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SBEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

DEC 22 2016

AZ CORP COMMISSION  
DOCKET CONTROL

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DOCKETED BY

IN THE MATTER OF  
VISIONARY BUSINESS WORKS, INC., d/b/a  
FLEETRONIX, an Arizona corporation,  
ROBERT BRIAN BRAUER and MELISSA  
BRAUER, husband and wife,  
TIMOTHY JOHN WALES and STACEY WALES,  
husband and wife.  
Respondents.

DOCKET NO. S-20976A-16-0210

**THIRD**  
**PROCEDURAL ORDER**  
**(Grants Continuance)**

BY THE COMMISSION:

On June 29, 2016, the Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing (“T.O. and Notice”) against Visionary Business Works, Inc., d/b/a Fleetronix (“Visionary”), Robert Brian Brauer and Melissa Brauer, husband and wife (the “Brauers”), and Timothy John Wales and Stacey Wales, husband and wife, (the “Wales”) (collectively “Respondents”) in which the Division alleged violations of the Arizona Securities Act (“Act”) in connection with the offer and sale of securities in the form of corporate stock.

The spouse of Robert Brian Brauer, Melissa Brauer (“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.

On July 18, 2016, Respondent Timothy John Wales, filed a Request for Hearing pursuant to A.R.S. § 44-1972 and Arizona Administrative Code (“A.A.C.”) R14-4-307.

On July 22, 2016, by Procedural Order, a pre-hearing conference was scheduled for August 10, 2016.

1 On July 29, 2016, Respondents Timothy John Wales and Stacey Wales filed an Answer.

2 On August 8, 2016, the Division filed its Consent to Email Service.

3 On August 10, 2016, the pre-hearing conference was held as scheduled. The Division and the  
4 Wales appeared through counsel. The scheduling of a hearing date was discussed.

5 On August 10, 2016, by Procedural Order, a hearing was scheduled to commence on January  
6 30, 2017.

7 On December 7, 2016, Respondents Timothy John Wales and Stacey Wales filed a Motion for  
8 Order Permitting Prehearing Depositions. The Wales request depositions of Javier Cano, Jorge De Las  
9 Casas, John Warren, Robert Brauer, Tammy Wight and J.W. Wight (the "Wights"). The Wales seek  
10 depositions of Mr. Cano, Mr. Casas and the Wights as they were shareholders in Visionary. The Wales  
11 also state they need to discover what representations were made by Mr. Brauer to the Wights.

12 Also on December 7, 2016, the Wales filed a Motion to Continue Hearing to allow time for  
13 discovery. Counsel for the Wales states that the holidays and an upcoming Maricopa County Superior  
14 Court trial, beginning January 10, 2017, will interfere with discovery. The Wales request a continuance  
15 of at least 60 days.

16 On December 12, 2016, the Division filed a Response to Motion for Order Permitting  
17 Prehearing Depositions. The Division argues that the Wales have failed to demonstrate a reasonable  
18 need for the requested depositions, as required by A.R.S. § 41-1062(A)(4).

19 Also on December 12, 2016, the Division filed a Response to Motion to Continue Hearing.  
20 The Division contends that the Wales have not established good cause for a continuance under A.A.C.  
21 R14-3-109(Q). The Division argues that the Wales have had four months to pursue discovery after the  
22 scheduling of the hearing in the Second Procedural Order on August 10, 2016.

23 On December 16, 2016, the Wales filed a Reply to Securities Division Opposition to Motion to  
24 Depose Witnesses ("Reply"). In the Reply, the Wales speak disapprovingly of the "administrative law  
25 scheme." As to the matter of the depositions, the Wales contend that Mr. Brauer embezzled nearly  
26 \$250,000 from Visionary and they do not know what financial statements he gave to the Wights. The  
27 Wales contend they would be subject to surprise at hearing if not afforded an opportunity to depose the  
28 Wights. The Wales also contend that a prehearing deposition of Mr. Brauer is critical to their defense

1 on fraud charges. The Wales voluntarily forego their request to depose Javier Cano, Jorge De Las  
2 Casas, and John Warren “based on the theory of the prosecution” and statements made by the Division  
3 in their response.

4 Also on December 16, 2016, the Wales filed a Witness and Exhibit List.

5 Accordingly, pursuant to A.R.S. § 41-1062(A)(4), A.A.C. R14-3-109(P), and Ariz. R. Civ. P.  
6 30(a), good cause is found for the Wales Respondents to conduct prehearing depositions of Robert  
7 Brauer, Tammy Wight and J.W. Wight. If necessary, the Wales may request subpoenas for the  
8 depositions of Robert Brauer, Tammy Wight and J.W. Wight through application with the  
9 Commission’s Executive Director’s Office.

10 IT IS THEREFORE ORDERED that **the hearing in this matter shall be rescheduled to**  
11 **commence on March 27, 2017, at 10:00 a.m.**, at the Commission’s offices, 1200 West Washington  
12 Street, Hearing Room No. 2, Phoenix, Arizona. **Additional hearing days shall be held on March**  
13 **28-30, 2017, as necessary.**

14 IT IS FURTHER ORDERED that, if necessary, **the Division and the Respondents shall**  
15 **exchange copies of supplemental Exhibits and updated Witness Lists by February 10, 2017**, with  
16 courtesy copies provided to the presiding Administrative Law Judge.

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

19 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
20 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

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

1 Administrative Law Judge or the Commission.

2 IT IS FURTHER ORDERED that each party or prospective party shall **refer to the Procedural**  
3 **Order Regarding Consent to Email Service** issued in this matter on **July 22, 2016**, for additional  
4 information regarding the process to consent to service by email. Information regarding Consent to  
5 Email Service is also available on the Commission's website (www.azcc.gov) by clicking on "Email  
6 Service Consent."

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

10 DATED this 22<sup>nd</sup> day of December, 2016.

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14 MARK PRENEY  
15 ADMINISTRATIVE LAW JUDGE  
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1 On this 22<sup>nd</sup> 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  
4 as 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 Norman C. Keyt  
7 7373 E. Doubletree Ranch Rd., Ste. 165  
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9 Attorney for Respondents Timothy John Wales and Stacey Wales

10 Matthew Neubert, Director  
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18 **Consented to Service by Email**

19 COASH & COASH, INC.  
20 Court Reporting, Video and Videoconferencing  
21 1802 North 7<sup>th</sup> Street  
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23 By: RTallman  
24 Rebecca Tallman  
25 Assistant to Mark Preny  
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