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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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COMMISSIONERS

DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

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

Arizona Corporation Commission
DOCKETED

APR 21 2016

DOCKETED BY

FOURTH
PROCEDURAL ORDER
(Reschedules Pre-Hearing Conference)

BY THE COMMISSION:

On February 23, 2016, the Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) filed a Temporary Order to Cease and Desist (“T.O.”) and a Notice of Opportunity for Hearing (“Notice”) against Robert J. Moss and Jennifer L. Moss, husband and wife, The Fortitude Foundation (“TFF”), an Arizona Corporation, Ventures 7000, LLC (“Ventures”), 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, (collectively “Respondents”), in which the Division alleged multiple violations of the Arizona Securities Act (“Act”) in connection with the offer and sale of securities in the form of interests, stock and promissory notes. Respondent spouses, Jennifer L. Moss, Starla T.

1 McHatton and Jane Doe Sproat, were joined in the action solely for the purpose of determining the
2 liability of the irrespective marital communities pursuant to A.R.S. 44-2031(C). It was further noted
3 by the Division that the Moss Respondents had been served on March 10, 2016, and objected to the
4 lengthy delay to file their Answer. Instead the Division proposed only a 10 day extension from the
5 current due date of April 11, 2016 to April 21, 2016.

6 Under the circumstances, a slightly longer period would be appropriate, and the Moss
7 Respondents should file their Answer by April 29, 2016.

8 As of the date of this Procedural Order, the following Respondents have been duly served with
9 copies of the T.O. and Notice: the Mosses; Ventures; the McHattons; TFF; and Kevin Krause.

10 On March 24, 2016, counsel for the McHatton and TFF Respondents filed a request for hearing
11 in this matter. The McHatton and TFF Respondents, with the agreement of the Division, also filed a
12 Stipulation that extends the date for the filing of their Answer to April 11, 2016.

13 On March 31, 2016, the Moss Respondents filed a request for a hearing and further requested
14 30 days to retain counsel and to file an Answer to the T.O. and Notice.¹

15 On April 4, 2016, by Procedural Order, it was found that ample time would be available for the
16 Moss Respondents to retain counsel and that the pre-hearing conference could go forward as scheduled
17 in approximately two and one-half weeks.

18 On April 6, 2016, the Division filed a response to the request for a 30 day delay by the Moss
19 Respondents. Therein, the Division noted the McHattons and TFF were represented by attorneys who
20 had earlier indicated their representation of those parties in the request for a hearing filed on March 24,
21 2016.

22 It was further noted by the Division that the Moss Respondents had been served on March 10,
23 2016, and objected to the lengthy delay requested by the Moss Respondents to file their Answer. Instead
24 the Division proposed only a 10 day extension from the current due date of April 11, 2016 to April 21,
25 2016.

26 On April 8, 2016, by Procedural Order, the Moss Respondents were ok to file their Answer by
27 April 29, 2016.

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¹ The Moss Respondents, in their request for a hearing, appeared to also request similar relief for TFF.

1 On April 20, 2016, at the initial pre-hearing conference, counsel for the Division and counsel
2 for the McHattons and TFF Respondents appeared. Neither of the Moss Respondents appeared and
3 counsel was not present on their behalf. After a brief discussion, it was learned that the Moss
4 Respondents had inadvertently not been added to the proceeding's service list and that they did not
5 receive notice of the pre-hearing that had originally been scheduled on April 20, 2016.

6 Accordingly, the pre-hearing conference should be rescheduled with notice provided to
7 all parties who have requested a hearing or their attorney of record.

8 IT IS THEREFORE ORDERED the **pre-hearing conference** shall be rescheduled and shall be
9 held on **May 18, 2016, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street,
10 **Hearing Room No. 2**, Phoenix, Arizona.

11 IT IS FURTHER ORDERED that the Moss Respondents shall file their Answer by April 29,
12 2016.

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

16 IT IS FURTHER ORDERED that all parties must comply with Rules 31, 38, 39 and 42 of the
17 Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and
18 admission *pro hac vice*.

19 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this
20 matter may opt to receive service of all filings in this docket, including all filings by parties and all
21 Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the
22 Commission's Hearing Division, via email sent to an email address provided by the party rather than
23 via U.S. Mail. To exercise this option, a party shall:

- 24 1. Ensure that the party has a valid and active email address to which the party has regular
25 and reliable access ("designated email address");
- 26 2. Complete a Consent to Email Service using the form available on the Commission's
27 website (www.azcc.gov) or a substantially similar format;

- 1 3. File the original and 13 copies of the Consent to Email Service with the Commission's
- 2 Docket Control, also providing service to each party to the service list;
- 3 4. Send an email, containing the party's name and the docket number for this matter, to
- 4 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow
- 5 the Hearing Division to verify the validity of the designated email address;
- 6 5. Understand and agree that service of a document on the party shall be complete upon
- 7 the sending of an email containing the document to the designated email address,
- 8 regardless of whether the party receives or reads the email containing the document;
- 9 and
- 10 6. Understand and agree that the party will no longer receive service of filings in this
- 11 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless
- 12 and until the party withdraws this consent through a filing made in this docket.

13 IT IS FURTHER ORDERED that a party's consent to email service shall not become effective
14 until a Procedural Order is issued approving the use of email service for the party. The Procedural
15 Order shall be issued only after the party has completed steps 1 through 4 above, and the Hearing
16 Division has verified receipt of an email from the party's designated email address.

17 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter
18 via email does not change the requirement that all filings with the Commission's Docket Control must
19 be made in hard copy and must include an original and 13 copies.

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

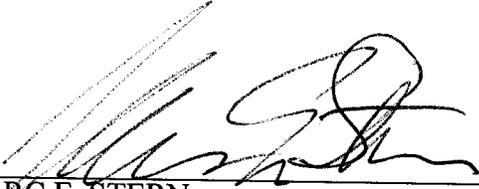
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1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 21st day of April 2016.

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MARC E. STERN
ADMINISTRATIVE LAW JUDGE

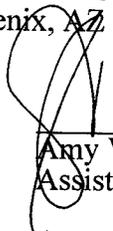
8 Copies of the foregoing mailed/delivered
9 this 21st day of April 2016 to:

10 Christopher Lonn
11 Michael Kitchen
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13 8171 East Indian Bend Rd, Suite 101
14 Scottsdale Arizona 85250
15 Attorney for Respondents Jeffrey D. McHatton and Starla T. McHatton and The Fortitude Foundation

16 Robert J. Moss
17 Jennifer L. Moss
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24 Phoenix, Arizona 85007

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27 1802 N. 7th Street,
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By: 

Amy Wilson
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