

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

**IN THE MATTER OF
360 WIRELESS SOLUTIONS, INC. AND
EVAN DOUGLAS YAZZIE**

**SCHEDULING ORDER
ON MOTION TO ENTER DEFAULT
CASE NO. SD-10-0080
CASE NO. SD-10-0081**

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to a November 30, 2010 Notice of Agency Action. A response to the Order to Show Cause was due by December 30, 2010. A prehearing conference was scheduled to be conducted on January 4, 2011.

The notice was sent to Respondent Yazzies' Idaho address of P.O. 187, Ririe, ID, 83443 by certified mail. However, postal authorities returned that mailing to the Division on December 5, 2010 with a notation that it should be returned to sender and the mailing could not be forwarded. The certificate of service does not recite whether the notice was also sent by regular mail.

The notice recites that, if Respondents failed to file a response or failed to appear for any scheduled hearing, the presiding office may enter a default order against Respondents without any further notice to them. Respondents did not file a response. However, Respondent Yazzie contacted the Division and requested that the January 4,

2011 prehearing conference be rescheduled because he would be out of state until early February 2011. The Court thus conducted a prehearing teleconference with the Division and Mr. Yazzie. Based on an agreement of the parties, the initial prehearing conference was reset to 9:00 a.m. on February 8, 2011.

The February 8, 2011 prehearing conference was to be conducted telephonically. During that teleconference, the Court ordered the Division to disclose the relevant and nonprivileged contents of its investigation file to Respondent Yazzie by March 17, 2011. Respondent was to similarly disclose any documents which he may have as relevant to the claims or defenses in this proceeding.

The next prehearing conference was scheduled to be conducted telephonically on March 23, 2011. However, the Court conducted a February 23, 2011 teleconference as prompted by the Division. The Division thus requested that the March 23, 2011 prehearing conference be conducted on an in-person basis. Given the consent of the parties, the Court ordered that the conference would be so conducted.

During that conference, the Court granted Respondent Yazzie leave to file a response within the next thirty (30) days. Based on pending charges in a related criminal case, the Division informed Respondent Yazzie that it would not oppose his filing of a motion to stay enforcement of this proceeding pending the resolution of the criminal case. When the March 23, 2011 conference had concluded, Respondent Yazzie was

arrested just after he has left the Division's offices.

The Court contacted Thomas Brady (Securities Analyst for the Division) on or about May 11, 2011 to inquire regarding the present status of this proceeding. Mr. Brady acknowledged the Division was aware of the related criminal proceeding filed as to Respondent Yazzie. The Court next contacted Mr. Brady on or about June 23, 2011 to address the ongoing status of this proceeding. Mr. Brady informed the Court that he has reviewed this case with Respondent Yazzie and thus informed him that a motion to stay this proceeding must be filed if any stay of enforcement were to be entered by the Division.

Mr. Brady also informed the Court that Respondent Yazzie is represented by legal counsel in the criminal proceeding, but Respondent Yazzie is representing himself in this adjudicative proceeding. Mr. Brady further informed the Court that the Division has not received any such motion by either Respondent, but that the Division remains willing to consider entry of a stay of enforcement of this proceeding upon Respondent Yazzie's filing of a motion seeking that action.

The Court next contacted Mr. Brady on July 7, 2011 to review the ongoing status of this proceeding. Mr. Brady informed that Court that neither of the Respondents have filed a motion to stay this proceeding. Accordingly, Mr. Brady stated the Division is reviewing the possible filing of a motion to enter Respondents' default, absent a motion

by Respondents to stay enforcement of this proceeding.

The Division filed a July 20, 2011 motion for a default order. The motion recites Respondent Yazzie “never filed a response despite several attempts to contact him since his arrest”. The July 20, 2011 motion was sent on that same date to Respondent Yazzie at the same Idaho address as previously recited herein. The certificate of mailing does not recite whether notice of the pending motion was sent to Respondents by certified or regular mail.

Given the relatively unique circumstances of this case, the Court understands why the Division’s notice of agency action as sent to Respondent Yazzie at the Idaho address. Perhaps Respondent still receives mail through the Idaho address. The Court thus further understands why notice of the pending motion was also sent to that address rather than merely filing that pending motion without notice thereof to Respondent Yazzie at his last known address. The Court similarly concludes a scheduling order should be entered to expressly establish the time when Respondents are to file any response to the pending motion.

If Respondents fail to timely file a response to the pending motion within one (1) week from the date of this Scheduling Order, the Court will summarily review and act on the Division’s motion and enter findings of fact and conclusions of law consistent with the Order to Show Cause. Such findings, conclusions and a recommended order

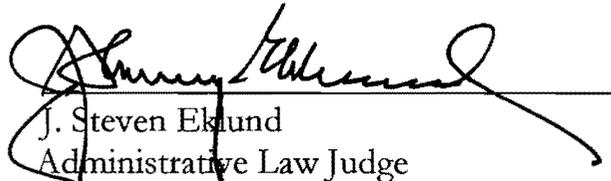
will then be submitted to the Division for its review and action.

ORDER

Respondent Yazzie shall file any response to the pending motion no later than August 4, 2011. If a response is timely filed, the Division shall file a final reply no later than August 10, 2011. The Court will enter and submit a recommended order to the Division no later than August 17, 2011.

If Respondent Yazzie does not file a timely response to the pending motion as set forth herein, the Court will prepare and submit GFindings of Fact, Conclusions of Law and a Recommended Order to the Division.

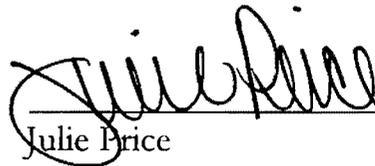
Dated this 28th day of July 2011.


J. Steven Eklund
Administrative Law Judge
Department of Commerce

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document on the parties of record in this proceeding set forth below, by delivering a copy thereof in person to, Jeff Buckner, Assistant Attorney General, Heber M. Wells Building, Second Floor, 160 East 300 South, Salt Lake City, UT; and by mailing a copy thereof, properly addressed by first class mail with postage prepaid, to 360 Wireless Solutions, Inc. and Evan Douglas Yazzie, P.O. Box 187, Ririe, ID 83443.

Dated this 28th day of July 2011.

A handwritten signature in black ink, appearing to read "Julie Price". The signature is written in a cursive style with a large initial "J".

Julie Price
Executive Secretary
Division of Securities