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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

2016 JUL 26 PM 2 22

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 and Jane Doe Krause, husband)
and wife, and)
)
Vernon R. Twyman, Jr., a single man,)
)
Respondents.)

DOCKET NO. S-20953A-16-0061

**SECURITIES DIVISION'S RESPONSE
TO REQUEST FOR HEARING,
EXTENSION OF TIME TO ARRANGE
COUNSEL & FILE AN ANSWER BY THE
MOSS RESPONDENTS AND THE
FORTITUDE FOUNDATION**

Arizona Corporation Commission

DOCKETED

JUL 26 2016

DOCKETED BY *[Signature]*

On July 21, 2016, Respondents Robert J. Moss and Jennifer Moss filed a document captioned "Request for Hearing, Extension of Time to Arrange Counsel & File an Answer." In that document, Mr. and Mrs. Moss stated that they and The Fortitude Foundation request a hearing regarding the Amended Temporary Order to Cease and Desist and Notice of Opportunity for Hearing ("Amended TC&D"). Mr. and Mrs. Moss and The Fortitude Foundation certainly have a right to a hearing, and the Securities Division has no objection to them requesting one.

The Securities Division notes that The Fortitude Foundation was previously represented jointly by counsel for Respondents Jeffrey D. McHatton and Starla T. McHatton, but that counsel

1 withdrew and no longer represents the McHattons or The Fortitude Foundation. The Securities
2 Division does not know whether The Fortitude Foundation is now represented by Mr. Moss or Mr.
3 McHatton pursuant to Arizona Supreme Court Rule 31(d)(13) or (28).

4 **Opposition to Request for Extensions to Answer and Exchange LWEs**

5 In their "Request for Hearing, Extension of Time to Arrange Counsel & File an Answer," Mr.
6 and Mrs. Moss and The Fortitude Foundation request a 30-day extension to file an Answer to the
7 Amended TC&D and to exchange Lists of Witnesses and Exhibits ("LWEs").

8 Continuances require "a showing of good cause." R14-3-109(Q), Rules of Practice and
9 Procedure Before the Corporation Commission.

10 The Securities Division opposes the requested 30-day extension to answer. The Division
11 mailed the service copies of the Amended TC&D via registered mail, return receipt requested to
12 Mr. and Mrs. Moss on July 20, 2016. Accordingly, their Answer is not due until August 19, 2016.

13 Mr. and Mrs. Moss and The Fortitude Foundation have not shown any good cause for
14 continuing their answer date beyond August 19, 2016. To the extent that they purportedly need more
15 time to engage counsel, Mr. and Mrs. Moss made the same claim back on March 31, 2016, when they
16 filed their first "Request for Hearing, Extension of Time to Arrange Counsel & File An Answer" in
17 this matter. This Tribunal properly found that Mr. and Mrs. Moss had "ample time" to retain counsel
18 prior to the then-scheduled prehearing conference on April 20, 2016.¹ Mr. and Mrs. Moss have not
19 provided any explanation why they have not been able to retain counsel since they were first served
20 in this matter on March 10, 2016, and why they still need more time to do so.

21 Moreover, a 30-day extension to answer would mean Mr. and Mrs. Moss and The Fortitude
22 Foundation would not have to file their Answer(s) until September 19, 2016, which is the date the
23 hearing begins in this matter. Such an extension would prejudice the Division by not allowing it
24 to review these Respondents' Answer(s) prior to the hearing. For these reasons, the requested 30-
25 day extension to answer should be denied.

26

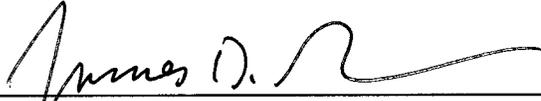
¹ Second Procedural Order dated April 4, 2016 at page 2, line 11.

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The Securities Division also opposes the requested 30-day extension to exchange Lists of Witnesses and Exhibits. Pursuant to the Procedural Order dated July 1, 2016, “the Division and Respondents shall exchange copies of their Witness Lists and copies of Exhibits by August 5, 2016....” Mr. and Mrs. Moss and The Fortitude Foundation have not shown any good cause for continuing the August 5th LWE exchange date. Continuing the LWE exchange date by 30 days would result in a September 6th, 2016, due date, which would prejudice the Division, and presumably also prejudice all the Respondents, by leaving less than two weeks before the hearing to review the exhibits and to prepare to examine all the potential witnesses. For these reasons, the requested 30-day extension to exchange LWEs should be denied, and the August 5th, 2016, exchange date should be re-affirmed.

RESPECTFULLY SUBMITTED this 26th day of July, 2016.

ARIZONA CORPORATION COMMISSION

By 
James D. Burgess
Attorney for the Securities Division
Arizona Corporation Commission

1 ORIGINAL and 6 copies of the foregoing
2 filed this 26th day of July, 2016, with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 W. Washington St.
6 Phoenix, AZ 85007

7 COPY of the foregoing hand-delivered
8 this 26th day of July, 2016, to:

9 The Honorable Marc E. Stern
10 Administrative Law Judge
11 Arizona Corporation Commission
12 1200 W. Washington St.
13 Phoenix, AZ 85007

14 COPIES of the foregoing sent via U.S. Mail
15 this 26th day of July, 2016, to:

16 Jeffrey D. McHatton and Starla T. McHatton, and The Fortitude Foundation
17 P.O. Box 1983
18 Higley, Arizona 85236
19 Respondents Pro Se

20 Robert J. Moss and Jennifer L. Moss
21 125 West Baylor Lane
22 Gilbert, AZ 85233
23 Respondents Pro Se

24 Kevin H. Krause and Jane Doe Krause
25 4245 E. Cielo Azul
26 Tucson AZ 85711
Respondents Pro Se

Ventures 7000, LLC
c/o Vernon R. Twyman, Jr., Manager
11063D S. Memorial Drive, Suite 320
Tulsa, Oklahoma 74137
Respondent Pro Se

