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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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Arizona Corporation Commission  
**DOCKETED**

JAN 30 2015

DOCKETED BY 

**ORIGINAL**

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

**AFFIDAVIT OF DR. JACK WOLFSON**

Respondents.

\_\_\_\_\_ /

State of Arizona )

) ss.

County of Maricopa )

I, Jack Wolfson, hereby declare:

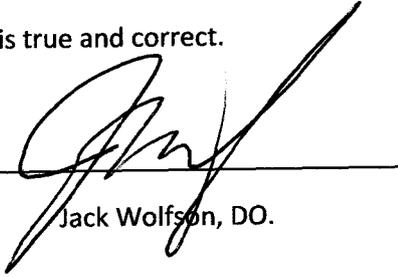
1. I am a doctor licensed to practice medicine in the State of Arizona. I am over the age of eighteen and am competent to testify regarding all the allegations contained herein. If called upon to testify, I have personal knowledge of the following facts and would testify as follows:
2. I am board certified in internal medicine and cardiovascular disease. My certifications are from the America Board of Internal Medicine and the American College of Cardiologists.

3. Mr. Kent Maerki is a patient of mine. I understand that he is scheduled to be in a three to four week legal hearing beginning next month. In light of his multiple medical problems, Mr. Maerki should not participate in this hearing. I make this Affidavit in support of his request to continue the hearing.
4. I have been told that the Court has requested further information from me as to whether Mr. Maerki will be able to physically appear at the hearing.
5. I addressed this in my earlier affidavit, but will elaborate on this issue.
6. Mr. Maerki has multiple medical problems, including cardiovascular disease, atrial fibrillation, a recent stroke and a history of recurring stroke. Further, he is on a number of medications for his conditions, and he has a very strict diet and diet schedule he must follow.
7. I re-evaluated Mr. Maerki on January 7, 2015. He is currently in atrial fibrillation. This irregular heart rhythm can lead to fast and slow heart rates, both of which can lead to life-threatening consequences. He has a loud murmur which will be evaluated by an echocardiogram. He is unsteady on his feet and suffers from balance issues.
8. Mr. Maerki's condition must be monitored with recurring evaluations.
9. I spoke with attorney Wendy Coy about a month ago and expressed my opinion of the risks associated with forcing Mr. Maerki to appear and participate in a legal matter.
10. I understand from speaking with Mr. Maerki's counsel that Ms. Coy submitted a document to the court that represents that a neuropsychologist should make a determination related to his competency, and based on that, Mr. Maerki is well enough to appear and participate in a legal proceeding. I do not agree with Ms. Coy's representation that this is determinative as to the health risks to Mr. Maerki
11. As a board certified cardiologist, I have the expertise to render a medical opinion as to the risks to Mr. Maerki's cardiovascular health that a neuropsychologist would not have.
12. His mental competence, such as his ability to remember or engage in life tasks, is not the basis for my medical opinion.
13. Mr. Maerki may engage in simple life tasks that do not subject him to stress, but that has no bearing on the risk that is imposed on Mr. Maerki's health if he is put in to a stressful situation such as legal proceedings.
14. There are well established connections between stress and cardiovascular disease. I have authored a book that includes a discussion on this subject. Survival from a heart attack is lower in those individuals experiencing high stress. At least one study on this subject found that patients with high psychosocial stress in cardiac rehabilitation were almost four time as likely to die as those with low stress.
15. Reduced heart rate variability in stress-out people is a dangerous sign associated with heart problems. (Vidovich Cardiovascular Psychology and Neurology Volume 2009).
16. Based on my expertise and experience, as well as my familiarity with Mr. Maerki's cardiovascular health, it is my medical opinion that Mr. Maerki's participation or appearance in any legal matter could have a very serious negative impact on his health. Therefore, I have advised Mr. Maerki that he is not to participate in any stressful events, in particular any legal proceedings.

I swear under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of January, 2015.

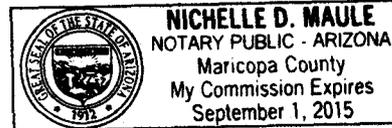
BY



Jack Wolfson, DO.

Signed and Sworn before me a notary public

this 30 day of January, 2015.



1 On January 12, 2015, the Securities Division received a copy of Respondents' Motion to  
 2 Continue Hearing dated January 9, 2015 ("Motion to Continue"). The Securities Division objects to  
 3 any further continuances of this matter.

