

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKET CONTROL

DOCKETED

2016 DEC 14 A 8:46

DEC 14 2016

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

DOCKETED BY GB

IN THE MATTER OF
TRACY N. WENGERT – CRD #3182678 and
JEANETTE WENGERT, husband and wife,
Respondents.

DOCKET NO. S-20973A-16-0199

FIFTH
PROCEDURAL ORDER
(Schedules Telephonic
Procedural Conference)

BY THE COMMISSION:

On June 22, 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, of Revocation, for Restitution, for Administrative Penalties, and for Other Affirmative Action (“Notice”) against Tracy N. Wengert and Jeanette Wengert, husband and wife (the “Wengerts” or “Respondents”) in which the Division alleged violations of the Arizona Securities Act (“Act”) in connection with the offer and sale of securities.

The spouse of Tracy N. Wengert, Jeanette Wengert (“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 a copy of the Notice.

On July 1, 2016, Respondents filed a Request for Hearing pursuant to A.A.C. R14-4-306.

On July 6, 2016, by Procedural Order, a pre-hearing conference was scheduled for July 27, 2016.

On July 22, 2016, Respondents filed a Consent to Email Service.

Also on July 22, 2016, the Wengerts filed an Answer to the Notice of Opportunity for Hearing (“Answer”).

On July 27, 2016, the pre-hearing conference was held as scheduled. The Division and

1 Respondents appeared through counsel. The scheduling of a hearing date was discussed.

2 On August 1, 2016, by Procedural Order, a hearing was scheduled to commence on January 9,
3 2017.

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

5 On August 3, 2016, by Procedural Order, the Respondents' and the Division's Consent to Email
6 Service was approved.

7 On November 15, 2016, the Respondents and the Division filed a Joint Motion to Extend
8 Deadline for Exchanging Witness Lists and Exhibits ("Joint Motion"). The Joint Motion sought an
9 extension for the exchange of witness lists and exhibits from November 23, 2016, to December 16,
10 2016. The parties requested the extension of time as they were working on a form of Consent
11 Agreement.

12 On November 17, 2016, by Procedural Order, the Joint Motion to Extend Deadline for
13 Exchanging Witness Lists and Exhibits was granted.

14 On December 12, 2016, Respondents filed a Motion to Continue the Administrative Hearing
15 stating that the terms of a consent agreement were being discussed with the Division and additional
16 time was required due in part to the Respondents' participation in pending FINRA arbitrations. The
17 Respondents request a hearing date after February 20, 2017, and state that the Division does not object
18 to a continuance.

19 Accordingly, a telephonic procedural conference should be scheduled.

20 IT IS THEREFORE ORDERED that a telephonic procedural conference shall be scheduled for
21 **December 20, 2016, at 10:00 a.m.** The parties shall be prepared to discuss the Respondents' Motion
22 to Continue the Administrative Hearing and proposed new dates for a hearing.

23 IT IS FURTHER ORDERED that on the date of and at least five minutes before the time set
24 for the status conference, the parties shall call 1 (800) 689-9374, passcode 415962#, from a landline
25 telephone, to participate telephonically in the status conference.

26 IT IS FURTHER ORDERED that **the hearing shall remain scheduled to commence on**
27 **January 9, 2017, at 10:00 a.m., at the Commission's offices, 1200 West Washington Street,**
28 **Hearing Room No. 2, Phoenix, Arizona.**

1 IT IS FURTHER ORDERED that the parties shall also set aside January 10-12, 2017, for
2 additional days of hearing, if necessary.

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

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

8 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
9 31, 38, 39, and 42, and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

10 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
11 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
12 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances at
13 all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
14 for discussion, unless counsel has previously been granted permission to withdraw by the
15 Administrative Law Judge or the Commission.

16 IT IS FURTHER ORDERED that each party or prospective party shall refer to the Procedural
17 Order Regarding Consent to Email Service issued in this matter on July 6, 2016, for additional
18 information regarding the process to consent to service by email. Information regarding Consent to
19 Email Service is also available on the Commission's website (www.azcc.gov) by clicking on "Email
20 Service Consent."

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

24 DATED this 14TH day of December, 2016.

25
26 
27 _____
28 MARK PRENEY
ADMINISTRATIVE LAW JUDGE

1 “On this 14th day of December, 2016, the foregoing document was filed with Docket Control as a
2 Procedural Order- Sets a Procedural Schedule/Conference, and copies of the foregoing were mailed on
3 behalf of the Hearing Division to the following who have not consented to email service. On this date
or as soon as possible thereafter, the Commission’s eDocket program will automatically email a link
to the foregoing to the following who have consented to email service.”

4 Shane D. Buntrock
5 BUNTROCK & GARDNER LAW, PLLC
6 2158 N. Gilbert Road, Suite 119
7 Mesa, AZ 85203
8 Attorney for Respondents Tracy N. Wengert and Jeanette Wengert
9 shane@buntrockgardner.com

10 staff@buntrockgardner.com
11 **Consented to Service by Email**

12 Matthew Neubert, Director
13 Securities Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, AZ 85007
17 mshaw@azcc.gov
18 khoule@azcc.gov
19 wcoy@azcc.gov

20 **Consented to Service by Email**

21 COASH & COASH, INC.
22 Court Reporting, Video and Videoconferencing
23 1802 North 7th Street
24 Phoenix, AZ 85006

25 By: RTallman
26 Rebecca Tallman
27 Assistant to Mark Preny
28