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**BEFORE THE ARIZONA CORPORATION
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COMMISSIONERS

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

2014 SEP 23 P 2:38

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

SEP 23 2014

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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 RESPONSE TO
RESPONDENTS' MOTION TO CONTINUE**

ORIGINAL

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 ("Notice"). The Respondents requested a hearing on December 10, 2013. A Procedural Order was issued on January 17, 2014, scheduling a hearing to begin on June 2, 2014.

On May 9, 2014, Respondents Maerki and Dental Support Plus Franchise, LLC¹, filed a motion requesting a continuance of part of the scheduled hearing dates due to a scheduling conflict with a business trip and unrelated court dates. The Division objected to any type of continuance. In its Fourth Procedural Order, ALJ Stern found good cause was not established and scheduled the matter for oral arguments. On May 22, 2014, a procedural conference was held regarding the Motion to Continue filed by the Respondents Maerki and Dental Support Plus Franchise, LLC. At this time, Respondents Maerki and Dental Support Plus Franchise, LLC indicated that they had

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

1 retained out-of-state counsel. Therefore, the hearing was continued, with all parties in agreement, to
2 schedule the hearing to begin on September 29, 2014.

3 On September 22, 2014, Respondents filed Respondents' Emergency Application to
4 Continue to Hearing and Motion for Order to Shorten Time ("Motion to Continue") requesting a
5 shortened time for response and ruling. The Securities Division objects to any further continuances
6 for the reasons outlined below.

7 The Securities Division was first contacted by Respondents' counsel in the late afternoon of
8 September 17, 2014, approximately three weeks after the event. At that time, Respondents' counsel
9 stated that Respondent Maerki had suffered a "major stroke" on August 27 -28, 2014, and, based
10 upon doctor's advice, would be unable to participate in the scheduled hearing. On September 18,
11 2014, the Securities Division requested additional information including access to Respondent
12 Maerki's doctors and hospital records related to the August 27 - 28, 2014, incident. Instead of
13 providing releases to the Securities Division, Respondent Maerki provided the releases to his
14 attorney. It appears that Respondents' attorney has not had direct discussions with Respondent
15 Maerki's healthcare providers. Although Ms. Mirch indicates that she has "personal knowledge of
16 the facts" outlined in her affidavit, it appears that she is relaying information provided by
17 Respondent Maerki rather than direct communication with his healthcare providers. See Affidavit
18 of Marie Mirch.

19 According to Respondents' Motion to Continue, Respondent Maerki suffered a "major
20 stroke" and upon release from the hospital, needed to "immediately visit his cardiologist and
21 neurologist." See Motion to Continue page 2 line 28 to page 3 line 1. Further, the Respondents'
22 Motion to Continue also asserts that Respondent Maerki's neurologist told him that he "had a
23 probability of full recovery after 6 months, provided he follow his doctor's instructions exactly,
24 which includes stroke therapy, medication, diet, and most importantly, stress reduction, and regular
25 physician follow ups." See Motion to Continue page 3, lines 2 -5. However no documentation from
26 the neurologist has been provided to support this statement.

1 To support their request for a continuance, Respondents provided a one-paragraph letter,
2 dated September 8, 2014, from Respondent Maerki's cardiologist and various medical records. See
3 Mirch Affidavit. Most of the documents provided are irrelevant to the issue at hand. For instance,
4 the documents provided include standard discharge instructions without providing a specific
5 diagnosis. See Mirch Affidavit Exhibit 2. What is more interesting is what is missing from the
6 documentation. For example, there is no letter from Respondent Maerki's neurologist to support the
7 statements made in the Motion to Continue.

8 The Securities Division requested Respondent Maerki sign releases allowing the Securities
9 Division to speak directly with his various doctors and to obtain his medical records related to the
10 August, 2014 incident. Instead, Respondents provided the releases to Respondents' attorney. See
11 Mirch Affidavit Exhibit 4.

