

1 **GARTEISER HONEA, P.C.**
2 Randall T. Garteiser (SBN 231821)
3 Christopher A. Honea (SBN 232473)
4 44 North San Pedro Road
5 San Rafael, California 94903
6 [Tel.] (415) 785-3762
7 [Fax] (415) 785-3805
8 rgarteiser@ghiplaw.com
9 chonea@ghiplaw.com

ENDORSED
FILED
San Francisco County Superior Court
JAN 14 2013
CLERK OF THE COURT
BY: CYNTHIA S. HERBERT
Deputy Clerk

6 **Attorneys for Defendant: EXYGY, LLC**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9
10 **COUNTY OF SAN FRANCISCO**

11 **GREATNONPROFITS,**
12 **Plaintiff,**
13
14 **vs.**
15 **EXYGY, LLC,**
16 **Defendant.**

Case No.: CGC-12-524114
[PROPOSED] ORDER
SUSTAINING WITHOUT LEAVE
TO AMEND DEFENDANT EXYGY
LLC'S DEMURRER TO
PLAINTIFF'S COMPLAINT
DATE: JANUARY 14, 2013
TIME: 9:30 A.M.
JUDGE: HONORABLE ~~MARLA J.~~
MILLER ERNEST H.
DEPT: 302 GOLDSMITH

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1 After due notice and briefing by the parties, Defendant Exygy LLC's
2 Demurrer to Plaintiff GreatNonprofits's Complaint came on for hearing on January
3 14, 2013 at 9:30 a.m. in the Law and Motion Department of the above-entitled court,
4 located at 400 McAlister Street, San Francisco, CA 94012, Dept. 302.

5 Having read the demurrer, the memoranda and requests for judicial notice filed
6 by the parties, and having heard argument of the parties, and good cause appearing
7 therefore, the Court ORDERS as follows.

8 Defendant Exygy LLC's Demurrer to Plaintiff GreatNonprofits's Complaint is
9 SUSTAINED WITHOUT LEAVE TO AMEND. Defendant's prior suit against Mr.
10 McManus did not address matters covered by the arbitration agreement because it
11 only proceeded against Mr. McManus in his individual capacity and never resolved
12 his agency status. (Exygy, LLC v. Andrew McManus CGC-12-520971.)
13 Additionally, Plaintiff has not shown it was prejudiced by the prior suit.

14
15 IT IS SO ORDERED.

16
17 DATED:

JAN 14 2013

ERNEST H. GOLDSMITH

Hon. ~~Marla J. Miller~~ ERNEST H.
Superior Court Judge GOLDSMITH