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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

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IN THE MATTER OF

DOCKET NO. S-20973A-16-0199

TRACY N. WENGERT – CRD #3182678 and
JEANETTE WENGERT, husband and wife,

Respondents.

SIXTH
PROCEDURAL ORDER
(Grants Continuance)

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

19 On December 14, 2016, by Procedural Order, a telephonic procedural conference was
20 scheduled for December 20, 2016.

21 On December 20, 2016, the telephonic procedural conference was held as scheduled. The
22 Division and Respondents appeared through counsel. The scheduling of a continued hearing date was
23 discussed.

24 IT IS THEREFORE ORDERED that the Motion to Continue is granted. **The hearing in this**
25 **matter shall be rescheduled to commence on March 6, 2017, at 10:00 a.m.**, at the Commission's
26 offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona. **Additional hearing**
27 **days shall be held on March 7-9, 2017, as necessary.**

28 IT IS FURTHER ORDERED that **the Division and the Respondents shall exchange copies**

1 of **Witness Lists and Exhibits by February 3, 2017**, with courtesy copies provided to the presiding
2 Administrative Law Judge.

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 or 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 21st day of December, 2016.

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MARK PRENY
ADMINISTRATIVE LAW JUDGE

1 “On this 21st day of December, 2016, the foregoing document was filed with Docket Control as a
2 Procedural Order – Reschedules a Hearing, and copies of the foregoing were mailed on behalf of the
3 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.”

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Consented to Service by Email

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Consented to Service by Email

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