12 Respondents' attorney submitted an affidavit with some medical records attached. The
13 documentation provided appears to indicate that Respondent Maerki has a history of heart issues
14 and has had previous strokes. See Mirch Affidavit Exhibit 6. However, none of the documentation
15 indicates that Respondent Maerki suffered a "major stroke" as represented by his counsel. Further,
16 none of the documents indicate that Respondent Maerki needed to immediately, upon release, see a
17 neurologist. The recommendation was that Respondent Maerki make appointments with his
18 primary care physician and cardiologist. See Mirch Affidavit Exhibit 7.1. Even the treating
19 neurologist indicated that Respondent Maerki was "neurologically stable for discharge home and
20 may follow-up with outpatient neurology clinic." See Mirch Affidavit Exhibit 7.19.

21 The Securities Division agrees that Respondent Maerki's health is important and does not
22 intend to exacerbate any health issues. However, the information provided in the Motion to
23 Continue filed by the Respondents misstates portions of the medical records that have been
24 submitted. Although Respondent Maerki may have had a stroke, the reports indicate that he stopped
25 taking certain medications. See Mirch Affidavit Exhibit 7.2; 7.19. The medications were re-started
26 and need to be monitored. See Mirch Affidavit Exhibit 7.19. The neurologist that treated

1 Respondent Maerki at the hospital did not indicate that further neurology visits were necessary. See
2 Mirch Affidavit Exhibit 7.19.

3 Dr. Wolfson, a cardiologist, recommends “delaying any legal proceedings . . . for the next
4 eight weeks, at which time I will reevaluate him.” See Mirch Affidavit Exhibit 1. Dr. Wolfson
5 does not say that Respondent Maerki will be able to go forward in eight weeks, just that he would
6 be re-evaluated.

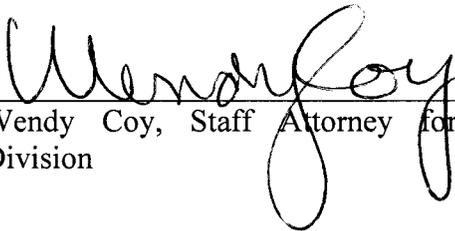
7 Respondents’ Motion to Continue states that Respondent Maerki is not able to “participate
8 meaningfully in defending this suit unless and without the opportunity to engage in rehabilitation as
9 directed by his medical providers.” See Motion to Continue page 1 line 28 – page 2 line 2. It
10 appears that Respondents were not in communication with their attorney to prepare for the
11 upcoming hearing if Ms. Mirch only found out about Respondent Maerki’s hospitalization on
12 September 15, 2014. See Motion to Continue page 3, lines 12 – 14. Further, it appears that not
13 much preparation was planned since Ms. Mirch is out of the office from September 19 through
14 September 29, 2014. See attached Exhibit A.

15 People with various medical issues appear in court all the time. Based upon the
16 documentation provided, Respondent Maerki was actively raising money throughout the time he
17 had previous strokes. See Mirch Affidavit Exhibit 6. In fact, the Securities Division alleges that
18 Respondents raised over \$7 million from over 350 investors in the Dental Support Plus Franchise
19 program during the time frame that Respondent Maerki had various health issues.

20 The Securities Division has learned that Respondent Maerki is scheduled to attend the third
21 of a three part program the week of September 29, 2014. See attached Exhibit B, Affidavit of Gary
22 Clapper. The training is held by Digital Marketer. See Respondent’s Motion to Continue filed May
23 9, 2014, Exhibits. According to Digital Marketer, the program is holding its third session in Las
24 Vegas, Nevada, at The Encore at Wynn Las Vegas. Respondent Maerki has a reservation at The
25 Encore at Wynn Las Vegas beginning September 30, 2014. See attached Exhibit B, Affidavit of
26 Gary Clapper.

1 In conclusion, the Securities Division is sympathetic for the medical issues that Respondent
2 Maerki is facing. However, Respondents' Motion to Continue exaggerates Respondents' health
3 condition and fails to provide adequate support to delay the scheduled hearing. Knowing that
4 Respondent Maerki is scheduled to travel to Las Vegas to attend a seminar suggests that
5 Respondent Maerki is healthy enough to travel and should be healthy enough to participate in the
6 scheduled hearing. Further, since Respondents attorney is "out of the office" until September 29,
7 2014, leads the Securities Division to believe that Respondent Maerki's health issues may not be as
8 serious as represented. The Securities Division requests that the Respondents' Motion to Continue
9 be denied.

