

1 BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
2 OF THE STATE OF IDAHO

3
4 In the Matter of:)

5 STATE OF IDAHO,)
6 Department of Finance,)
7 Securities Bureau,)

8 Complainant,)

9 vs.)

10 LIV MANAGEMENT, LLC,)
11)

12 Respondent)

Docket No.: 2013-7-02

AGREEMENT AND ORDER

12 The Director of the Department of Finance (“Director”) has instituted an investigation
13 into the conduct of LIV Management, LLC (“Respondent”). Pursuant to the investigation it
14 appears to the Director that violations of the Idaho Uniform Securities Act (2004), Idaho Code
15 30-14-101 *et seq.* (the “IUSA”) have occurred. The Director and Respondent have agreed to
16 resolve this matter without a public hearing or other adjudication. Therefore, the Director deems
17 it appropriate and in the public interest that this Agreement and Order be entered. Respondent
18 consents to the entry of this Agreement and Order.

19 **I.**

20 **FINDINGS OF FACT**

21 1. Respondent is a limited liability corporation with its principal place of business
22 located at 780 E. Center St, Centerville, UT 84014.

23 2. From January 10, 2010 to May 29, 2012, Respondent offered and sold 9%
24 Revolving Inventory Credit Line Notes (“LIV Notes”) to fourteen (14) Idaho investors. In total,
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1 LIV issued \$390,000 in LIV Notes to Idaho investors. Currently, Idaho investors hold \$210,000
2 in LIV Notes.

3 3. In soliciting prospective investors, Respondent used a flyer that touted the LIV
4 Notes as short-term, fixed rate, high yield (9%), highly liquid, and 100% secured. All of the LIV
5 Note proceeds were to go directly to Respondent to “grow the company.” According to the flyer,
6 the LIV Note permitted withdrawal at any time with thirty (30) days notice. However, the
7 majority of the LIV Note contracts required investors to hold the note for sixty (60) days after
8 the date of initial purchase and then provide ninety (90) days written notice in order to redeem
9 the LIV Note.

10 4. Respondent loaned a substantial portion of the LIV Note proceeds to NU World
11 Inc. (d.b.a. LIV International), a separate sales and marketing company that distributes health
12 food products and nutritional supplements through a network of distributors whom it trains,
13 manages, and compensates.

14 5. Respondent did not provide prospective investors with disclosure related to its
15 financial condition or the various risks associated with its business.

16 6. Respondent’s flyer represented the LIV Notes as “100% secured.” In reality, the
17 terms of the LIV Notes stated that the LIV Notes, “shall be secured to 100% of the principal
18 amount of the Note, in cash or inventory at face value at all times.” The terms of the LIV Note
19 subject investors to the pricing risk associated with Respondent’s products and the cash
20 management practices of the Respondent. According to information provided by the
21 Respondent, Respondent uses the inventory’s “retail value” in determining the “face value” used
22 to collateralize the principal amount of the LIV Notes. The current and historic “retail value”
23 associated with the inventory greatly exceeded both the average cost of inventory and FIFO
24 inventory valuation methods used internally by Respondent. The LIV Notes are subject to the
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1 pricing risk associated with Respondent's products and its cash management practices and thus,
2 are not "100% secured."

3 **II.**

4 **FINDINGS OF VIOLATIONS**

5 *Sale of Unregistered Securities*

6 7. Idaho Code § 30-14-102(28) provides that a note, debenture, or evidence of
7 indebtedness is a "security" under the IUSA.

8 8. Idaho Code §30-14-301 provides that it is unlawful for a person to offer or sell a
9 security in Idaho unless: (a) The security is a federal covered security; (b) The security,
10 transaction or offer is exempted from registration under sections 30-14-201 through 30-14-203,
11 Idaho Code or (c) the security is registered under this chapter.

12 9. Respondent asserts compliance with the registration provisions of Idaho Code §
13 30-14-301 by reliance upon the transactional exemption found in Idaho Code § 30-14-202(14).

14 10. Idaho Code § 30-14-202(14) provides for the sale or an offer to sell securities of
15 an issuer, if the transaction is part of a single issue in which:

- 16 a. Not more than ten (10) purchasers are present in this state during any twelve
17 (12) consecutive months, other than those designated in subsection (13) of this
18 section;
- 19 b. A general solicitation or general advertising is not made in connection with
20 the offer to sell or sale of the securities;
- 21 c. A commission or other remuneration is not paid or given, directly or indirectly
22 to a person other than a broker-dealer registered under this chapter or an agent
23 registered under this chapter for soliciting a prospective purchaser in this
24 state; and
25

1 d. The issuer reasonable believes that all the purchasers in this state, other than
2 those designated in subsection (13) of this section, are purchasing for
3 investment.

4 11. Respondent exceeded the number of investors permitted under Idaho Code § 30-
5 14-202(14)(a).

