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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

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AUG 24 2016

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IN THE MATTER OF:

DOCKET NO. S-20949A-16-0002

BART J. ELLIS and COLLEEN ELLIS, husband and wife,

OAK CAPITAL PARTNERS, LLC, an Arizona Limited Liability company,

Respondents.

**FIFTH**  
**PROCEDURAL ORDER**  
**(Continues Hearing)**

BY THE COMMISSION:

On January 8, 2016, 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 Oak Capital Partners, LLC (“Oak Capital”), and Bart J. Ellis and Colleen Ellis, husband and wife (the “Ellises”) (collectively “Respondents”), in which the Division alleged violations of the Arizona Securities Act (“Securities Act”) in connection with the offer and sale of securities in the form of stocks, notes and mutual funds, and violations of the Arizona Investment Management Act (“IM Act”) in connection with transactions involving the provision of investment advisory services.

The spouse of Bart J. Ellis, Colleen Ellis (“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 February 16, 2016, Respondent Bart J. Ellis filed a Request for Hearing pursuant to Arizona Administrative Code (“A.A.C.”) R14-4-306.

On February 19, 2016, by Procedural Order, a pre-hearing conference was scheduled to commence on March 7, 2016.

On February 23, 2016, Colleen Ellis filed a Request for Hearing pursuant to A.R.S. § 44-3212

1 and A.A.C. R14-4-306.

2 On February 24, 2016, by Procedural Order, the scheduled pre-hearing conference was  
3 affirmed, with notice provided to Respondent Spouse.

4 On March 7, 2016, the pre-hearing conference was held as scheduled. The Division appeared  
5 through counsel, as did Respondent Spouse. Respondent Bart J. Ellis did not appear. The scheduling  
6 of a hearing date was discussed.

7 Also on March 7, 2016, by Procedural Order, a hearing was scheduled to commence on August  
8 30, 2016.

9 On August 12, 2016, the Division filed a Motion to Allow Telephonic Testimony, stating that  
10 Mr. Steve Stone works outside of Arizona for much of the year, and the remaining witnesses, J. Barbara  
11 Miller and Candace Salazar, reside outside of Arizona and requiring them to appear in Phoenix, Arizona  
12 would be prohibitively burdensome.

13 On August 19, 2016, Respondent Spouse Colleen Ellis filed a Motion to Continue. Ms. Ellis  
14 requests that the commencement of the hearing be delayed by one day, from August 30, 2016 to August  
15 31, 2016, due to counsel's involvement in a matter in Maricopa County Superior Court for which jury  
16 selection will take place on August 29 and 30, 2016.

17 On August 22, 2016, a Procedural Order was issued granting the Motion to Continue filed by  
18 the Respondent Spouse Colleen Ellis, and continuing the start of the hearing by one day, until August  
19 31, 2016.

20 On August 22, 2016, the Division filed a Response to the Motion to Continue, stating that the  
21 hearing should be continued to September 1, 2016, at 1:00 p.m.

22 Given that the Division's requested schedule would allow only one and-a-half days for the  
23 hearing, the hearing in this matter should be continued to September 12, 2016, at 10:00 a.m.

24 **Consent to Email Service**

25 **The Commission is appreciative of parties' requests to receive service by email.**

26 **The Commission has implemented a procedure whereby all filings made by a**  
27 **Commissioner, the Commission's Executive Director, or a Commission Division will**  
28 **automatically be served via email on parties who have consented to email service. The email will**

1 contain a link to access the filing online.

2 Parties who do not consent to email service will not be provided documents filed by a  
3 Commissioner, the Commission's Executive Director, or a Commission Division via an email. In  
4 addition, they may not be able to receive some documents, such as Amendments to Open Meeting  
5 Agenda items.

