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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PEARCE
BRENDA BURNS
SUSAN BITTER SMITH

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Arizona Corporation Commission

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JAN 14 2015

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In the Matter of:

KENT MAERKI and NORMA JEAN COFFIN
NORMA JEAN MAERKI, aka NORMA JEAN MAULE, husband and wife,

DENTAL SUPPORT FRANCHISE, LLC, an ARIZONA LIMITED LIABILITY COMPANY

Docket No. S-20897A-13-0391

NOTICE OF LODGMENT OF EXHIBITS IN SUPPORT OF RESPONDENTS' MOTION TO CONTINUE HEARING

Respondents.

1. Exhibit 1 is a true and correct copy of a scheduling order in *Securities and Exchange Commissions v. ABS Manager, LLC and George Charles Cody Price*, case number 13cv319-GPC (BGS).
2. Exhibit 2 is a true and correct copy of an email dated January 5, 2015 from Marie Mirch to Division counsel Wendy Coy.
3. Exhibit 3 is a true and correct copy of a letter from Ms. Coy dated January 6, 2015, including the email string to which it was attached.

Dated this 9th day of January, 2015.

By Marie Mirch
Marie Mirch
Pro Hac Vice Counsel
For Respondents

EXHIBIT 1

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

ABS MANAGER, LLC and GEORGE
CHARLES CODY PRICE,

Defendants,

ABS FUND, LLC [ARIZONA]; ABS
FUND, LLC [CALIFORNIA];
CAPITAL ACCESS, LLC; CAVAN
PRIVATE EQUITY HOLDINGS,
LLC; and LUCKY STAR EVENTS,
LLC,

Relief Defendants.

CASE NO. 13cv319-GPC(BGS)

**JURY TRIAL PREPARATION AND
SCHEDULING ORDER**

A pretrial conference was held on September 19, 2014. Sam Puathasnanon, Esq. and Lynn Dean, Esq. appeared on behalf of Plaintiff, and Mark Chester, Esq. and John Dolkart, Esq. appeared on behalf of Defendants. After discussing trial related issues with counsel, the Court orders the following:

JURY TRIAL

The Court sets the trial in this matter for **February 17, 2015, at 9:00 a.m.** The trial will last approximately fifteen days.

1 **MOTIONS IN LIMINE**

2 The Court sets a hearing on motions in limine for **January 23, 2015 at 2:30 p.m.**
3 Each side is allowed a maximum of six motions in limine. All motions in limine must
4 be filed and served on or before **January 9, 2015.** Written oppositions to motions in
5 limine, if any, must be filed and served on or before **January 16, 2015.** No replies
6 shall be filed. Each motion in limine and each opposition thereto shall be limited to ten
7 pages in length. Attachments to any motion in limine or opposition thereto shall also
8 be limited to ten pages in length.

9 **JURY INSTRUCTIONS**

10 The parties shall submit joint proposed jury instructions and special verdict
11 forms, including any objections on or before **February 3, 2015,** and an instruction
12 conference will be held on **February 6, 2015 at 2:30 p.m.**

13 **TRIAL NOTEBOOK**

14 The parties are directed to submit directly to chambers, on or before **February**
15 **3, 2015** a tabbed joint trial notebook containing a table of contents and hard copies of
16 the following documents, all of which should also be filed using the Court's Case
17 Management/Electronic Case Filing (CM/ECF) system unless otherwise indicated:

- 18 1. The operative pleading complaint, cross complaint, and third party
19 complaint, and answers;
- 20 2. Separate trial briefs, not to exceed twenty pages in length;
- 21 3. If the parties wish, a joint proposed jury questionnaire, including any
22 objections;
- 23 4. A joint statement of the case in a form suitable to be read to the jury,
24 including any objections;
- 25 5. Any stipulations or agreements, in a form suitable to be read to the jury;
- 26 6. A joint witness list in table format, including columns designated for the
27 party that will be calling the witness, time estimates for direct and cross-examination,
28 and a brief description of each witness's testimony;

1 7. A joint list of deposition designations, if any;

2 8. A joint exhibit list in table format, including columns designated for
3 exhibit numbers, a description of the exhibits, whether the admissibility of an exhibit
4 is disputed, the date an exhibit is marked, and the date an exhibit is admitted; and

5 9. Joint proposed general and/or special verdict forms, including any
6 objections.

7 IT IS SO ORDERED.

8
9 DATED: September 22, 2014

10 
11 HON. GONZALO P. CURIEL
12 United States District Judge
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EXHIBIT 2

Subject: Dental Support Plus Franchise, LLC

From: Marie Mirch (mirch@mirchlaw.com)

To: wcoy@azcc.gov,

Date: Monday, January 5, 2015 2:06 PM

Ms. Coy,

I am writing to meet and confer with you regarding the dates the Court has set in February for the ACC Hearing. Unfortunately, local counsel Mark Chester is not available on those dates as he has a federal trial in the United States District Court in San Diego February. See attached documents that confirm the trial dates. I am relying on Mr. Chester's assistance at the hearing.

