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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

2015 JUN 25 A 11:17

- SUSAN BITTER SMITH - Chairman
- BOB STUMP
- BOB BURNS
- DOUG LITTLE
- TOM FORESE

DOCKETED

JUN 25 2015

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY  
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In the matter of:

DEER PARK DEVELOPMENT CORPORATION,  
 MARTY O'MALLEY and JULIE UNRUH  
 O'MALLEY, husband and wife,  
 ROBERT D. BJERKEN,  
 Respondents.

DOCKET NO. S-20926A-15-0116

**THIRD**  
**PROCEDURAL ORDER**  
**(Schedules Procedural Conference)**

**BY THE COMMISSION:**

On April 8, 2015, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, for Restitution, for Administrative Penalties, and for Other Affirmative Action ("Notice") against Deer Park Development Corporation, Marty O'Malley and Julie Unruh O'Malley, husband and wife (the "O'Malleys"), and Robert D. Bjerken (collectively "Respondents"), in which the Division alleged violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of stock.

The spouse of Marty O'Malley, Julie Unruh O'Malley ("Respondent Spouse"), is joined in the action pursuant to A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the marital community.

The Respondents were duly served with copies of the Notice.

On April 23, 2015, Respondents Marty O'Malley and Julie Unruh O'Malley filed a Request for Hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306.

On April 24, 2015, Respondents Marty O'Malley and Julie Unruh O'Malley filed a Notice of Bankruptcy Filing. The Notice, filed through the O'Malleys' Special Litigation Counsel in Nevada, stated that the O'Malleys filed a Chapter 11 Bankruptcy Petition with the United States District

1 Bankruptcy Court, District of Nevada, on January 30, 2014, which was converted to a case under  
2 Chapter 7 on August 5, 2014. The Notice advised that 11 U.S.C. § 362(a)(1) prohibits  
3 commencement of judicial, administrative or other proceedings against the debtors.

4 On May 13, 2015, by Procedural Order, a pre-hearing conference was scheduled for June 3,  
5 2015.

6 On May 18, 2015, counsel filed a Notice of Appearance on Behalf of Respondents Marty  
7 O'Malley and Julie Unruh O'Malley. Counsel for the O'Malleys also filed a Response to Notice of  
8 Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order  
9 for Administrative Penalties and Order for Other Affirmative Action.

10 On June 3, 2013, a pre-hearing conference was held. The Division and the O'Malleys  
11 appeared through counsel. Counsel for the O'Malleys stated that his clients' bankruptcy matter is  
12 ongoing. Counsel for the Division stated the Division's position is that the bankruptcy has no effect  
13 upon these proceedings. The parties agreed to a hearing schedule.

14 On June 3, 2015, by Procedural Order, a hearing was scheduled to commence on November 2,  
15 2015.

16 On June 16, 2015, Respondent Bjerken untimely filed an Answer. The Answer was  
17 apparently sent by email on May 12, 2015, and received by the Division on May 20, 2015, as  
18 indicated by date stamp. Mr. Bjerken indicates that the Answer was filed late as a result of a hospital  
19 stay.

20 On June 19, 2015, Respondent Bjerken untimely filed a second Answer, again stating the  
21 filing was late due to a hospital stay.

22 Accordingly, a procedural conference should be scheduled to determine whether good cause  
23 exists for the late filing of the Answers from Respondent Bjerken and whether the Answers should  
24 also be considered a request for hearing.

25 IT IS THEREFORE ORDERED that a **procedural conference** shall be held on **July 9, 2015,**  
26 **at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1,  
27 Phoenix, Arizona. **A failure to timely appear for the procedural conference by Respondent**  
28 **Bjerken will be deemed to mean that Mr. Bjerken does not request a hearing on the matters**

1 **asserted in the Notice.**

2 IT IS FURTHER ORDERED that the Division shall file a response regarding Respondent  
3 Bjerken's June 16 and 19, 2015 filings by **July 2, 2015.**

4 IT IS FURTHER ORDERED that **the hearing remains scheduled to commence on**  
5 **November 2, 2015, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street,  
6 Hearing Room No. 1, Phoenix, Arizona.

7 IT IS FURTHER ORDERED that **the parties shall also set aside November 3-6, 2015, for**  
8 **additional days of hearing,** if necessary.

9 IT IS FURTHER ORDERED that **the Division and Respondents shall exchange copies of**  
10 **their Witness Lists and copies of the Exhibits by September 3, 2015,** with courtesy copies  
11 provided to the presiding Administrative Law Judge.

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

15 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
16 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

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

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27 ...

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1 DATED this 25<sup>TH</sup> day of June, 2015.

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3   
4 MARK PRENY  
ADMINISTRATIVE LAW JUDGE

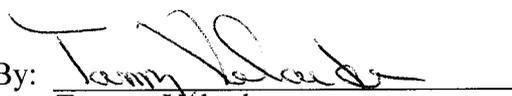
5 Copies of the foregoing mailed/delivered  
6 this 22 day of June, 2015, to:

7 Chad A. Hester  
8 WALLIN HESTER, PLC  
9 1760 E. Pecos Road, Suite 332  
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Attorney for Respondents O'Malley

10 Robert D. Bjerken  
11 P.O. Box 2921  
12 Scottsdale, AZ 85252

13 Matthew Neubert, Director  
14 Securities Division  
15 ARIZONA CORPORATION COMMISSION  
16 1300 West Washington Street  
17 Phoenix, AZ 85007

18 COASH & COASH, INC.  
19 Court Reporting, Video and  
20 Videoconferencing  
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By:   
Tammy Velarde  
Assistant to Mark Preny