4 **B. RESPONDENT MAERKI'S HEALTH CONDITION SHOULD NOT BE A GRANT  
 OF IMMUNITY**

5 The Securities Division is sympathetic to Respondent Maerki's health issues. However,  
 6 Respondent Maerki's health issues should not be used to protect him from taking responsibility for  
 7 his business practices. Respondent Maerki's health issues have existed and have been treated for  
 8 years. Throughout the creation of DSPF and the raising of over \$12 million, Respondent Maerki  
 9 has had the same health issues.

10 As stated by Respondent Maerki's counsel, he is driving and going to work.<sup>5</sup> According to  
 11 the medical records attached to the Emergency Application, Respondent Maerki has had medical  
 12 issues for an extended period prior to the stroke in August of 2014. Respondent Maerki's medical  
 13 history reveals that he has had long term medical issues including Afib, hypertension, questionable  
 14 walking issues, nine concussions, four cerebral hemorrhages, and sleep apnea.<sup>6</sup> Those long term  
 15 medical issues have not caused Respondent Maerki issues in creating businesses, driving, traveling  
 16 and raising millions of dollars from investors in multiple businesses. In a report from Barrow  
 17 Neurovascular, Respondent Maerki's past medical history includes many of the same issues  
 18 discussed in Dr. Wolfson's affidavit attached to the current Motion to Continue.<sup>7</sup>

19 According to Respondent Maerki's neurologist, a neuropsychologist should make the  
 20 determination related to his competency to endure a hearing.<sup>8</sup> Respondent Maerki was seen by a  
 21 neuropsychologist on October 9, 2014.<sup>9</sup> The report indicates that Respondent Maerki is beginning a  
 22 new startup company and that he functions well under self-induced stress such as creating a new  
 23

24 <sup>5</sup> See Transcript of September 26, 2014, page 16, lines 12 - 22.

25 <sup>6</sup> See Exhibit 5 of the Emergency Application.

26 <sup>7</sup> See Exhibits 6.1, 7, 7.15, 7.17 of the Emergency Application.

<sup>8</sup> See Exhibit 2 of Clapper Affidavit attached as Exhibit A.

<sup>9</sup> See Exhibit 1 of Clapper Affidavit Bates No. ACC127095 - ACC127099.

1 company.<sup>10</sup> However, the report continued, Respondent Maerki does feel stressed about the  
2 pending lawsuits.<sup>11</sup> According to the report issued by Scottsdale Healthcare Outpatient Therapy  
3 Services, dated October 14, 2014, Respondent Maerki works 70 hours per week in his businesses  
4 which is a decrease from the 120 hours prior to the stroke.<sup>12</sup> Further, the report says Respondent  
5 Maerki travels 2 - 3 days a month for business.<sup>13</sup> The Assessment indicates that Respondent Maerki  
6 continues to run his businesses.<sup>14</sup>

7 There is no doubt that Respondent Maerki has some health issues. However, if Respondent  
8 Maerki is able to drive, travel, operate his businesses and start new businesses, he should be able to  
9 assist in his defense of the allegations in the Notice.

#### 10 C. CONFLICT WAS KNOWN WHEN HEARING SCHEDULED

11 This is the second time Respondents have requested a continuance based upon an  
12 undisclosed pre-existing conflict. The first hearing was scheduled to begin on June 2, 2014.  
13 Respondents filed a Motion to Continue the June 2, 2014, hearing date citing an "unmovable  
14 business trip."<sup>15</sup> According to the invoice attached to the Respondents' May 9, 2014, Motion to  
15 Continue, payment for the "unmovable business trip" was made on November 12, 2013. The  
16 Procedural Conference to schedule the hearing was on January 16, 2014. Four months after the  
17 Third Procedural Order was issued scheduling the hearing to begin June 2, 2014, the Respondents'  
18 requested a continuance for an "unmovable business trip" that was scheduled two months before  
19 the Third Procedural Order was issued.

20 With Respondents' latest Motion to Continue dated January 9, 2015, local counsel  
21 apparently has a conflict with the recently scheduled hearing date. Local counsel appeared at the  
22 November 13, 2014, status conference. A discussion was held regarding the rescheduling of the  
23 hearing. ALJ Stern indicated that the "earliest I would foresee a hearing would probably be in the

24 <sup>10</sup> See Exhibit I to Clapper Affidavit, Bates No. ACC127096.

25 <sup>11</sup> Id.

26 <sup>12</sup> See Exhibit I to Clapper Affidavit, Bates No. ACC127115.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> See Respondent's Motion for Continuance docketed on May 9, 2014.