

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

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IN THE MATTER OF  
**ANDRES ESQUIVEL d.b.a. XTagged**

**MOTION FOR STAY  
OF PROSECUTION AND  
RECOMMENDED ORDER  
CASE NO. SD-11-0033**

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**APPEARANCES:**

D. Scott Davis for the Division of Securities

Andres Esquivel for Respondent

**BY THE ADMINISTRATIVE LAW JUDGE:**

This adjudicative proceeding was initiated pursuant to a May 10, 2011 notice of agency action. That notice recites a prehearing conference was scheduled to be conducted on July 5, 2011. However, the Division issued a June 13, 2011 notice of agency action, which recites an August 2, 2011 prehearing conference would be conducted.

Respondent had not filed a response as of August 2, 2011. Respondent stated he will be represented by legal counsel in a related criminal proceeding, but said counsel will not be representing Respondent in this case. Respondent also stated he is scheduled to make his initial appearance in the criminal proceeding on August 3, 2011 and will then return to his residence in Colorado.

Based on the common issues in the criminal proceeding and this administrative action, the Court informed Respondent that prior cases initiated by the Division under similar circumstances have prompted a request for a stay of the administrative action until the criminal proceeding has been resolved. Mr. Davis stated that Respondent and Thomas Brady (Division Securities Analyst) have discussed that matter and Mr. Brady informed Respondent that the Division would not oppose a request for a stay of enforcement of this case.

The Court then informed Respondent that a request to stay this proceeding should be submitted in writing to the Division, which would likely issue an order to stay this proceeding pending the resolution of the related criminal case. Mr. Davis inquired whether the motion could be made on a verbal basis as a convenience to Respondent. The Court confirmed the motion could be submitted in that manner. The Court then informed Respondent that a Recommended Order would be submitted to Keith Woodwell (Division Director) for his review and action.

The Court also informed Respondent that a copy of the Order which is entered would be mailed to Respondent's Colorado address and that the Order would identify the duration of any stay of prosecution and when that stay might be terminated. The Court finally informed Respondent that the Division would generally monitor the

ongoing status of the criminal proceeding, but Respondent would be required to provide written notice to the Division of the resolution of the criminal proceeding within the time set forth below.

Given Respondent's request and the Division's willingness to stay this proceeding under the circumstances presented, the Court now submits the following Recommended Order to the Division for its review and action:


**RECOMMENDED ORDER**

WHEREFORE, IT IS ORDERED a stay of enforcement shall be entered as to this administrative proceeding, effective the date this Recommended Order may be adopted by the Division.

IT IS FURTHER ORDERED the stay of enforcement shall remain in effect until the related criminal case has been resolved.

IT IS FURTHER ORDERED that the Division shall generally monitor the ongoing status of the related criminal case and Respondent shall provide written notice to the Division within ten (10) days after the criminal case has been resolved.

I hereby certify the foregoing Motion for Stay of Prosecution and Recommended Order was submitted to Keith Woodwell, Director of the Division of Securities, on the 29<sup>th</sup> day of August 2011 for his review and action.



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J. Steven Eklund  
Administrative Law Judge  
Department of Commerce

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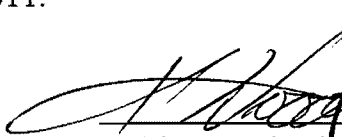
**ORDER  
CASE NO. SD-11-0033**

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**BY THE DIVISION:**

The foregoing Recommended Order is hereby adopted by the Division of Securities.

Dated this 30<sup>th</sup> day of August 2011.

  
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Keith Woodwell  
Director  
Division of Securities

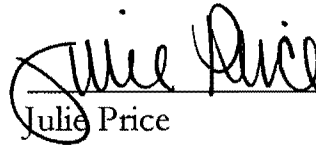


**CERTIFICATE OF SERVICE**

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 D. Scott Davis, 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

first class mail with postage prepaid, to Andres Equivel, 990 Upham Street, Lakewood,  
Co 80214.

Dated this 20th day of August 2011.

  
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Julie Price  
Executive Secretary  
Division of Securities