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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION

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2016 AUG 5 AM 11 29

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 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 MOTION TO EXTEND DATE TO EXCHANGE LISTS OF WITNESSES AND EXHIBITS

Arizona Corporation Commission

DOCKETED

AUG 05 2016

DOCKETED BY [Signature]

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") respectfully requests that the date for all parties to exchange lists of witnesses and exhibits ("LWE exchange date") be extended pending the outcome of a Motion to Continue Hearing Respondents Vernon R. Twyman, Jr. ("Twyman") and Ventures 7000, LLC ("Ventures 7000") have informed the Division they plan to file by August 10, 2016. The Division plans to oppose the Motion to Continue Hearing.

1 Good cause exists to extend the LWE date from this Friday, August 5, 2016, until after the  
2 anticipated Motion to Continue Hearing has been decided so that there is an exchange, and not just a  
3 unilateral provision of witness identifications and exhibits by the Division.

4 **MEMORANDUM OF POINTS AND AUTHROTIES**

5 On February 23, 2016, the Division filed the original Temporary Order to Cease and Desist  
6 (“TC&D”) and Notice of Opportunity for Hearing (“Notice”) in this matter. On April 25, 2016,  
7 Ventures 7000 was served. See Affidavit of Service of Process filed May 4, 2016. The Division did  
8 not achieve service of the original TC&D and Notice on Twyman.

9 On May 6, 2016, Ventures 7000 filed its Request for Hearing, which Twyman signed as Venture  
10 7000’s manager. On May 17, 2016, Twyman filed Ventures 7000’s Answer to the original TC&D and  
11 Notice.

12 On July 1, 2016, the Division filed a Motion for Leave to File Amended Temporary Order to  
13 Cease and Desist and Notice of Opportunity for Hearing (“Amended TC&D and Notice”).

14 Also on July 1, 2016, this Tribunal issued a Procedural Order setting the hearing to begin on  
15 September 19, 2016. The LWE exchange date was set for August 5, 2016.

16 On July 14, 2016, this Tribunal granted the Division’s motion for leave to file its Amended  
17 TC&D and Notice. On July 19, 2016, the Division filed the Amended TC&D and Notice.

18 On July 21, 2016, Respondents Robert Moss and Jennifer Moss requested a 30-day extension  
19 to file an Answer and to produce their List of Witnesses and Exhibits.

20 The Division served the Amended TC&D and Notice on the following Respondents on the  
21 following dates:

- 22 • Jeffrey McHatton and Starla McHatton were served on July 23, 2016, via certified mail;
- 23 • The Fortitude Foundation was served on July 23, 2016, via certified mail;
- 24 • Ventures 7000 was served on July 25, 2016, via certified mail;
- 25 • Kevin Krause was served on July 27, 2016, by personal service;
- 26 • Mr. Twyman was served on August 3, 2016, by personal service; and

- 1 • Robert Moss and Jennifer Moss were served on August 3, 2016, by leaving copies of  
2 the Amended TC&D and Notice with their adult son at their residence, pursuant to R14-  
3 4-303(D)(2).

4 On August 2, 2016, attorneys Robert Mitchell, Megan Jury and Sarah Deutsch entered their  
5 Notice of Appearance for Twyman and Ventures 7000.

6 On August 3, 2016, Mr. Mitchell informed the Division's undersigned counsel that Twyman  
7 and Ventures 7000 will file a Motion to Continue Hearing. The Division's counsel informed them that  
8 the Division plans to oppose the Motion to Continue Hearing.

9 The Division's counsel and Mr. Mitchell discussed and agreed in principle that the LWE  
10 exchange date should be extended for all parties from this Friday, August 5, 2016, until after the  
11 anticipated Motion to Continue Hearing has been decided. The Division's counsel stated that on August  
12 4, 2016, he would prepare a draft Joint Motion to Extend the LWE Exchange Date and send it to Mr.  
13 Mitchell for his review.

14 On August 4, 2016, at 11:40 a.m., the Division's counsel emailed a draft Joint Motion to Extend  
15 the LWE Exchange Date to Mr. Mitchell, Ms. Jury and Ms. Deutsch. The Division's counsel requested,  
16 "If you have any comments or revisions, please let me know. If you approve, please send me a PDF  
17 of your signature page, and I will sign and file the Joint Motion." A true and correct copy of the  
18 11:40 a.m. email without the attachment is contained in attached Exhibit 1. Neither Mr. Mitchell,  
19 nor Ms. Jury nor Ms. Deutsch responded.

20 At 3:09 p.m. on August 4, 2016, the Division's counsel sent another email to Mr. Mitchell, Ms.  
21 Jury and Ms. Deutsch, a true and correct copy of which is contained in Exhibit 1. The email stated:  
22 "Have you had a chance to review the Joint Motion? We should file this today because we are under  
23 an Order to exchange LWEs tomorrow. Please respond."

24 As of this filing of the Motion, the Division has not received any response from Mr. Mitchell,  
25 Ms. Jury or Ms. Deutsch.