6 IT IS THEREFORE ORDERED that the hearing in this matter shall be rescheduled to  
7 commence on September 12, 2016, at 10:00 a.m., at the Commission's offices, 1200 West  
8 Washington Street, Hearing Room No. 1, Phoenix, Arizona. Additional hearing days shall be held  
9 on September 13-16, 2016, as necessary.

10 IT IS FURTHER ORDERED that if the parties reach a resolution of the issues raised in the  
11 Notice prior to the hearing, the Division shall file a Motion to Vacate the Proceeding.

12 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
13 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

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

- 22 1. Ensure that the party has a valid and active email address to which the party has regular  
23 and reliable access ("designated email address");
- 24 2. Complete a Consent to Email Service using the form available on the Commission's  
25 website ([www.azcc.gov](http://www.azcc.gov)) or a substantially similar format;
- 26 3. File the original and 13 copies of the Consent to Email Service with the Commission's  
27 Docket Control, also providing service to each party to the service list;

28

- 1           4.     Send an email, containing the party's name and the docket number for this matter, to  
2           HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow  
3           the Hearing Division to verify the validity of the designated email address;
- 4           5.     Understand and agree that service of a filing on the party shall be complete upon the  
5           first of the following to occur: (1) the sending, to the designated email address, of an  
6           email containing an electronic copy of the filing or a link to access the filing online; or  
7           (2) for a filing made by a Commissioner, the Commission's Executive Director, or a  
8           Commission Division, the making of the filing with a service certification including  
9           coding indicating that an automatic service email for the filing shall be sent to each party  
10          whose consent to email service has been approved;
- 11          6.     Understand and agree that the party may provide additional email addresses on the  
12          Consent to Email Service for individuals to whom the party desires to have service  
13          emails sent as a courtesy, but that these courtesy email addresses are not the designated  
14          email address and will not be verified; and
- 15          7.     Understand and agree that the party will no longer receive service of filings in this  
16          matter through First Class U.S. Mail or any other form of hard-copy delivery, unless  
17          and until the party withdraws this consent through a filing made in this docket.

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

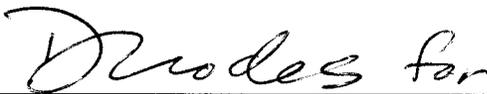
22           **IT IS FURTHER ORDERED that a party's election to receive service of all filings in this**  
23 **matter via email does not change the requirement that all filings with the Commission's Docket**  
24 **Control must be made in hard copy and must include an original and 13 copies.**

25           IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance  
26 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
27 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances at  
28 all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled

1 for discussion, unless counsel has previously been granted permission to withdraw by the  
2 Administrative Law Judge or the Commission.

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

6 DATED this 24<sup>th</sup> day of August, 2016.

7  
8   
9 MARK PRENY  
ADMINISTRATIVE LAW JUDGE

10 On this 24<sup>th</sup> day of August, 2016, the foregoing document was filed with Docket Control as a  
11 Procedural Order – To Continue Hearing, and copies of the foregoing were mailed on behalf of the  
12 Hearing Division to the following who have not consented to email service. On this date or as soon as  
13 possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing  
14 to the following who have consented to email service.

15 Bart J. Ellis  
16 2009 S. Prairie  
17 Chicago, IL 60616

18 Bart J. Ellis  
19 8800 N. Gainey Center Dr., Ste. 276  
20 Scottsdale, AZ 85258

21 Lawrence I. Kazan  
22 DEBUS, KAZAN & WESTERHAUSEN, LTD  
23 335 E. Palm Lane  
24 Phoenix, AZ 85004  
25 Attorney for Colleen Ellis

26 Matthew Neubert, Director  
27 Securities Division  
28 ARIZONA CORPORATION COMMISSION  
1300 West Washington Street  
Phoenix, AZ 85007

COASH & COASH, INC.  
Court Reporting, Video and Videoconferencing  
1802 North 7<sup>th</sup> Street  
Phoenix, AZ 85006

26  
27 By:   
28 Amy Wilson  
Assistant to Mark Preny