

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of)	
Finance, Securities Bureau,)	Docket No. 2001-7-44
)	
Complainant,)	
)	
vs.)	AGREEMENT AND ORDER
)	
RPM Machine, Inc.; Franz Riegert; and)	
Fae A. Riegert)	
)	
Respondents.)	
_____)	

The Director of the Department of Finance has instituted an investigation into the application of employee payroll deductions controlled by Respondents and intended for investment into securities accounts in the names of such employees. Pursuant to said investigation, it appears to the Director that violations of the Idaho Securities Act, Idaho Code §30-1401 et seq., have occurred. The Director and the Respondents have agreed to resolve this matter without a public hearing or court proceedings. Therefore, the Director deems it appropriate and in the public interest that this Agreement and Order be entered. Respondents consent to the entry of this Agreement and Order.

RESPONDENTS

1. RPM Machine, Inc. is an Idaho corporation that conducts business from 1910 E. Karcher Road in Nampa, Idaho. RPM was the employing organization for multiple employees that participated in a “simple” retirement plan that provided for employee payroll deductions for application to the retirement plan and various securities therein.
2. Franz Riegert was the President of RPM Machine, Inc. at all times pertinent to the actives described herein.
3. Fae Riegert was the Secretary and Treasurer of RPM Machine, Inc. at all times pertinent to the activities described herein.

BACKGROUND

4. RPM Machine, Inc. (RPM) is an Idaho corporation. RPM is a “machine shop” that offers to develop molds, tooling and prototypes for various clients. RPM is owned and controlled by Franz and Fae Riegert.

5. RPM employed multiple individuals on an hourly basis between 1999 and the present date. These employees were offered an opportunity to participate in a small employer retirement plan through RPM. The retirement plan called for a “simple” IRA for each employee that could be funded through payroll deductions. Said deductions were withheld by RPM to be later forwarded to a local securities brokerage firm for credit to each employee’s IRA securities account.

6. Beginning on a date uncertain, but at least since early 2000, the Respondents failed, on multiple occasions, to forward employee retirement plan payroll deductions to the securities brokerage as promised.

7. On November 14, 2001, Respondents acknowledged to representatives of Complainant that approximately three thousand dollars (\$3,000.00) in employee retirement withholdings have been converted to the general purposes and needs of the corporation.

FINDINGS OF VIOLATIONS

Securities Registration Violations

8. The investment program offered by Respondents are securities as defined in Idaho Code §30-1402(12).

9. Idaho Code §30-1434(k) provides that any investment contract issued in connection with an employee stock purchase, savings, pension, profit-sharing or similar benefit plan, can be an exempt security provided that a notice be filed with the Director claiming such exemption.

10. No exemption notice was filed with the Director as required under Idaho Code §30-1434(2), thus the retirement plan was not eligible for the identified exemption.

11. The securities offered by Respondents have not been registered with the Idaho Department of Finance as required by Idaho Code §30-1416.

12. Respondents have violated Idaho Code 30-1416.

Anti-Fraud Violations

13. In connection with the offer, sale and operation of the retirement plan, Respondents engaged in acts, practices or courses of business, which operated or would operate as a fraud or deceit. These acts, practices and courses of business include, but are not limited to, the following:

a. failing to advise employees that payroll deductions earmarked for the retirement plan were not forwarded to the retirement plan as previously represented.

b. utilizing employee retirement payroll deductions for the general corporate purposes of RPM and its owners.

14. Respondents have violated Idaho Code §30-1403(3).

REMEDIES

In lieu of other proceedings regarding this matter, Complainant and Respondents hereby agree as follows:

1. Respondents represent that the information provided to Complainant in its investigation of this matter is accurate and complete and in particular that no more than three employees have been affected by Respondent's course of conduct and that no more than three thousand dollars (\$3,000.00) is owed to these employees..

2. Respondents admit to the violations enumerated herein including securities registration violations and violations of the anti-fraud provisions of the Idaho Securities Act.

3. Respondents agree to forward payment for those monies owed to affected employee and ex-employees to the securities brokerage firm no later than December 31, 2001.

4. Respondents agree to abide by the Idaho Securities Act in the future. In the event that Respondents commit violations of the Idaho Securities Act within three (3) years of the date of this Order, Respondents acknowledge that Complainant can incorporate the allegations giving rise to this Order in any future proceeding.

5. Respondents each agree to pay to Complainant a fine in the amount of five thousand dollars (\$5,000.00). Said fine will be waived upon evidence that the remuneration of the monies owed to the identified retirement plan participants is made prior to December 31, 2001.

DONE AND DATED at Boise, Idaho, this ____ day of December, 2001.

RPM MACHINE, INC.

Fay Rieght
TITLE owner.

FRANZ RIEGERT

Fay Rieght

FAE RIEGERT

Fae Rieght

Marilyn T. Chastain

MARILYN T. CHASTAIN
Bureau Chief, Securities Bureau
Department of Finance
State of Idaho

IT IS SO ORDERED This 13th day of December, 2001.

Gavin M. Gee

GAVIN M. GEE
Director of Finance

