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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

2014 FEB 24 P 3: 33

AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

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

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

FEB 24 2014

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

DOCKETED BY

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

**SEVENTEENTH
PROCEDURAL ORDER
(Denies Discovery Request)**

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

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

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

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

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

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

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

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

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1 On April 24, 2012, the Division and Respondents filed a Joint Stipulation to Continue the
2 status conference scheduled on April 26, 2012, for at least 60 days because Mr. Hampton was
3 currently traveling outside of Arizona, and because the Division intended to file an Amended T.O.
4 and Notice.

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

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

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

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

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

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

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

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

22 On August 8, 2012, by Procedural Order, a pre-hearing conference was scheduled on August
23 21, 2012.

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

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1 On August 21, 2012, at the pre-hearing conference, the Division, Respondents Timothy
2 Moran and Patricia Moran and Respondents Patrick Moran and Kelly Moran were represented by
3 counsel. No appearances were made by Respondents Thomas Hampton, Stephanie Yager or HCM or
4 anyone on their behalf. Based on the August 20, 2012, motion filed by Timothy and Patricia Moran
5 to stay the proceeding, the parties who were present agreed that the pre-hearing conference should be
6 continued for at least 60 days. Counsel for the Division further indicated that the Division had not yet
7 had time to thoroughly review the pending Motion to Stay.

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

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

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

26 On September 17, 2012, the Division filed its response to the Motion to Dismiss filed by
27 Respondents Timothy and Patricia Moran. In its response the Division argued that the Amended
28 Notice was sufficient to put Respondent Timothy Moran on notice of his alleged violations of the Act

1 and that the requirements of the Arizona Administrative Code (“A.A.C.”) and the rules of the
2 Commission had been met. As a result, the Division argued that the Motion to Dismiss should be
3 denied. However, in concluding its response, the Division acknowledged that the Administrative
4 Law Judge (“ALJ”) could order the Division to further amend the Amended Notice to add additional
5 allegations, if he determined the current allegations should be amended or supplemented.

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

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

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

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

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

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

1 On May 3, 2013, the Division filed a Motion to Set a Status Conference and Order Lifting the
2 Stay stating that criminal action would soon be concluded against Respondent Thomas Hampton
3 since he had recently consented to a plea agreement, and there were no criminal indictments against
4 the Moran Respondents.

5 There were no objections filed to the Division's Motion to schedule a status conference and to
6 issue an Order to lift the stay.

7 On May 21, 2013, by Procedural Order, a status conference was scheduled on June 12, 2013,
8 to examine the present circumstances and whether the stay should be lifted.

9 On June 5, 2013, counsel for Patrick and Kelly Moran filed a Motion for a Continuance of the
10 status conference because he was going out of the state on June 12, 2013, and unable to attend. The
11 Division did not oppose this request.

12 On June 10, 2013, by Procedural Order, the status conference was continued to July 16, 2013.

13 On July 16, 2013, at the status conference, the Division and Respondents, Patrick and Kelly
14 Moran, appeared through counsel. There were no appearances entered by the other Respondents. The
15 parties discussed whether the stay should be removed and what the current status of Respondent
16 Hampton was with respect to the criminal proceeding. The Division's counsel indicated that Mr.
17 Hampton was scheduled for sentencing in the criminal proceeding in the latter part of August, and it
18 was agreed by counsel who were present that another status conference should be scheduled in
19 September.

20 On July 18, 2013, by Procedural Order, another status conference was scheduled on
21 September 24, 2013.

22 On August 29, 2013, the Division filed a Motion for a Continuance of the status conference
23 because the Division had been informed that Respondent Hampton would not be sentenced until
24 September 26, 2013.

25 On September 3, 2013, by Procedural Order, the status conference was continued to October
26 10, 2013.

27 On September 24, 2013, the Division filed a Joint Stipulation to Continue the status
28 conference.

1 On September 25, 2013, by Procedural Order, the status conference was continued to October
2 17, 2013.

3 On October 17, 2013, at the status conference, the Division and Respondents Patrick and
4 Kelly Moran appeared through counsel. Neither Respondents Thomas Hampton nor Stephanie Yager
5 appeared and neither Respondents Timothy nor Patricia Moran appeared. Counsel for the Division
6 stated that Mr. Hampton had pled guilty to one count of commodities fraud and had been sentenced to
7 a 30 month prison term and ordered to pay restitution. The Division anticipated that they will
8 conclude their matter with Respondent Hampton and his spouse prior to a hearing on this matter for
9 the remaining Respondents, the Morans. Counsel for the Division and Timothy and Patricia Moran
10 discussed their trial schedules and agreed that a hearing should be scheduled in May 2014 to avoid
11 conflicts with their previously scheduled hearings.

12 On October 24, 2013, a hearing was scheduled to commence on May 12, 2014, and the parties
13 were ordered to exchange copies of their Witness Lists and Exhibits by March 28, 2014.

14 On January 7, 2014, the Commission issued Decision No. 74240, a Consent Order against
15 Respondents Hampton and HCM and dismissed Respondent Stephanie Yager.

16 On January 15, 2014, Respondents Patrick and Kelly Moran filed what was termed "First
17 Request for Production of Documents" to the Commission.

18 On January 28, 2014, the Division filed its response stating that the date scheduled for the
19 exchange of the parties' copies of their Exhibit and Witness Lists is to take place by March 28, 2014,
20 and that the Division will comply with Procedural Order which ordered the exchange. The Division
21 cited a variety of legal arguments in support of its position and further stated that under the
22 circumstances the request was inappropriate.

23 Accordingly, the request should be denied.

24 IT IS THEREFORE ORDERED that the First Request for Production of Documents by
25 Respondents Patrick and Kelly Moran is hereby denied.

26 IT IS FURTHER ORDERED that a **hearing** shall be held on **May 12, 2014 at 10:00 a.m.**, at
27 the Commission's offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona, as
28 previously ordered.

1 IT IS FURTHER ORDERED that the **parties shall reserve May 13, 14, 15, and 16, 2014 for**
2 **additional days of hearing, if necessary.**

3 IT IS FURTHER ORDERED that the **Division and Respondents shall exchange copies of**
4 **their Witness Lists and copies of the Exhibits by March 28, 2014,** with courtesy copies provided
5 to the presiding Administrative Law Judge, as previously ordered.

6 IT IS FURTHER ORDERED that **the Division shall file a Motion to Vacate the hearing in**
7 **the event that the parties conclude a settlement prior to the scheduled date of the hearing.**

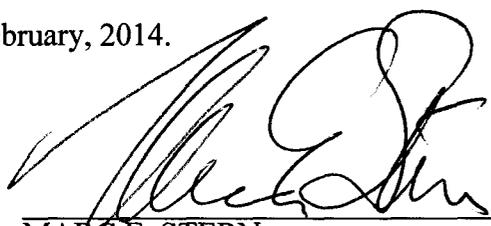
8 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
9 Communications) applies to this proceeding as the matter is now set for public hearing.

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 24TH day of February, 2014.

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25 MARC E. STERN
26 ADMINISTRATIVE LAW JUDGE
27
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1 Copies of the foregoing mailed/delivered
2 this 24th day of February, 2014 to:

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4 MAYNARD CRONIN ERICKSON
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By: Rebecca Unquera
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