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BEFORE THE ARIZONA CORPORATION COMMISSION

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2016 SEP 12 P 12: 58

COMMISSIONERS

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

In the matter of:
LOANGO CORPORATION, a Utah corporation,
JUSTIN C. BILLINGSLEY and HEATHER
BILLINGSLEY, husband and wife,
JEFFREY SCOTT PETERSON, an unmarried
man,
JOHN KEITH AYERS and JENNIFER ANN
BRINKMAN-AYERS, husband and wife,
Respondents.

) DOCKET NO. S-20932A-15-0220
)
) **SECURITIES DIVISION'S MOTION TO**
) **ALLOW TELEPHONIC TESTIMONY**

Arizona Corporation Commission

DOCKETED

SEP 12 2016

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The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") requests leave to present the telephonic testimony of Patricia Rowley ("Mrs. Rowley") during the hearing in the above-referenced matter. Good cause exists for granting such leave and doing so would not infringe upon the Respondents' procedural due process rights.

Good cause exists because Mrs. Rowley is an important witness, but requiring her to appear in Phoenix, Arizona would be burdensome. "When considering telephonic testimony, the initial inquiry should be whether good cause has been shown for its use." In re HM-2008-000867, 225 Ariz. 178, 182 (2010). In the present case, the Mrs. Rowley was an investor in Respondent LoanGo Corporation and therefore possesses relevant knowledge of how the investments were offered and sold. However, Mrs. Rowley resides in Michigan. It is anticipated that Mrs. Rowley would testify on direct examination for approximately thirty minutes. The cost of bringing Mrs. Rowley to Phoenix would therefore be prohibitively expensive for the Division, particularly relative the

1 expected duration of her testimony. Permitting Mrs. Rowley to appear telephonically would greatly
2 reduce the burden of presenting her testimony on both her and the Division. Therefore, good cause
3 exists for permitting Mrs. Rowley to testify telephonically.

4 Permitting telephonic testimony would not infringe on the Respondents' procedural due
5 process rights. When finding good cause for using telephonic testimony, consideration should be
6 given to "whether admission of telephonic testimony comported with due process." In re HM-
7 2008-000867, 225 Ariz. at 182. In a civil administrative proceeding, procedural due process
8 requires balancing: (1) the individual's interests; (2) government's interests; and (3) the "likely
9 impact of telephonic testimony on the accuracy and fairness of the process." Id. In the present case,
10 the Respondents' interests would be protected because a witness appearing by telephone is subject
11 to cross examination. See id. The government's interests would be protected by conserving fiscal
12 and administrative resources. The fairness and accuracy of the proceeding would be protected
13 because telephonic testimony "preserves paralinguistic features such as pitch, intonation, and
14 pauses that may assist an ALJ in making determinations of credibility." T.W.M. Custom Framing
15 v. Indus. Comm'n of Ariz., 198 Ariz. 41, 48 (Ct. App. 2000).

16 Respondents LoanGo Corporation, Justin C. Billingsley, Heather Billingsley, and Jeffrey
17 Scott Peterson have represented that they do not oppose this motion, provided that they are allowed
18 to cross-examine Mrs. Rowley for at least as long as the duration of her direct examination
19 testimony.

20 Therefore, because there is good cause to allow Mrs. Rowley to testify telephonically and
21 because it would not infringe on the Respondents' procedural due process rights, the Division
22 respectfully requests that its motion to allow telephonic testimony be granted.

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RESPECTFULLY SUBMITTED this 12th day of September, 2016.

ARIZONA CORPORATION COMMISSION

By: Paul Kitchin

Paul Kitchin
Attorney for the Securities Division of the
Arizona Corporation Commission

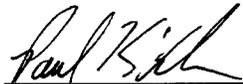
1 On this 12th day of September, 2016, the foregoing document was filed with Docket Control as a
2 Securities Division Motion, and copies of the foregoing were mailed on behalf of the Securities
3 Division to the following who have not consented to email service. On this date or as soon as
4 possible thereafter, the Commission's eDocket program will automatically email a link to the
5 foregoing to the following who have consented to email service.

6
7 Kevin Fallon McCarthy
8 MCCARTHY LAW, PLC
9 4250 North Drinkwater Blvd., Suite 320
10 Scottsdale, Arizona 85251
11 kevin.mccarthy@mccarthylawyer.com
12 Attorney for Respondents John Keith Ayers and Jennifer Ann Brinkman-Ayers

13 **Consented to Service by Email**

14 Eric Jeide
15 JEIDE LAW, PLLC
16 5115 N. Dysart Rd., Suite 202-213
17 Litchfield Park, Arizona 85340
18 jeidelaw@gmail.com
19 Attorney for Respondents LoanGo Corporation, Jeffrey Scott Peterson, Justin C. Billingsley, and
20 Heather Billingsley

21 **Consented to Service by Email**

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25
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By:  _____