26 Also on August 4, 2016, Respondents Jeffrey McHatton, Starla McHatton and The Fortitude  
Foundation requested a 15-day extension of the LWE exchange date.

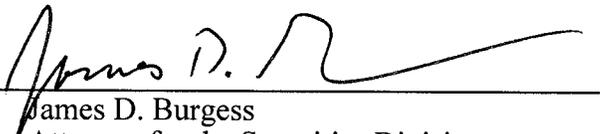
1 Based on the on the foregoing, the Division believes that several, and perhaps all, the  
2 Respondents will not provide their Lists of Witnesses and Exhibits today. Accordingly, the Division  
3 respectfully requests that the LWE exchange date be extended for all parties from today, August 5, 2016,  
4 until after the anticipated Motion to Continue Hearing has been decided. Such an extension will enable  
5 the parties to have an exchange of LWEs, as opposed to the Division unilaterally providing its Lists of  
6 Witnesses and Exhibits today but receiving no witness identifications or exhibits from the Respondents.

7 **Conclusion**

8 For the foregoing reasons, the Division respectfully requests that the date for the parties to  
9 exchange LWEs be extended until a date after the anticipated Motion to Continue Hearing has been  
10 decided.

11 RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of August, 2016.

12 ARIZONA CORPORATION COMMISSION

13  
14 By   
15 James D. Burgess  
16 Attorney for the Securities Division  
17 Arizona Corporation Commission  
18  
19  
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21  
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26

1 On this 5<sup>th</sup> day of August, 2016, the foregoing document was filed with Docket Control as a  
2 Securities Division Request for an Extension of Time, and copies of the foregoing were mailed on  
3 behalf of the Securities Division to the following who have not consented to email service. On this  
4 date or as soon as possible thereafter, the Commission's eDocket program will automatically email  
5 a link to the foregoing to the following who have consented to email service. On this date, an e-mail  
6 was also sent by the undersigned to any of the following who have consented to email service.

7 COPY of the foregoing hand-delivered  
8 this 5<sup>th</sup> day of August, 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

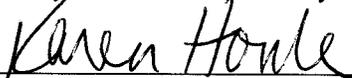
14 COPIES of the foregoing sent via U.S. Mail  
15 this 5<sup>th</sup> day of August, 2016, to:

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

Robert D. Mitchell  
Megan R. Jury  
Sarah K. Deutsch  
TIFFANY & BOSCO, P.A.  
2525 E. Camelback Road, 7<sup>th</sup> Floor  
Phoenix, AZ 85016-4229  
Attorneys for Vernon R. Twyman, Jr. and Ventures 7000, LLC



# Exhibit 1

## James Burgess

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**From:** James Burgess  
**Sent:** Thursday, August 04, 2016 3:09 PM  
**To:** Robert D. Mitchell  
**Cc:** Sarah K. Deutsch; Megan R. Jury (mrj@tblaw.com); Karen Houle  
**Subject:** RE: Vernon Twyman adv. Securities Division

Robert, Sarah and Megan,

Have you had a chance to review the Joint Motion? We should file this today because we are under an Order to exchange LWEs tomorrow. Please respond.

James ("Jamie") Burgess  
Senior Enforcement Attorney  
Securities Division, Arizona Corporation Commission  
1300 West Washington, Third Floor  
Phoenix, Arizona 85007  
(602) 542-0171  
[jburgess@azcc.gov](mailto:jburgess@azcc.gov)

**From:** James Burgess  
**Sent:** Thursday, August 04, 2016 11:40 AM  
**To:** Robert D. Mitchell <rdm@tblaw.com>  
**Cc:** Sarah K. Deutsch <skd@tblaw.com>; Megan R. Jury (mrj@tblaw.com) <mrj@tblaw.com>; Karen Houle <KH@azcc.gov>; James Burgess <JBurgess@azcc.gov>  
**Subject:** RE: Vernon Twyman adv. Securities Division

Robert, Megan and Sarah,

Please find attached for your review the draft Joint Motion to Extend the LWE Exchange Date. If you have any comments or revisions, please let me know. If you approve, please send me a PDF of your signature page, and I will sign and file the Joint Motion. Thank you.

James ("Jamie") Burgess  
Senior Enforcement Attorney  
Securities Division, Arizona Corporation Commission

1300 West Washington, Third Floor  
Phoenix, Arizona 85007  
(602) 542-0171  
[jburgess@azcc.gov](mailto:jburgess@azcc.gov)

---

**From:** Robert D. Mitchell [<mailto:rdm@tblaw.com>]  
**Sent:** Thursday, August 04, 2016 11:10 AM  
**To:** James Burgess <[JBurgess@azcc.gov](mailto:JBurgess@azcc.gov)>  
**Cc:** Sarah K. Deutsch <[skd@tblaw.com](mailto:skd@tblaw.com)>; Karen Houle <[KH@azcc.gov](mailto:KH@azcc.gov)>  
**Subject:** RE: Vernon Twyman adv. Securities Division

Jamie,

I will file it no later than next Wednesday. Sarah and I are both out of the office tomorrow and won't be able to get it done until the beginning of the week.

