

Jeffrey Buckner (4546)
Assistant Attorney General
Mark L. Shurtleff (4666)
Utah Attorney General
Office of the Utah Attorney General
Commercial Enforcement Division
160 E. 300 South, Fifth Floor
P. O. Box 140872
Salt Lake City, UT 84114-0872
Telephone: (801) 366-0310
Fax: (801) 366-0315
E-mail: jbuckner@utah.gov

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**NEVWEST CORPORATION;
BRISAM CORPORATION;
BRIAN ARTHUR KITTS;**

Respondents.

**OPPOSITION TO MOTION FOR
CONTINUANCE**

**Docket No. SD 07-0049
Docket No. SD 07-0050
Docket No. SD 07-0051**

Respondents Nevwest Corporation, Brisam Corporation, and Brian Arthur Kitts (Kitts) moved to continue hearing scheduled September 22, 2011, by filing a motion the day before the hearing, on the following grounds:

1. Kitts is the sole agent for the companies.
2. Kitts has moved and resides out of the country, and is unable to appear at the scheduled

hearing and will be unable to appear in the near future.

3. The State of Utah has a criminal case pending against Kitts.
4. Kitts is attempting to resolve the criminal case and is unable to come to Utah for a hearing on this matter until he resolves the criminal case.

By saying that “Kitts has moved and resides out the country, and is unable to appear,” what Respondents’ counsel mean is that Kitts is a fugitive, but what he fails to say is whether he knows where Kitts is, whether he has had any communication with Kitts, how long he has had no communication, or whether he knows when Kitts will be returning. Respondents also fail to say what is doing to resolve the criminal case. They also fail to say that he has already entered a no contest to plea to securities fraud, theft and another felony in October 2009. *See* Request for Pre-Hearing Conference dated November 3, 2009, at 2. The Division requested a hearing after efforts to resolve the administrative matter went nowhere. *Id.* The Division had tried to explore settlement with counsel soon after the OSC was filed in 2007, but those efforts went nowhere too. *Id.* o that extent, the criminal case is over. The fact that Kitts fled the state before sentencing is irrelevant to resolving this case: he has already entered a no contest plea.

LAW AND ARGUMENT

The motion should be denied for several reasons. First, it is untimely. UTAH ADMIN. CODE R151-4-301(1) (requiring timely motion): *see also* R151-4-504(2)(b)(2)(B)(iii) (untimely objection waived). Second, none of the statements in the motion are unsupported by document, exhibit or

affidavit. *See e.g. State v. Pitts*, 728 P.2d 113, 116 (Utah 1986). Third, none of the arguments are cited by any legal authority, let alone relevant legal authority. UTAH ADMIN. CODE R151-4-902(2) (in order to have a decision reviewed, must cite relevant authority. Fourth, while Department Rule does authorize continuances¹, Respondent cites none of them and provides no analysis. Fifth, the Confrontation Clause is not applicable to civil cases. *Vitek v. Jones*, 445 U. S. 480, 494-96 (1980); *U. S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275, 1287 n. 13 (11thCir. 2001). Sixth, due process is satisfied by serving notice to counsel for parties who are represented by an attorney. UTAH ADMIN. CODE R151-4-402(b) (requiring service on an attorney, if party is represented by an attorney); *accord* UTAH R. CIV. P. 5(b)(1). Sixth, if counsel has had no contact with Kitts, the ethical thing to do is to withdraw. *See* RULES OF PROF. CONDUCT 1.16; *see also* UTAH R. CIV. P. 75 (withdrawal of

¹Department Rule authorizes continuances on four grounds:

When ruling on a motion or request for extension of time or continuance of a hearing, the presiding officer shall consider:

- (a) whether there is good cause for granting the extension or continuance;
- (b) the number of extensions or continuances the requesting party has already received;
- (c) whether the extension or continuance will work a significant hardship upon the other party;
- (d) whether the extension or continuance will be prejudicial to the health, safety or welfare of the public; and
- (e) whether the other party objects to the extension or continuance.

UTAH ADMIN. CODE R151-4-109(1).

