

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

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IN THE MATTER OF THE:

DOCKET NO. S-20956A-16-0090

DAVID J. ESCARCEGA (CRD No. 4367584), an
unmarried man

Respondents.

FOURTH
PROCEDURAL ORDER
(Vacates Hearing)

BY THE COMMISSION:

On March 14, 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, of Revocation, of Denial, and for Other Affirmative Action (“Notice”) against David J. Escarcega, an unmarried man (“Escarcega” or “Respondent”) in which the Division alleged violations of the Arizona Securities Act (“Securities Act”) and the Arizona Investment Management Act (“IM Act”) in connection with the offer and sale of securities in the form of debentures.

The Respondent was duly served with a copy of the Notice.

On March 24, 2016, Respondent filed a Request for Hearing pursuant to A.R.S. § 44-1972 and Arizona Administrative Code (“A.A.C.”) R14-4-306.

On March 29, 2016, by Procedural Order, a pre-hearing conference was scheduled to commence on April 14, 2016.

On April 13, 2016, Respondent filed his Answer to Notice of Opportunity for Hearing Regarding Proposed Orders.

On April 14, 2016, the pre-hearing conference was held as scheduled. The Division and Respondent appeared through counsel. The scheduling of a hearing date was discussed.

On April 14, 2016, by Procedural Order, a hearing was scheduled to commence on November

1 7, 2016.

2 On August 5, 2016, the Division filed a Consent to Email Service.

3 On August 8, 2016, a Procedural Order was issued approving the Division's Consent to Email
4 Service.

5 On September 23, 2016, the parties filed a Stipulation to Extend Deadline for Exchange of
6 Witness Lists and Copies of Exhibits.

7 On September 26, 2016, Respondent filed a List of Witnesses and Exhibits.

8 On November 2, 2016, the parties filed a Joint Motion to Continue Hearing. The parties move
9 to continue the hearing scheduled to begin on November 7, 2016, because the Respondent has executed
10 a proposed Order to Cease and Desist, Order of Revocation, Order of Denial, Order for Administrative
11 Penalties and Consent to Same ("Proposed Consent Order") for consideration by the Commission at
12 the Open Meeting scheduled for November 17, 2016.

13 Good cause has been shown to continue the administrative hearing.

14 IT IS THEREFORE ORDERED that the **Joint Motion to Continue Administrative Hearing**
15 **is hereby granted.**

16 IT IS FURTHER ORDERED that **the hearing currently scheduled to commence on**
17 **November 7, 2016, is vacated.**

18 IT IS FURTHER ORDERED that **the hearing be continued indefinitely pending**
19 **Commission approval or rejection of the Proposed Consent Order.**

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

23 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
24 31, 38, 39, and 42, and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

6 DATED this 3rd day of November, 2016.

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9 _____
10 MARK PRENY
11 ADMINISTRATIVE LAW JUDGE
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1 On this 3rd day of November, 2016, the foregoing document was filed with Docket Control as a
2 Procedural Order - Vacates a Hearing, and copies of the foregoing were mailed on behalf of the Hearing
3 Division to the following who have not consented to email service. On this date or as soon as possible
4 thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the
5 following who have consented to email service.

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21 **Consented to Service by Email**

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