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BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCKET CONTROL

2013 DEC 23 PM 12 42

COMMISSIONERS

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

In the matter of)
KENT MAERKI and NORMA JEAN)
COFFIN aka NORMA JEAN MAERKI, aka)
NORMA JEAN MAULE, husband and)
wife,)
DENTAL SUPPORT PLUS FRANCHISE,)
LLC, an Arizona limited liability company)
Respondents.)

DOCKET NO. S-20897A-13-0391

**SECURITIES DIVISION'S RESPONSE TO
RESPONDENTS' MOTION FOR
CONTINUANCE**

Arizona Corporation Commission

DOCKETED

DEC 23 2013

DOCKETED BY

On November 18, 2013, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for Other Affirmative Action. The Respondents requested a hearing on December 10, 2013. A Procedural Order was issued on December 11, 2013, setting a pre-hearing conference on December 20, 2013.

Respondents Maerki and Dental Support Plus Franchise, LLC¹, filed a motion requesting a continuance of the pre-hearing conference. In their motion, Respondents assert that pro se respondents are not to be held to the same standard in pleading as a lawyer. See Respondents' Motion for Continuance, page 2, lines 6 – 23.

The Securities Division does not object to the continuance however, there is a need to clarify issues related to the Respondents' statements on representing themselves. Respondents are held to the same standard as if they were represented. It is well-established law that a layperson

¹ Respondent Norma Jean Coffin aka Norma Jean Maerki, aka Norma Jean Maule did not request a continuance.

1 who acts as his own attorney must expect to be treated as if he knew what he was doing. *See*
2 *Ackerman v. Southern Ariz. Bank & Trust Co.*, 39 Ariz. 484, 486, 7 P.2d 944, 946 (1932); *see also*
3 *Kelly v. Nationsbanc Mortgage Corporation*, 199 Ariz. 284, 287 (2001) (“[i]t is well established,
4 however, that a party who conducts a case without an attorney is entitled to no more consideration
5 from the court than a party represented by counsel, and is held to the same standards expected of a
6 lawyer.”); *Smith v. Rabb*, 95 Ariz. 49, 53, 386 P.2d 649, 653 (1963) (parties who conduct their own
7 litigation “are entitled to no more consideration than if they had been represented by counsel. . . .
8 Such a rule is indispensable to the orderly and efficient administration of justice.”); *Copper State*
9 *Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (Ct. App. 1984) (pro se litigant is held to have
10 knowledge of adverse outcomes respecting the litigation process); *Bloch v. Bentfield*, 1 Ariz. App.
11 412, 417, 403 P.2d 559, 562 (1965) (litigant who undertakes to self-represent is entitled to no more
12 consideration than if litigant had been represented by counsel; litigant is held to the same
13 familiarity with required procedures and same notice of statutes, rules, and local rules as would be
14 attributed to a duly qualified member of the bar).

15 The court in *Homecraft Corp. v. Fimbres*, observed that “[e]xperience in trial of cases
16 indicates that all too often litigants who appear in propria persona deliberately attempt to capitalize
17 upon their own ignorance or appearance of ignorance.” 119 Ariz. 299, 301, 580 P.2d 760, 762 (Ct.
18 App. 1978) *quoting* *People v. Morgan*, 296 P.2d 75 (Cal. Ct. App. 1956) *quoting* *Monastero v. Los*
19 *Angeles Transit Co.*, 131 Cal. App. 2d 156, 162, 280 P.2d 187, 192 (Cal. Ct. App. 1955). The
20 *Fimbres* court also quoted *Viles v. Scofield*, 128 Colo. 185, 261 P.2d 148, 149 (1953), stating “[i]f a
21 litigant, for whatever reason, sees fit to rely upon his own understanding of legal principles and the
22 procedures involved in the courts, he must be prepared to accept the consequences of his mistakes
23 and errors.” 119 Ariz. at 301.

24 . . .

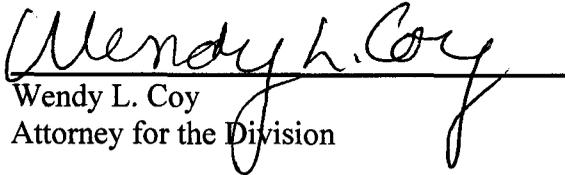
25 . . .

26 . . .

1 Again, the Securities Division does not object to a brief continuance however, if
2 Respondents choose to represent themselves, then they are held to the "same familiarity with
3 required procedures and same notice of statutes, rules and local rules as would be attributed to a
4 duly qualified member of the bar." *See Bloch v. Bentfield*, 1 Ariz. App. 412, 417, 403 P.2d 559, 562
5 (1965).

6 RESPECTFULLY SUBMITTED this 23rd day of December, 2013.

7
8 ARIZONA CORPORATION COMMISSION,
9 SECURITIES DIVISION

10 
11 Wendy L. Coy
12 Attorney for the Division

1 SERVICE LIST FOR: KENT MAERKI and NORMA JEAN COFFIN aka NORMA JEAN
2 MAERKI, aka NORMA JEAN MAULE, husband and wife, DENTAL SUPPORT PLUS
3 FRANCHISE, LLC

4 **ORIGINAL** and **8 COPIES** of the foregoing filed
this 23rd day of December, 2013 with:

5 Docket Control
6 Arizona Corporation Commission
1200 W. Washington St.
7 Phoenix, AZ 85007

8 **COPY** of the foregoing delivered, mailed or emailed
this 23rd day of December, 2013 to:

9 The Honorable Marc E. Stern
10 Hearing Division
Arizona Corporation Commission
11 1200 W. Washington St.
Phoenix, AZ 85007

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