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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2014 MAY 27 A 10:52

ARIZONA CORPORATION COMMISSION DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAY 27 2014

DOCKETED BY [Signature]

DOCKET NO. S-20897A-13-0391

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.

ORIGINAL

FIFTH PROCEDURAL ORDER (Continues Hearing and Schedules Status Conference)

BY THE COMMISSION:

On November 18, 2013, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Kent Maerki and Norma Jean Coffin aka Norma Jean Maerki, aka Norma Jean Maule, husband and wife, and Dental Support Plus Franchise, LLC ("Dental Support") (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 investment contracts.

Respondents were duly served with a copy of the Notice.

On December 10, 2013, Respondents filed requests for hearing in response to the Notice in this matter pursuant to A.R.S §44-1972 and A.A.C. R14-4-306.

On December 11, 2013, by Procedural Order, a pre-hearing conference was scheduled on December 23, 2013.

On December 19, 2013, Respondent, Kent Maerki, filed a Motion for a Continuance stating that he would be unavailable due to previously scheduled business travel arrangements.

The Division indicated that it did not object to a brief continuance.

On December 20, 2013, by Procedural Order, a continuance to January 16, 2014 was granted.

1 On January 16, 2014, at the pre-hearing conference, the Division appeared through counsel
2 and Respondents appeared on their own behalf. Counsel for the Division requested that a hearing be
3 scheduled and estimated that the proceeding would require approximately two weeks of hearing to
4 complete. Respondents did not object to this request, but indicated they may retain an out of state
5 attorney who will comply with Arizona law to appear *pro hac vice*.

6 On January 17, 2014, by Procedural Order, a hearing was scheduled to commence on June 2,
7 2014, with additional days of hearing scheduled during the following weeks.

8 On May 9, 2014, the Division filed a Motion to Allow Telephonic Testimony stating five of
9 its prospective witnesses will be unduly burdened if they are required to appear in Phoenix for the
10 proceeding. There have been no objections to the Division's request.

11 Respondent, Kent Maerki, on May 9, 2014, filed a Motion for a Continuance due to several
12 conflicts that have arisen for him with the presently scheduled proceeding. The conflicts in two of
13 three instances involve court proceedings in separate venues, the United States Bankruptcy Court for
14 the District of Arizona on June 4, 2014 and the Maricopa County Superior Court on June 12, 2014.¹
15 The third conflict is purportedly based on a November 2013 invoice and involves an "unmovable
16 business trip" which is to begin on June 2, 2014, but Mr. Maerki failed to raise this issue when the
17 Commission's proceeding was scheduled in January.

18 On May 12, 2014, the Division filed its response to Respondent Maerki's request for a
19 continuance of the proceeding. With respect to the June 4, 2014, proceeding in the United States
20 Bankruptcy Court, the Division stated that Mr. Maerki's request for a continuance did not specify
21 how this matter conflicts with this proceeding since the Petition in the bankruptcy proceeding lists
22 Janus Spectrum, LLC as the debtor and named an unknown third party as the president or managing
23 director of Janus Spectrum, LLC. The Division further noted that the Superior Court proceeding on
24 June 12, 2014 was only scheduled for a status conference limited to 30 minutes and was to begin at
25 9:45 a.m. so that the Commission's proceeding on that date could be scheduled to begin in the early
26 afternoon on that date. Lastly, the Division argued that the copy of the invoice was dated May 6,
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¹ According to Mr. Maerki's Motion, these proceedings were scheduled only recently during the first week in May.

1 2014, and did not bear any reference to a business meeting that would conflict with the Commission's
2 proceeding scheduled to commence on June 2, 2014.

3 On May 15, 2014, by Procedural Order, good cause for a continuance of the proceeding was
4 not found, but Mr. Maerki was afforded an opportunity to explain the merits of his motion further at a
5 procedural conference scheduled on May 22, 2014. The Division's request to authorize telephonic
6 testimony was also approved.

7 On May 22, 2014, at the procedural conference, the Division appeared with counsel and Mr.
8 Maerki appeared on his own behalf. Mrs. Maerki did not appear and an appearance was not entered
9 on behalf of Dental Support. At the outset, a brief discussion took place concerning Mr. Maerki's
10 request for a continuance followed by Mr. Maerki's revelation that he had retained counsel, the Mirch
11 Law Firm, LLP, from San Diego, California. Mr. Maerki provided a copy of a letter that was
12 addressed to the presiding Administrative Law Judge from Attorney Marie Mirch which confirmed
13 the firm's retention by the Respondents. Attorney Marie Mirch's letter indicated she is in the process
14 of applying for *pro hac vice* status in Arizona and that a motion to associate counsel *pro hac vice*
15 would be filed in the near future by local counsel. Additionally, Attorney Mirch indicated that she is
16 unavailable for any hearing in June at the Commission due to other previously scheduled proceedings
17 in California. A further discussion took place concerning a continuance and it was determined that
18 the proceeding should be continued and a status conference should be scheduled in its place on July
19 9, 2014.

20 IT IS THEREFORE ORDERED that the **hearing scheduled on June 2, 2014, is hereby**
21 **continued.**

22 IT IS FURTHER ORDERED that a **status conference shall be held on July 9, 2014, at**
23 **10:00 a.m.** at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1,
24 Phoenix, Arizona.

25 IT IS FURTHER ORDERED that the Division is hereby authorized to utilize telephonic
26 testimony during the proceeding.

27 IT IS FURTHER ORDERED that **if the parties reach a resolution of the issues raised in**
28 **the Notice prior to the hearing, the Division shall file a Motion to Vacate the proceeding.**

1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
2 Communications) is in effect and shall remain in effect until the Commission's Decision in this
3 matter is final and non-appealable.

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

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

13 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
14 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
15 ruling at hearing.

16 DATED this 27th day of May, 2014.

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19 _____
20 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

21 Copies of the foregoing mailed/delivered
22 this 27th day of May, 2014 to:

- 23 Kent Maerki
- 24 Norma Jean Maerki
- 25 Dental Support Plus Franchise, LLC
- 26 10632 N. Scottsdale Road, #B-479
- 27 Scottsdale, AZ 85254

- 28 Matt Neubert, Director
- Securities Division
- ARIZONA CORPORATION COMMISSION
- 1300 West Washington Street
- Phoenix, AZ 85007

1 COASH & COASH, INC.
2 COURT REPORTING, VIDEO & VIDEOCONFERENCING
3 1802 N. 7th Street
4 Phoenix, AZ 85006

5 By:


6 Tammy Velarde
7 Assistant to Marc E. Stern

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