Regards,  
Robert



Robert D. Mitchell | Shareholder | Tiffany & Bosco, P.A. | 602.452.2730  
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P 602.255.6000 | F 602.255.0103  
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**From:** James Burgess [<mailto:JBurgess@azcc.gov>]  
**Sent:** Thursday, August 04, 2016 11:06 AM  
**To:** Robert D. Mitchell <[rdm@tblaw.com](mailto:rdm@tblaw.com)>  
**Cc:** Sarah K. Deutsch <[skd@tblaw.com](mailto:skd@tblaw.com)>; James Burgess <[JBurgess@azcc.gov](mailto:JBurgess@azcc.gov)>; Karen Houle <[KH@azcc.gov](mailto:KH@azcc.gov)>  
**Subject:** RE: Vernon Twyman adv. Securities Division

Robert and Sarah,

By what date do you plan to file your Motion to Continue Hearing? I am finishing my draft of our Joint Motion to Continue the LWE Exchange date, and I'd like to include the date by which you anticipate filing the Motion to Continue Hearing. Please advise. Thank you.

James ("Jamie") Burgess  
Senior Enforcement Attorney  
Securities Division, Arizona Corporation Commission  
1300 West Washington, Third Floor  
Phoenix, Arizona 85007  
(602) 542-0171  
[jburgess@azcc.gov](mailto:jburgess@azcc.gov)

---

**From:** Robert D. Mitchell [<mailto:rdm@tblaw.com>]  
**Sent:** Wednesday, August 03, 2016 11:29 AM  
**To:** James Burgess <[JBurgess@azcc.gov](mailto:JBurgess@azcc.gov)>  
**Cc:** Barron Firm <[kbradshaw@barronfirm.com](mailto:kbradshaw@barronfirm.com)>; Sarah K. Deutsch <[skd@tblaw.com](mailto:skd@tblaw.com)>; Toni Brown <[TBrown@azcc.gov](mailto:TBrown@azcc.gov)>  
**Subject:** RE: Vernon Twyman adv. Securities Division

Jamie,

Vern accepted personal service this morning I believe.

We will need to seek a continuance of the hearing, and I want to discuss that with you. What time is good for you to speak?

Regards,

Robert



Robert D. Mitchell | Shareholder | Tiffany & Bosco, P.A. | 602.452.2730

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**From:** James Burgess [<mailto:JBurgess@azcc.gov>]  
**Sent:** Tuesday, August 02, 2016 3:48 PM  
**To:** Robert D. Mitchell <[rdm@tblaw.com](mailto:rdm@tblaw.com)>  
**Cc:** Barron Firm <[kbradshaw@barronfirm.com](mailto:kbradshaw@barronfirm.com)>; Sarah K. Deutsch <[skd@tblaw.com](mailto:skd@tblaw.com)>; Toni Brown <[TBrown@azcc.gov](mailto:TBrown@azcc.gov)>; James Burgess <[JBurgess@azcc.gov](mailto:JBurgess@azcc.gov)>  
**Subject:** RE: Vernon Twyman adv. Securities Division

Robert,

Welcome aboard. Will you accept service of process for Vernon R. Twyman, Jr.? If so, we will arrange for process to be served at your office tomorrow. Then we can schedule a time on Thursday to follow up on my discussions last week with Kit Bradshaw.

In case you are not already aware, the parties are required to exchange lists of witnesses and copies of their proposed exhibits by this Friday, August 5, 2016. Please see the attached Procedural Order dated July 1, 2016.

I look forward to working with you in this matter.

Regards,

James ("Jamie") Burgess  
Senior Enforcement Attorney  
Securities Division, Arizona Corporation Commission  
1300 West Washington, Third Floor  
Phoenix, Arizona 85007  
(602) 542-0171  
[jburgess@azcc.gov](mailto:jburgess@azcc.gov)

---

**From:** Robert D. Mitchell [<mailto:rdm@tblaw.com>]  
**Sent:** Tuesday, August 02, 2016 2:40 PM  
**To:** James Burgess <[JBurgess@azcc.gov](mailto:JBurgess@azcc.gov)>  
**Cc:** Barron Firm <[kbradshaw@barronfirm.com](mailto:kbradshaw@barronfirm.com)>; Sarah K. Deutsch <[skd@tblaw.com](mailto:skd@tblaw.com)>  
**Subject:** Vernon Twyman adv. Securities Division

Jamie,

We filed the attached notice of appearance today on behalf of Vern Twyman and Ventures 7000, LLC. When would be a good time to reach out to you tomorrow or Thursday to follow-up on the recent discussions you had with Kit Bradshaw regarding Mr. Twyman?

Regards,  
Robert



Robert D. Mitchell | Shareholder | Tiffany & Bosco, P.A. | 602.452.2730

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