10 RESPECTFULLY SUBMITTED this 23rd day of September, 2014.

11 
12 Wendy Coy, Staff Attorney for the Securities
13 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
5 filed this 23rd day of September, 2014, with:

6 Docket Control
7 Arizona Corporation Commission
8 1200 W. Washington St.
9 Phoenix, AZ 85007

10 COPY of the foregoing hand-delivered
11 this 23rd day of September, to:

12 The Honorable Marc E. Stern
13 Administrative Law Judge
14 Arizona Corporation Commission
15 1200 W. Washington St.
16 Phoenix, AZ 85007

17 COPY of the foregoing mailed
18 this 23rd day of September, to:

19 Mark D. Chester
20 8777 N. Gainey Center Drive, Suite 191
21 Scottsdale, Arizona 85258-2106
22 Attorneys for Respondents

23 Marie Mirch, Esq.
24 Mirch Law Firm LLP
25 750 B Street #2500
26 San Diego, California 92101
Attorney *Pro Hac Vice*

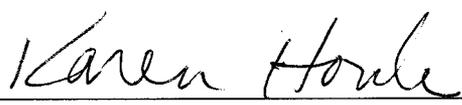


EXHIBIT A

Wendy Coy

From: Marie Mirch <marie@mirchlaw.com>
Sent: Monday, September 22, 2014 10:44 PM
To: Wendy Coy
Subject: Auto Response

Please be advised that I will be out of the office from September 19 - September 29. My access to emails will be very limited during this time.

EXHIBIT B

1 STATE OF ARIZONA)

2 County of Maricopa)
3 _____)

AFFIDAVIT OF GARY CLAPPER

4 DOCKET NO. S-20897A-13-0391

5 I, Gary Clapper, being duly sworn, say as follows:

6 1. I am a resident of Phoenix, Arizona and am over the age of eighteen (18).

7 2. I have personal knowledge of the matters stated in this affidavit and am competent
8 to testify to them.

9 3. I understand that this affidavit may be used in a court of law.

10 4. I am employed by the Securities Division of the Arizona Corporation Commission
11 as Chief Investigator.

12 5. On May 12, 2014, I contacted Trueman Reynolds ("Reynolds"), of Digital
13 Marketer in Texas, regarding the training dates for the "War Room MasterMind" program.
14 Reynolds stated it was a three part program that was held at various locations throughout the
15 United States. Reynolds indicated that the third session was scheduled for September, 2014.

16 6. On September 22, 2014, I re-contacted Reynolds and he advised that the third
17 week of the three part program was scheduled for the week of September 29, 2014, through
18 October 2, 2014, in Las Vegas, Nevada. He said he could not confirm if all attendees would
19 participate in the third program however it was assumed by Digital Marketer that the past
20 attendees would attend all sessions because of the cost of the program and there are no "make-up"
21 sessions.

22 7. Reynolds informed me that the training was to be held at The Encore at Wynn Las
23 Vegas located at 3131 S. Las Vegas Blvd., Las Vegas, Nevada. There is a "round table" held on
24 September 29 and 30, 2014, with the "War Room" scheduled for October 1 and 2, 2014.

25 8. On September 22, 2014, I called The Encore at Wynn Las Vegas to confirm the
26 information related to the program. According to the reservations desk, they confirmed the training

1 dates at their location. I asked if Mr. Kent Maerki had a hotel room reserved for this training, and
2 they confirmed a reservation for Mr. Maerki starting on September 30, 2014.

3 9. I have attached a copy of the E-Mail received from Reynolds regarding the training
4 location, dates of the training along with the scheduled times for the meetings.

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GARY CLAPPER

SUBSCRIBED AND SWORN TO BEFORE me this 23rd day of
SEPTEMBER, 2014.



NOTARY PUBLIC

My Commission Expires:

