

ORIGINAL



0000169619

1 Christopher D. Lonn (015166)
 2 Michael L. Kitchen (019848)
 3 **MARGRAVE CELMINS, P.C.**
 4 8171 East Indian Bend Rd., Suite 101
 5 Scottsdale, Arizona 85250
 6 clonn@mclawfirm.com
 7 mlkitchen@mclawfirm.com
 8 Telephone (480) 994-2000
 9 Facsimile (480) 994-2008
 10 *Attorneys for Respondents Jeffrey D. McHatton,*
 11 *Starla T. McHatton and The Fortitude*
 12 *Foundation, an Arizona corporation*

Arizona Corporation Commission

DOCKETED

APR 11 2016

DOCKETED BY	<i>JL</i>
-------------	-----------

RECEIVED

2016 APR 11 P 4: 31

AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

In the matter of:

Robert J. Moss and Jennifer L. Moss,
husband and wife,

The Fortitude Foundation, an Arizona
corporation,

Ventures 7000, LLC, an Oklahoma limited
liability company,

Jeffrey D. McHatton and Starla T.
McHatton, husband and wife,

Robert D. Sproat and Jane Doe Sproat,
husband and wife,

Kevin Krause, a single man, and

Vernon R. Twyman, Jr., a single man,

Respondents.

DOCKET NO. S-20953A-16-0061

**ANSWER OF THE FORTITUDE
FOUNDATION TO TEMPORARY
ORDER TO CEASE AND DESIST**

(Assigned to Administrative Law Judge
Marc E. Stern)

Respondent The Fortitude Foundation ("TFF"), through counsel, hereby admits,
denies and alleges as follows:

1. In response to paragraph 1 of the Temporary Order to Cease and Desist
("TOCD"), Respondent is without sufficient knowledge or information with which to

Margrave Celmins, P.C.
 8171 East Indian Bend Rd., Suite 101
 Scottsdale, Arizona 85250
 Telephone (480) 994-2000 / Facsimile (480) 994-2008

1 form a belief as to the truth of the allegations contained therein and therefore denies
2 them.

3 2. In response to paragraph 2 of the TOCD, TFF admits that Robert Moss has
4 been a director of TFF. TFF denies the balance of the allegations in this paragraph.
5

6 3. In response to paragraph 3 of the TOCD, Respondent is without sufficient
7 knowledge or information with which to form a belief as to the truth of the allegations
8 contained therein and therefore denies them.

9 4. In response to paragraph 4 of the TOCD, Respondent is without sufficient
10 knowledge or information with which to form a belief as to the truth of the allegations
11 contained therein and therefore deny them.

12 5. In response to paragraph 5 of the TOCD, Respondent is without sufficient
13 knowledge or information with which to form a belief as to the truth of the allegations
14 contained therein and therefore denies them.
15

16 6. In response to paragraph 6 of the TOCD, TFF admits the first and last
17 sentences of paragraph 6. TFF denies the remainder of this paragraph.
18

19 7. In response to paragraph 7 of the TOCD, Respondent is without sufficient
20 knowledge or information with which to form a belief as to the truth of the allegations
21 contained therein and therefore denies them.
22

23 8. TFF admits the first sentence of paragraph 8 of the TOCD, but it denies the
24 balance of the remaining allegations in that paragraph of the TOCD regarding Jeffrey
25 McHatton.
26

27
28

1 9. In response to paragraph 9 of the TOCD, TFF admits that Respondent
2 McHatton is married to Starla McHatton. TFF denies the balance of remaining
3 allegations in this paragraph.

4 10. In response to paragraph 10 of the TOCD, TFF denies the first sentence of
5 paragraph 10 of the TOCD. TFF denies the balance of paragraph 10 because it is without
6 sufficient knowledge or information with which to form a belief as to the truth of the
7 allegations contained therein and it therefore denies them.

8 11. In response to paragraph 11 of the TOCD, Respondent is without sufficient
9 knowledge or information with which to form a belief as to the truth of the allegations
10 contained therein and it therefore denies them.

11 12. Respondent denies the allegations set forth in paragraph 12 of the TOCD.

12 13. In response to paragraph 13 of the TOCD, Respondent is without sufficient
13 knowledge or information with which to form a belief as to the truth of the allegations
14 contained therein and therefore denies them.

15 14. In response to paragraph 14 of the TOCD, this is not a substantive factual
16 paragraph. To the extent a response is required, the allegations set forth in paragraph 14
17 of the TOCD are denied.

18 15. Respondent denies the allegations set forth in paragraph 15 of the TOCD.

19 16. Respondent denies the allegations set forth in paragraph 16 of the TOCD.

20 17. Respondent denies the allegations set forth in paragraph 17 of the TOCD.

21 18. Respondent denies the allegations set forth in paragraph 18 of the TOCD.