I am also checking with Mr. Maerki's doctors as to his condition to ascertain his ability to participate.

Please advise if you object to continuing the hearing until such time as Mr. Chester is available. In the meantime, I will get an update on Mr. Maerki's health.

I would like to avoid having to file a motion to continue, and hope that you will agree to move the February hearing.

Please let me know as soon as possible.

Marie Mirch

Mirch Law
750 B Street, Suite 2500
San Diego, CA 92101

(619) 501-6220

(619) 501-6980 fax

marie@mirchlaw.com

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If you have received this e-mail in error, please delete it immediately and notify the sender. We request that you do not disclose the contents to anyone. Thank you.

EXHIBIT 3

COMMISSIONERS
SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

JODI JERICH
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 714-8120
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

January 6, 2015

Marie C. Mirch, Esq.
Mirch Law Firm, LLP
750 B Street, Suite 2500
San Diego, CA 92101

Re: January 5, 2015, email

Dear Ms. Mirch:

Thank you for your email dated January 5, 2015. Please be aware that the Securities Division will object to any further continuances in this matter.

Mr. Chester and Mr. Hauser had knowledge of the upcoming jury trial on September 22, 2014. At the November 13, 2014, status conference, Mr. Hauser should have notified Administrative Law Judge ("ALJ") Stern of any potential conflict when ALJ Stern stated that the hearing would be scheduled at the beginning of next year. ALJ Stern also specifically mentioned that the hearing could be scheduled in February. The Tenth Procedural Order issued on December 10, 2014, scheduled the hearing to begin February 9, 2015; there was no communication with the Securities Division that the new date posed a potential conflict. Why wait until January 5, 2015, to notify the Securities Division or the ALJ of the conflict when it was known since September 22, 2014?

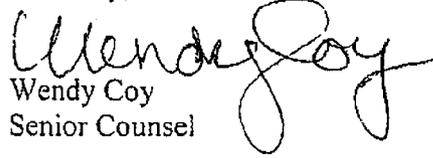
Your email indicates that you will rely on Mr. Chester's assistance at the hearing however you do not explain the precise role Mr. Chester or Mr. Hauser will play at the hearing and why their presence is necessary in light of their previously scheduled trial. Since neither Mr. Chester nor Mr. Hauser disclosed the pre-existing schedule conflict, it appears that they did not plan to attend the Maerki hearing. Nothing in the rules requires that Mr. Chester or Mr. Hauser be present at the upcoming hearing. Please outline Mr. Chester's role at the hearing.

As to Mr. Maerki's health issues, please notify me as soon as possible if there are any issues.

January 6, 2015
Page 2

If you have any questions, please contact me. I may be reached at 602-542-0633.

Sincerely,


Wendy Coy
Senior Counsel

cc: Mark D. Chester
Chester & Shein, P.C.
8777 N. Gainey Center Drive, Suite 191
Scottsdale, Arizona 85258-2106

Subject: RE: Response to January 5, 2015 email

From: Wendy Coy (WCoy@azcc.gov)

To: marie@mirchlaw.com;

Date: Wednesday, January 7, 2015 8:30 AM

Ms. Mirch –

I do not understand what you are trying to say in the first part of the third sentence. Am I to understand that Mr. Maerki's doctors state Mr. Maerki is not able to go forward with the hearing in February? If so, please provide the reports to support your position.

The Securities Division is ready to go forward with the hearing in February. We do not, in any way, agree with any type of additional continuance. If the ALJ provides for oral argument on your motion, we will, at that time, provide our availability for future hearing dates. I do not want any misunderstanding that the Securities Division agrees with a continuance. This matter has been set for hearing three times. All of which were set for dates agreed upon by all parties. This will be second time the Respondents have not disclosed known conflicts in their schedules to obtain a continuance.

File what you believe you must. The Securities Division will respond accordingly.

Wendy Coy

Wendy Coy

Senior Counsel

Arizona Corporation Commission

Securities Division

1300 W. Washington, 3rd Floor

Phoenix, Arizona 85007

(602)542-0633

From: Bobogriz@yahoo.com [mailto:marie@mirchlaw.com]
Sent: Wednesday, January 07, 2015 8:46 AM
To: Wendy Coy
Subject: Re: Response to January 5, 2015 email

Ms Coy,

I am sorry that you take this position. I will have to file yet another motion. Assuming Mr Maerki is well enough to participate, which at that point I am informed he is not, could you give me some alternate dates or general time frame I can propose in my motion?

Marie Mirch

Sent from my iPad

On Jan 7, 2015, at 6:29 AM, Wendy Coy <WCoy@azcc.gov> wrote:

Please see attached.

Wendy Coy

Senior Counsel

Arizona Corporation Commission

Securities Division

1/7/2015

Print

1300 W. Washington, 3rd Floor

Phoenix, Arizona 85007

(602)542-0633

<2015 1 6 response to request for continuance.pdf>