. The Division suggests that, to the
10 extent the ERC Entities decide to move forward with hearing, the ERC Entities'
11 (though counsel or directly) be provided with a transcript of the October 2013
12 proceedings and advise as to the ERC Entities' position on this issue no later than
13 January 13, 2014. The Division requests this deadline be in place so as to adequately
14 prepare for the February hearing.

15 (3) Setting a deadline for any discovery motions that the parties intend to file, and any
16 amendments to the lists of witnesses and exhibits. The Division requests the existing
17 represented parties have a deadline of December 6, 2013 for both items.

18 The Division believes that a pre-hearing conference to address all of these issues would be
19 beneficial so that there are no further delays in these proceedings.

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21 RESPECTFULLY SUBMITTED this 25th day of October, 2013.

22 

23 Stacy L. Luedtke, Staff Attorney for the Securities Division

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25
26 ORIGINAL and 9 copies of the foregoing
filed this 25th day of October, 2013 with:

1 Docket Control
2 Arizona Corporation Commission
3 1200 W. Washington St.
4 Phoenix, AZ 85007

5 COPY of the foregoing hand-delivered
6 this 25th day of October, 2013, to:

7 The Honorable Marc E. Stern
8 Administrative Law Judge
9 Arizona Corporation Commission
10 1200 W. Washington St.
11 Phoenix, AZ 85007

12 COPY of the foregoing mailed
13 this 25th day of October, 2013, to:

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*Attorney for Mogler, Tri-Core Companies, Tri-Core Business Dev.,
ERC Compactors, ERC Investments*

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