22 19. Respondent denies the allegations set forth in paragraph 19 of the TOCD.

1 20. In response to paragraph 20 of the TOCD, Respondent is without sufficient
2 knowledge or information with which to form a belief as to the truth of the allegations
3 contained therein and therefore denies them.

4 21. In response to paragraph 21 of the TOCD, Respondent is without sufficient
5 knowledge or information with which to form a belief as to the truth of the allegations
6 contained therein and therefore denies them.

8 22. Respondent denies the allegations set forth in paragraph 22 of the TOCD.

9 23. Respondent denies the allegations set forth in paragraph 23 of the TOCD.

10 24. Respondent denies the allegations set forth in paragraph 24 of the TOCD.

11 25. Respondent denies the allegations set forth in paragraph 25 of the TOCD.

12 26. Respondent denies the allegations set forth in paragraph 26 of the TOCD.

13 27. Respondent admits the allegations set forth in paragraph 27 of the TOCD.

14 28. Respondent admits the allegations set forth in paragraph 28 of the TOCD.

15 29. In response to paragraph 29 of the TOCD, Respondent is without sufficient
16 knowledge or information with which to form a belief as to the truth of the allegations
17 contained therein and therefore denies them.

18 30. Respondent denies the allegations set forth in paragraph 30 of the TOCD.

19 31. Respondent denies the allegations set forth in paragraph 31 of the TOCD.

20 32. Respondent denies the allegations set forth in paragraph 32 of the TOCD.

21 33. In response to paragraph 33 of the TOCD, Respondent is without sufficient
22 knowledge or information with which to form a belief as to the truth of the allegations
23 contained therein and therefore denies them.

1 34. In response to paragraph 34 of the TOCD, Respondent is without sufficient
2 knowledge or information with which to form a belief as to the truth of the allegations
3 contained therein and therefore denies them.

4 35. In response to paragraph 35 of the TOCD, Respondent is without sufficient
5 knowledge or information with which to form a belief as to the truth of the allegations
6 contained therein and therefore denies them.

7 36. In response to paragraph 36 of the TOCD, Respondent is without sufficient
8 knowledge or information with which to form a belief as to the truth of the allegations
9 contained therein and therefore denies them.

10 37. In response to paragraph 37 of the TOCD, Respondent is without sufficient
11 knowledge or information with which to form a belief as to the truth of the allegations
12 contained therein and therefore denies them.

13 38. In response to paragraph 38 of the TOCD, Respondent is without sufficient
14 knowledge or information with which to form a belief as to the truth of the allegations
15 contained therein and therefore denies them.

16 39. In response to paragraph 39 of the TOCD, Respondent is without sufficient
17 knowledge or information with which to form a belief as to the truth of the allegations
18 contained therein and therefore denies them.

19 40. Respondent denies the allegations set forth in paragraph 40 of the TOCD.

20 41. Respondent denies the allegations set forth in paragraph 41 of the TOCD.

21 42. Respondent denies the allegations set forth in paragraph 42 of the TOCD.

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

43. In response to paragraph 43 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

44. In response to paragraph 44 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

45. In response to paragraph 45 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

46. In response to paragraph 46 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

47. In response to paragraph 47 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

48. In response to paragraph 48 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

49. Respondent admits the allegations set forth in paragraph 49 of the TOCD.

50. Respondent admits the allegations set forth in paragraph 50 of the TOCD.

51. Respondent denies the allegations set forth in paragraph 51 of the TOCD.

52. In response to paragraph 52 of the TOCD, TFF admits the final sentence of the paragraph and denies the preceding allegations.

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

53. Respondent denies the allegations set forth in paragraph 53 of the TOCD.

54. Respondent denies the allegations set forth in paragraph 54 of the TOCD.

55. Respondent denies the allegations set forth in paragraph 55 of the TOCD.

56. Respondent denies the allegations set forth in paragraph 56 of the TOCD.

57. Respondent denies the allegations set forth in paragraph 57 of the TOCD.

58. Respondent denies the allegations set forth in paragraph 58 of the TOCD.

59. Respondent denies the allegations set forth in paragraph 59 of the TOCD.

60. Respondent denies the allegations set forth in paragraph 60 of the TOCD.

61. Respondent denies the allegations set forth in paragraph 61 of the TOCD.

62. Respondent denies the allegations set forth in paragraph 62 of the TOCD.

63. Respondent denies the allegations set forth in paragraph 63 of the TOCD.

64. Respondent denies the allegations set forth in paragraph 64 of the TOCD.

65. Respondent denies the allegations set forth in paragraph 65 of the TOCD.

66. Respondent denies the allegations set forth in paragraph 66 of the TOCD.

67. Respondent denies the allegations set forth in paragraph 67 of the TOCD.

68. Respondent denies the allegations set forth in paragraph 68 of the TOCD.

69. Respondent denies the allegations set forth in paragraph 69 of the TOCD.

70. Respondent denies the allegations set forth in paragraph 70 of the TOCD.

71. Respondent denies the allegations set forth in paragraph 71 of the TOCD.

72. In response to paragraph 72 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

1 73. In response to paragraph 73 of the TOCD, Respondent is without sufficient
2 knowledge or information with which to form a belief as to the truth of the allegations
3 contained therein and therefore denies them.

