



0000154243

BEFORE THE ARIZONA CORPORATION C

RECEIVED

Arizona Corporation Commission

DOCKETED

JUN 13 2014

2014 JUN 13 A 11:48

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY [Signature]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMMISSIONERS

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

In the matter of:

JAMES F. LIEBES, CRD #2332174, a single man and

LANESBOROUGH FINANCIAL GROUP, LLC, an Arizona limited liability company,

Respondents.

DOCKET NO. S-20876A-13-0014

ORIGINAL

NINTH
PROCEDURAL ORDER
(Denies Motion for Continuance)

BY THE COMMISSION:

On January 28, 2013, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against James F. Liebes and Lanesbrough Financial Group, LLC, an Arizona limited liability company ("LFG") (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") as an unregistered dealer or salesman in connection with the offer and sale of securities.

The Respondents were duly served with copies of the Notice.

On February 11, 2013, Respondents James F. Liebes and LFG filed a request for hearing in this matter.

On February 28, 2013, by Procedural Order, a pre-hearing conference was scheduled on March 14, 2013.

On March 14, 2013, the parties appeared through counsel at the pre-hearing conference, and requested that a status conference be scheduled in approximately 30 days while the issues raised by the Notice are discussed.

On March 18, 2013, by Procedural Order, a status conference was scheduled on April 23, 2013.

1 On April 23, 2013, the Division and Respondents appeared through counsel, and while the
2 parties are attempting to resolve the issues raised in the Notice, the Division requested that a hearing
3 be scheduled.

4 On April 26, 2013, by Procedural Order, a hearing was scheduled on December 2, 2013.

5 On May 16, 2013, a Motion to Withdraw was filed by counsel for Respondents James F.
6 Liebes and LFG stating that his clients had failed to fulfill their financial obligations which were
7 owed for legal services despite warnings that counsel would withdraw "if his bills were not made
8 current." In support of his Motion to Withdraw, counsel cited Rule 1.16 of the Arizona Rules of
9 Professional Conduct where the rule is set forth. Counsel served a copy of his Motion to Withdraw
10 upon his clients and certified that his clients had been notified in writing of the status of the case
11 including pending matters related to the proceeding.

12 On June 6, 2013, by Procedural Order, the Motion to Withdraw was granted and the hearing
13 was scheduled to commence on December 2, 2013, as previously ordered.

14 On November 15, 2013, the Division filed a pleading which was captioned as "Motion to
15 Consolidate Hearings and Recommendation to Continue December 2nd Hearing". The Division's
16 pleading stated that while the proceeding was pending, the Division had found evidence that
17 Respondents had allegedly "committed additional ongoing violations" of the Act. As a result, the
18 Division, on November 5, 2013, filed a Temporary Order to Cease and Desist in Docket No. S-
19 20876A-13-0376 ("TC&D"). The Division stated that Respondents were not served with the TC&D
20 until November 14, 2013, and pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-307, Respondents had
21 20 days to request a hearing and within 30 days of service, file their Answers. The Division stated
22 further that the proceedings were interrelated and should be consolidated; however, Respondents had
23 not yet responded to the TC&D and it was unknown if Respondents would either request a hearing or
24 file an Answer in that proceeding.

25 On November 20, 2013, by Procedural Order, the hearing was vacated, and the Motion to
26 Consolidate the two proceedings was held in abeyance until Respondents either defaulted or
27 requested a hearing in the TC&D proceeding.

28

1 On January 29, 2014, the Commission issued Decision No. 74302, a Default Order, in Docket
2 No. S-20876A-13-0376 because the Respondents had neither requested a hearing nor filed an Answer
3 in the proceeding.

4 On February 12, 2014, the Division filed a Motion to Schedule Hearing in this proceeding.

5 On February 19, 2014, by Procedural Order, a hearing was scheduled to commence on May
6 20, 2014.

7 On May 8, 2014, the Division filed a Motion to Allow Telephonic Testimony stating that it
8 would be unduly burdensome for an out of state witness to appear at the hearing scheduled in
9 Phoenix. Respondents did not file a response to this request.

10 On May 14, 2014, by Procedural Order, the Division's Request was granted.

11 On May 20, 2014, a full public hearing was convened before a duly authorized Administrative
12 Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. The Division was present
13 with counsel, but Respondents failed to enter an appearance. At the conclusion of the proceeding,
14 after the Division had presented its evidence, the matter taken under advisement pending submission
15 of a Recommended Opinion and Order to the Commission. However, a representative of the Division
16 came to the proceeding as it was concluded with an email from Respondent Liebes requesting a
17 continuance. The request had been received by the Division that morning, but Respondent Liebes had
18 not sent the email to the Hearing Division. Liebes requested a continuance until the fall because he
19 represented that he would not be in a position to retain counsel until August.

20 On May 22, 2014, by Procedural Order, a status conference was scheduled to allow time for
21 Respondent Liebes to appear to address the issues raised by his email which was treated as a motion
22 to continue and to determine the time required for a continuance in order for Respondent to present
23 his evidence.

24 On June 12, 2014, at the status conference, the Division appeared through counsel and
25 Respondent Liebes again failed to appear to discuss further the need for a continuance. Notice of the
26 proceeding had been mailed by both regular and certified U.S. mail to Respondent Liebes at his home
27 address and neither mailing had been returned. The Division's counsel indicated that he had also
28 emailed a copy of the Procedural Order which had scheduled the status conference. Neither the

1 Division nor the Hearing Division had been further contacted by Respondent Liebes after the
2 issuance of the Procedural Order that scheduled the status conference on June 12, 2014.

3 Under the circumstances, due to Mr. Liebes failure to appear and failure to provide more
4 information concerning his request for a continuance, it should be denied. The Division should
5 proceed with the filing of its Closing Brief as ordered hereinafter.

6 IT IS THEREFORE ORDERED that the Motion for a Continuance by Respondent Liebes is
7 hereby denied.

8 IT IS FURTHER ORDERED that the Division shall file its Closing Brief by July 31, 2014.

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

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

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

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

24 DATED this 13TH day of June, 2014.

25
26 
27 MARC E. STERN
28 ADMINISTRATIVE LAW JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Copies of the foregoing mailed/delivered
this 13th day of June, 2014 to:

James F. Liebes
6301 E. Vista Drive
Paradise Valley, AZ 85253
**(SERVICE BY CERTIFIED AND
REGULAR U.S. MAIL)**

Lanesborough Financial Group, LLC
7373 E. Doubletree Ranch Road, Suite 125
Scottsdale, AZ 85258

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

By: 
Tammy Velarde
Assistant to Marc E. Stern