6 12. Respondent violated Idaho Code § 30-14-301 by selling unregistered securities in
7 Idaho.

8 *Non-Disclosure of Material Facts and Misrepresentations*

9 13. Idaho Code § 30-14-501(2) provides that it is unlawful for a person, in connection
10 with the offer, sale, or purchase of a security, directly or indirectly, to make an untrue statement
11 of a material fact or to omit to state a material fact necessary in order to make the statements
12 made, in light of the circumstances under which they were made, not misleading.

13 14. In transactions with Idaho investors, Respondent did not provide prospective
14 investors with disclosure related to its financial condition or the various risks associated with its
15 business and operations.

16 15. The LIV flyer used by Respondent to solicit prospective investors misrepresented
17 the liquidity terms of the LIV Notes and the secure nature of the LIV Notes.

18 **III.**

19 **CONCLUSIONS OF LAW**

20 16. The Director has jurisdiction over this matter pursuant to the IUSA.

21 17. Respondent violated Idaho Code § 30-14-301 by selling unregistered securities in
22 Idaho.

23 18. Respondent violated Idaho Code § 30-14-501(2) when 1) it failed to provide
24 prospective investors with disclosure related to its financial condition and the various risks
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1 associated with its business and operations, and 2) it used a flyer to solicit prospective investors
2 that misrepresented the liquidity terms and the secure nature of the LIV Notes.

3 **IV.**

4 **REMEDIES**

5 THEREFORE, on the basis of the Findings of Fact and Violations, and Respondent's
6 agreement to the entry of this Agreement and Order, the Director finds that the following
7 remedies are appropriate and in the public interest:

8 19. Respondent neither admits nor denies the Findings of Fact and Violations or
9 Conclusions of Law contained in this Agreement and Order.

10 20. Respondent agrees to offer rescission in accordance with Idaho Code §30-14-510
11 to Idaho investors. The rescission offer will be made within ninety (90) days after the date of
12 this Agreement and Order.

13 21. Respondent agrees to a civil penalty in the amount of \$500. Payment shall be
14 made payable to the order of "Idaho Department of Finance" within thirty (30) days of this
15 Agreement and Order.

16 22. Respondent agrees to not now, or in the future, offer or sell securities in or from
17 Idaho without complying with the requirements of the IUSA and its rules.

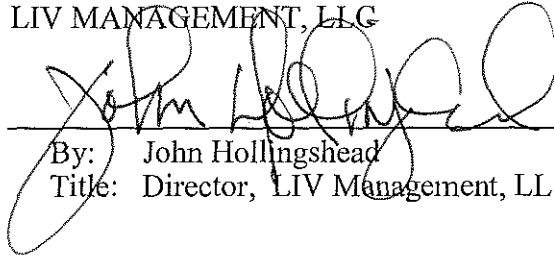
18 23. Respondent attests and avows that all information provided to the Complainant
19 directly or through their representatives is true, accurate, and complete.

20 24. Respondent agrees to waive notice and opportunity for a hearing under Idaho
21 Code § 30-14-604(b) and (c), and under the contested case provisions of the Idaho
22 Administrative Procedures Act, Idaho Code § 67-5240 *et.seq.*

23 25. If Respondent fails to timely meet all the terms and conditions set forth in this
24 agreement, this agreement shall be null and void, and the Complainant may seek all remedies
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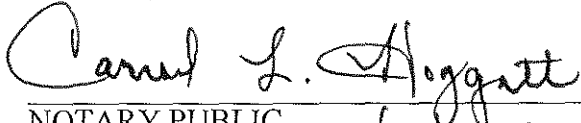
1 allowed by law that arise from the conclusions of law referenced in paragraphs 17 through 18
2 above.

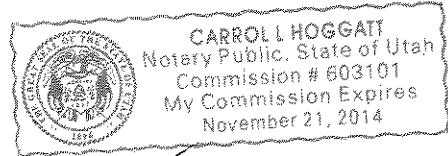
3 LIV MANAGEMENT, LLC

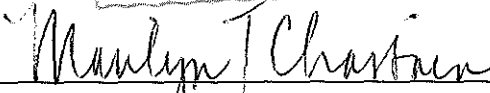
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5 By: John Hollingshead
6 Title: Director, LIV Management, LLC

7 State of Utah
8 County of DAVIS

9 SUBSCRIBED AND SWORN to before me this 15 day of March, 2013

10 
11 NOTARY PUBLIC
12 My Commissions Exp: 11/21/2014



13 
14 MARILYN T. CHASTAIN
15 Bureau Chief, Securities Bureau
16 Department of Finance
17 State of Idaho

18 IT IS SO ORDERED

19 DATED this 19th Day of March, 2013.

20 STATE OF IDAHO
21 DEPARTMENT OF FINANCE

22 
23 GAVIN M. GEE, Director
24 Idaho Department of Finance
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