4 74. In response to paragraph 74 of the TOCD, Respondent is without sufficient
5 knowledge or information with which to form a belief as to the truth of the allegations
6 contained therein and therefore denies them.

8 75. Respondent denies the allegations set forth in paragraph 75 of the TOCD.

9 76. Respondent denies the allegations set forth in paragraph 76 of the TOCD.

10 77. Respondent denies the allegations set forth in paragraph 77 of the TOCD.

11 78. Respondent denies the allegations set forth in paragraph 78 of the TOCD.

12 79. In response to paragraph 79 of the TOCD, Respondent is without sufficient
13 knowledge or information with which to form a belief as to the truth of the allegations
14 contained therein and therefore denies them.

15 80. In response to paragraph 80 of the TOCD, Respondent is without sufficient
16 knowledge or information with which to form a belief as to the truth of the allegations
17 contained therein and therefore denies them.

18 81. In response to paragraph 81 of the TOCD, Respondent is without sufficient
19 knowledge or information with which to form a belief as to the truth of the allegations
20 contained therein and therefore denies them.

21 82. In response to paragraph 82 of the TOCD, Respondent is without sufficient
22 knowledge or information with which to form a belief as to the truth of the allegations
23 contained therein and therefore denies them.

24 82. In response to paragraph 82 of the TOCD, Respondent is without sufficient
25 knowledge or information with which to form a belief as to the truth of the allegations
26 contained therein and therefore denies them.

27 82. In response to paragraph 82 of the TOCD, Respondent is without sufficient
28 knowledge or information with which to form a belief as to the truth of the allegations
contained therein and therefore denies them.

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

83. In response to paragraph 83 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

84. In response to paragraph 84 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

85. In response to paragraph 85 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

86. In response to paragraph 86 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

87. In response to paragraph 87 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

88. In response to paragraph 88 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

89. In response to paragraph 89 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

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

90. In response to paragraph 90 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

91. In response to paragraph 91 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

92. In response to paragraph 92 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

93. In response to paragraph 93 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

94. Respondent denies the allegations set forth in paragraph 94 of the TOCD.

95. Respondent denies the allegations set forth in paragraph 95 of the TOCD.

96. Respondent denies the allegations set forth in paragraph 96 of the TOCD.

97. Respondent denies the allegations set forth in paragraph 97 of the TOCD.

98. Respondent denies the allegations set forth in paragraph 98 of the TOCD.

99. In response to paragraph 99 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

100. In response to paragraph 100 of the TOCD, Respondent is without sufficient knowledge or information with which to form a belief as to the truth of the allegations contained therein and therefore denies them.

1 101. Respondent denies the allegations set forth in paragraph 101 of the TOCD.

2 102. Respondent denies the allegations set forth in paragraph 102 of the TOCD.

3 103. Respondent denies the allegations set forth in paragraph 103 of the TOCD.

4 104. Respondent denies the allegations set forth in paragraph 104 of the TOCD.

5
6 105. In response to paragraph 105 of the TOCD, Respondent is without
7 sufficient knowledge or information with which to form a belief as to the truth of the
8 allegations contained therein and therefore denies them.

9 106. In response to paragraph 106 of the TOCD, Respondent is without
10 sufficient knowledge or information with which to form a belief as to the truth of the
11 allegations contained therein and therefore denies them.

12 107. In response to paragraph 107 of the TOCD, Respondent is without
13 sufficient knowledge or information with which to form a belief as to the truth of the
14 allegations contained therein and therefore denies them.

15 108. In response to paragraph 108 of the TOCD, Respondent is without
16 sufficient knowledge or information with which to form a belief as to the truth of the
17 allegations contained therein and therefore denies them.

18 109. In response to paragraph 109 of the TOCD, Respondent is without
19 sufficient knowledge or information with which to form a belief as to the truth of the
20 allegations contained therein and therefore denies them.

21 110. In response to paragraph 110 of the TOCD, Respondent is without
22 sufficient knowledge or information with which to form a belief as to the truth of the
23 allegations contained therein and therefore denies them.

24
25
26
27
28

1 111. In response to paragraph 111 of the TOCD, Respondent is without
2 sufficient knowledge or information with which to form a belief as to the truth of the
3 allegations contained therein and therefore denies them.