Department Rule also authorizes continuances if a parallel “criminal proceeding or investigation exists based on facts at issue in the administrative proceeding.” UTAH ADMIN. CODE R151-4-109(2)(b)(D)(C). it also does not require a continuance. *Janousek v. French*, 287 F.2d 616, 4 Fed.R.Serv.2d 738 (8th Cir. 1961).

counsel).

Trial has been set since August 10, 2011. Respondents have known about it since then. Kitts is represented by an attorney. Kitts does not need to appear to have those interests represented. Neither do the entities. Nevwest Corporation and Brisam Corporation have both expired. (*See* Exhibit 1). If counsel has had no contact with Kitts for a long time, he cannot pretend to represent him. If Kitts fails to appear and counsel cannot represent him or his entities, default should be entered. UTAH CODE ANN. § 63G-4-209.

CONCLUSION

Respondents' motion is untimely. It is also frivolous. It is supported by neither fact nor law. It should be denied.

Respectfully submitted this September 22, 2011.

MARK L. SHURTLEFF
UTAH ATTORNEY GENERAL

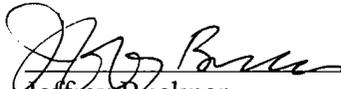

Jeffrey Buckner
Assistant Attorney General

CERTIFICATE OF SERVICE

I, Jeffrey Buckner, hereby certify that I have this day served the foregoing **Opposition to Request for Continuance** upon NevWest Corporation, Brisam Corporation, and Brian Arthur Kitts, by hand-delivering a copy to:

Russell S. Walker
Woodbury & Kesler
265 East 100 South, Suite 300
Salt Lake City, UT 84110-3358

Dated this 22 day of September 2011.



Jeffrey Buckner

BRISAM SERVICES, INC

Business Entity Information			
Status:	Revoked	File Date:	9/28/2006
Type:	Domestic Corporation	Entity Number:	E0724672006-4
Registration State:	NV	List of Officers Due:	9/30/2007
Managed By:		Expiration Date:	
NV Business ID:	NV20061317245	Business License Exp:	

Registered Agent Information			
Name:	NATIONAL FILING AGENTS, INC.	Address 1:	3415 OCATILLO MESA WAY
Address 2:		City:	NORTH LAS VEGAS
State:	NV	Zip Code:	89031
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 75,000.00
Par Share Count:	75,000,000.00	Par Share Value:	\$ 0.001

Officers				<input type="checkbox"/> Include Inactive Officers
President - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Secretary - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Treasurer - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Director - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		

Actions & Amendments			

Action Type:	Articles of Incorporation		
Document Number:	20060623365-43	# of Pages:	1
File Date:	9/28/2006	Effective Date:	
Initial Stock Value: Par Value Shares: 75,000,000 Value: \$ 0.001 No Par Value Shares: 0 -----			
----- Total Authorized Capital: \$ 75,000.00			
Action Type:	Initial List		
Document Number:	20060623367-65	# of Pages:	1
File Date:	9/28/2006	Effective Date:	
2006-2007			

NEVWEST CORP.

Business Entity Information			
Status:	Revoked	File Date:	5/24/2002
Type:	Domestic Corporation	Entity Number:	C13350-2002
Qualifying State:	NV	List of Officers Due:	5/31/2008
Managed By:		Expiration Date:	
NV Business ID:	NV20021326673	Business License Exp:	

Registered Agent Information			
Name:	NATIONAL FILING AGENTS, INC.	Address 1:	3415 OCATILLO MESA WAY
Address 2:		City:	NORTH LAS VEGAS
State:	NV	Zip Code:	89031
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 75,000.00
Par Share Count:	75,000,000.00	Par Share Value:	\$ 0.001

Officers				<input type="checkbox"/> Include Inactive Officers
President - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Secretary - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Treasurer - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Director - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		

