

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

STATE OF IDAHO, Department of)
Finance, Securities Bureau,)
)
Complainant,)
)
vs.)
)
Lost Rivers Hospital District d.b.a. Lost)
Rivers Medical Center; Steve Tibbitts; and)
Sandra Drussell,)
)
Respondents.)
_____)

Docket No. 2003-7-09

AGREEMENT AND ORDER

The Director of the Department of Finance (“Director”) 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. Lost Rivers Hospital District (“Lost Rivers”) has been in business since 1959 and is located at 551 Highland Drive in Arco, Idaho. Lost Rivers provides emergency services, orthopedic and podiatry surgery, and long term care to residents in Butte and Custer counties.
2. Sandra Drussell is the Chief Business Officer for Lost River.
3. Steve Tibbitts is the Chairman of Lost Rivers Board of Trustees and Warren Jensen is Vice Chair of the Board. Other Board members include Kathy Burroughs, Ann Lagomarsino, Cary VanEtten, Bob Vaden, and Debbie Pacheco.

BACKGROUND

4. Lost Rivers offers its employees an opportunity to participate in a 403(b) retirement plan. Lost Rivers does not contribute to the plan but does provide the accounting for employee payroll deductions. Said deductions are withheld by Lost Rivers to be later forwarded to securities brokerage firms for credit to each employee's retirement account.

5. Beginning on a date uncertain, but at least since April 1999, the Respondents failed, on multiple occasions, to forward employee retirement plan payroll deductions to the securities brokerage firms as required.

6. Respondents have been using employee retirement withholdings for the general purposes and needs of the medical center.

FINDINGS OF VIOLATIONS

Securities Registration Violations

7. The investment program offered by Respondents constitutes a security as defined in Idaho Code §30-1402(12).

8. 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, is an exempt security provided that a notice is filed with the Director claiming such exemption.

9. 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.

10. The securities offered by Respondents were not registered with the Idaho Department of Finance ("Department") as required by Idaho Code §30-1416.

11. Respondents have violated Idaho Code §30-1416.

Anti-Fraud Violations

12. 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 required, and

b. utilizing employee retirement payroll deductions for the general operating requirements of Lost Rivers.

13. Such acts by Respondents constitute violations of Idaho Code §30-1403(3).

REMEDIES

In lieu of further proceedings regarding this matter, the Department and Respondents hereby agree to the following terms and conditions:

14. Respondents agree to audit employee withholdings relating to the 403(b) retirement plan and forward all monies currently payable to the appropriate securities firms by March 31, 2003.

15. Respondents represent to the Department of Finance that Lost Rivers' 403(b) retirement plan was terminated on March 21, 2003.

16. Respondents agree to notify the Department of Finance in writing of any new retirement plan program offered to its employees and agree to transmit all future employee contributions to the appropriate plan as soon as they can reasonably be segregated from Lost Rivers' general assets, but not later than the 15th business day of the month immediately after the month in which the contributions were withheld

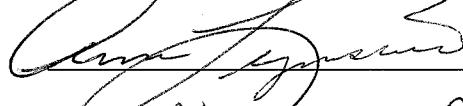
17. Respondents admit to the violations enumerated herein, including securities registration violations and violations of the anti-fraud provisions of the Idaho Securities Act.

18. Respondents agree to abide by the Idaho Securities Act at all times 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 the Department can incorporate the allegations giving rise to this Order in any future proceeding.


19. Respondents each agree to pay to the Department an administrative penalty in the amount of five thousand dollars (\$5,000.00). Said penalty will be waived upon evidence that the monies currently owed to the retirement plan participants is paid into the appropriate employee retirement accounts by no later than March 31, 2003.

DONE AND DATED at Boise, Idaho, this 11 day of ^{April} ~~March~~, 2003.

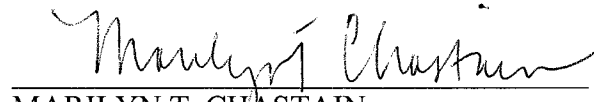
LOST RIVERS DISTRICT HOSPITAL



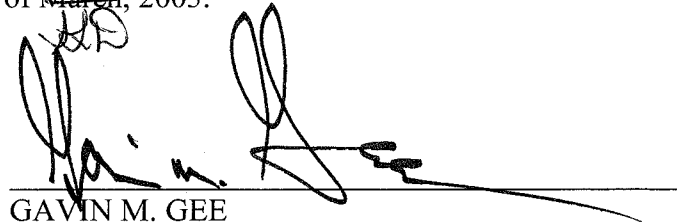
TITLE ~~Chairman Board~~ ^{AD} Acting CEO


SANDRA DRUSSELL


STEVE TIBBITTS


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

IT IS SO ORDERED This 11 day of ^{April} ~~March~~, 2003.


GAVIN M. GEE
Director of Finance