4 112. In response to paragraph 112 of the TOCD, Respondent is without
5 sufficient knowledge or information with which to form a belief as to the truth of the
6 allegations contained therein and therefore denies them.

7 113. In response to paragraph 113 of the TOCD, Respondent is without
8 sufficient knowledge or information with which to form a belief as to the truth of the
9 allegations contained therein and therefore denies them.
10

11 **NOTE: In the TOCD, the numbering at heading**

12 **“VIOLATION OF A.R.S. §44-1841” reverts to paragraph 110**

13 110. Respondent denies the allegations set forth in paragraph 110 of the TOCD.

14 111. Respondent denies the allegations set forth in paragraph 111 of the TOCD.

15 112. Respondent denies the allegations set forth in paragraph 112 of the TOCD.

16 113. Respondent denies the allegations set forth in paragraph 113 of the TOCD.

17 114. Respondent denies the allegations set forth in paragraph 114 of the TOCD.

18 115. Respondent denies the allegations set forth in paragraph 115 of the TOCD.

19 116. Respondent denies the allegations set forth in paragraph 116 of the TOCD.

20 117. Respondent denies the allegations set forth in paragraph 117 of the TOCD.

21 118. Respondent denies the allegations set forth in paragraph 118 of the TOCD.

22 119. Respondent denies the allegations set forth in paragraph 119 of the TOCD.

23 120. Respondent denies the allegations set forth in paragraph 120 of the TOCD.

24 121. Respondent denies the allegations set forth in paragraph 121 of the TOCD.
25
26
27
28

1 122. Respondent denies the allegations set forth in paragraph 122 of the TOCD.

2 123. Respondent denies the allegations set forth in paragraph 123 of the TOCD.

3 124. Respondent denies the allegations set forth in paragraph 124 of the TOCD.

4 **AFFIRMATIVE DEFENSES**

5 125. Respondent TFF denies each and every allegation of the TOCD not
6 expressly admitted herein.

7 126. Respondent TFF alleges that it has not knowingly waived any defenses
8 available to it under Arizona law. Respondent TFF reserves the right to amend its
9 Answer to assert any additional defenses.

10 127. Respondent TFF alleges that it did not sell a "security" (as defined under
11 governing Arizona law) within or from Arizona.

12 128. Respondent TFF did not knowingly participate in any acts that violate
13 Arizona law or the Arizona Securities Act.

14 129. Respondent did not aid or abet the violation of Arizona law or the Arizona
15 Securities Act.

16 130. Respondent is not liable for administrative penalties or the payment of
17 restitution based on its actions as alleged in the TOCD.

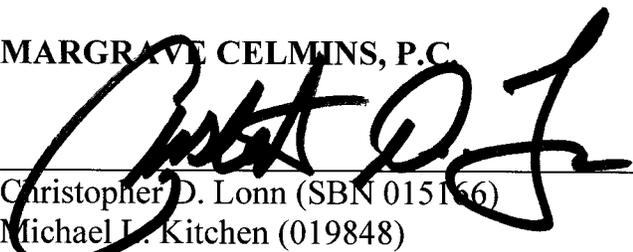
18 131. Any alleged misstatement by Respondent was not made in connection with
19 a transaction involving the offer or sale of a security within or from Arizona.

20 132. Loss causation cannot be established against Respondent for the actions
21 alleged in the TOCD.

22 133. Any alleged facts that were allegedly omitted by Respondent are immaterial
23 to a reasonable investor.
24
25
26
27
28

1 DATED this 11th day of April, 2016.

2 MARGRAVE CELMINS, P.C.

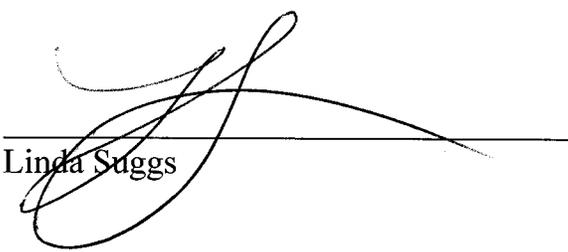
3
4 
5 Christopher D. Lonn (SBN 015166)
6 Michael L. Kitchen (019848)
7 Attorneys for Jeffrey D. McHatton,
8 Starla T. McHatton and The Fortitude
9 Foundation, an Arizona corporation

10 **ORIGINAL** and **13 COPIES** of the
11 Foregoing hand-delivered this 11th day
12 Of April, 2016 to:

13 Docket Control
14 Arizona Corporation Commission
15 1200 West Washington
16 Phoenix, Arizona 85007

17 **COPY** of the foregoing mailed this
18 11th day of April, 2016 to:

19 James Burgess
20 Senior Enforcement Attorney
21 Securities Division, Arizona Corporation
22 Commission
23 1300 W. Washington, Third Floor
24 Phoenix, Arizona 85007

25
26
27
28

Linda Suggs