Actions/Amendments			

Action Type:	Articles of Incorporation		
Document Number:	C13350-2002-001	# of Pages:	8
File Date:	5/24/2002	Effective Date:	
(No notes for this action)			
Action Type:	Initial List		
Document Number:	C13350-2002-004	# of Pages:	1
File Date:	6/14/2002	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C13350-2002-002	# of Pages:	1
File Date:	8/28/2003	Effective Date:	
List of Officers for 2003 to 2004			
Action Type:	Amendment		
Document Number:	C13350-2002-003	# of Pages:	1
File Date:	5/17/2004	Effective Date:	
CAPITAL STOCK WAS 20,000,000 AT .01 PER SHARE CHM			
(1)PG CHM			
Action Type:	Annual List		
Document Number:	20050180138-78	# of Pages:	1
File Date:	5/12/2005	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20050180140-11	# of Pages:	1
File Date:	5/12/2005	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20060621358-13	# of Pages:	1
File Date:	9/27/2006	Effective Date:	
2006-2007 List of Officers			
Action Type:	Registered Agent Change		
Document Number:	20070290882-58	# of Pages:	1
File Date:	4/26/2007	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20070359822-98	# of Pages:	1
File Date:	5/24/2007	Effective Date:	
(No notes for this action)			

BRISAM CORPORATION

Business Entity Information			
Status:	Dissolved	File Date:	9/27/2006
Type:	Domestic Corporation	Entity Number:	E0721802006-8
Qualifying State:	NV	List of Officers Due:	9/30/2007
Managed By:		Expiration Date:	
dV Business ID:	NV20061314729	Business License Exp:	

Registered Agent Information			
Name:	NATIONAL FILING AGENTS, INC.	Address 1:	3415 OCATILLO MESA WAY
Address 2:		City:	NORTH LAS VEGAS
State:	NV	Zip Code:	89031
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 75,000.00
Par Share Count:	75,000,000.00	Par Share Value:	\$ 0.001

Officers				<input type="checkbox"/> Include Inactive Officers
President - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Secretary - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Treasurer - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Director - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		

Actions/Amendments			

Action Type:	Articles of Incorporation		
Document Number:	20060621378-55	# of Pages:	1
File Date:	9/27/2006	Effective Date:	
Initial Stock Value: Par Value Shares: 75,000,000 Value: \$ 0.001 No Par Value Shares: 0 -----			
----- Total Authorized Capital: \$ 75,000.00			
Action Type:	Initial List		
Document Number:	20060621379-66	# of Pages:	1
File Date:	9/27/2006	Effective Date:	
2006-2007			
Action Type:	Dissolution		
Document Number:	20070489998-56	# of Pages:	1
File Date:	7/18/2007	Effective Date:	
(No notes for this action)			

BRISAM CORPORATION

Business Entity Information			
State:	Dissolved	File Date:	9/27/2006
Type:	Domestic Corporation	Entity Number:	E0721802006-8
Qualifying State:	NV	List of Officers Due:	9/30/2007
Managed By:		Expiration Date:	
NV Business ID:	NV20061314729	Business License Exp:	

Registered Agent Information			
Name:	NATIONAL FILING AGENTS, INC.	Address 1:	3415 OCATILLO MESA WAY
Address 2:		City:	NORTH LAS VEGAS
State:	NV	Zip Code:	89031
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 75,000.00
Par Share Count:	75,000,000.00	Par Share Value:	\$ 0.001

Officers				<input type="checkbox"/> Include Inactive Officers
President - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Secretary - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Treasurer - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		
Director - BRIAN KITTS				
Address 1:	POB 770	Address 2:		
City:	PARK CITY	State:	UT	
Zip Code:	84060	Country:		
Status:	Active	Email:		

Actions/Amendments			

Action Type:	Articles of Incorporation		
Document Number:	20060621378-55	# of Pages:	1
File Date:	9/27/2006	Effective Date:	
Initial Stock Value: Par Value Shares: 75,000,000 Value: \$ 0.001 No Par Value Shares: 0 -----			
----- Total Authorized Capital: \$ 75,000.00			
Action Type:	Initial List		
Document Number:	20060621379-66	# of Pages:	1
File Date:	9/27/2006	Effective Date:	
2006-2007			
Action Type:	Dissolution		
Document Number:	20070489998-56	# of Pages:	1
File Date:	7/18/2007	Effective Date:	
(No notes for this action)			