

STATE OF ARKANSAS
SECURITIES DEPARTMENT

IN THE MATTER OF

EXEMPTION OF OFFERS AND SALES
OF OIL, GAS AND OTHER MINERAL
INTERESTS UNDER SELECT CONDITIONS

ORDER PROVIDING
AN EXEMPTION FROM
REGISTRATION
ORDER NO.
07-90000366-NA008

FINDINGS OF FACT

1. The Arkansas Securities Commissioner has received requests from several persons in the oil and gas industry in Arkansas requesting that limited offerings of oil, gas and other mineral interests under select conditions to qualified purchasers be determined to be an exempt transaction pursuant to Ark. Code Ann. §23-42-504(a)(12).
2. As the law stands in Arkansas, persons who are engaged solely or substantially in the oil and gas industry can participate in oil and gas ventures without complying with the registration provisions of the Arkansas Securities Act (the Act) and the Rules of the Arkansas Securities Commissioner (the Rules) only if the venture in question is located within the geographical boundaries of Arkansas. *See* Rule 504.01(A)(12)(c), Rules of the Arkansas Securities Commissioner.
3. Technological advances have resulted in an oil and gas industry that can be carried on in several states at once from an office in yet another state.
4. Those engaged solely or substantially in the oil and gas industry are persons well versed in the identification, development and production of oil and gas. In many if not most cases, such individuals are also accredited investors.

CONCLUSIONS OF LAW

5. The Act at Ark. Code Ann. § 23-42-504(a)(12) (Supp. 2005) provides that the Commissioner may by order exempt certain transactions from Ark. Code Ann. §§ 23-42-501 and 23-42-502 as not being necessary or appropriate in the public interest or for the protection of investors.
6. It is not necessary or appropriate in the public interest for the protection of investors for the Sellers of the interests described above be required to register such transaction under the Act for the purposes of the contemplated offering.
7. It is not necessary or appropriate in the public interest for the protection of investors for the Sellers of the interests described above be required to engage the services of a registered agent for the purpose of engaging in the described transactions.

OPINION

8. In the case of persons engaged solely or substantially in the oil and gas industry to observe the registration provisions of the Act and the Rules, no objective of securities regulation is furthered, and the oil and gas industry is somewhat hindered.
9. It is not necessary or appropriate in the public interest or for the protection of investors that the limited offering of oil, gas or other mineral interests under select conditions to qualified persons as described below be required to be registered under the Act.

ORDER

IT IS THEREFORE ORDERED that the offer and sale of securities in a limited offering of oil, gas or other mineral interests under select conditions to qualified persons-, if offered and sold in compliance with the conditions set forth below in this order shall be exempted from Ark. Code Ann. §§ 23-42-501 and 23-42-502 (Supp. 2005):

10. Any offer and sale of an interest in or under an oil, gas, or mining lease, or title, or payments out of production in or under such leases, or titles or contracts relating thereto by the owner or an agent for the owner when such offer or sale is made to persons or companies, each of which the owner or owner's agent reasonably believe is:

- a. engaged in the business of exploring for or producing oil, gas, or other minerals as an ongoing business or is engaged in the practice of a profession, or discipline, which is directly related to the exploration for, production of, refining of, or marketing of oil, gas, or other minerals such as the interest being sold; or
- b. a landman, drilling company, well service company, production company, refining company, geologist, geophysicist, petroleum engineer, earth scientist; or
- c. an executive officer of a company whose primary plan of business involves either subparagraphs 10(a) or 10(b), immediately above; or
- d. a sophisticated investor who the issuer and any person acting on its behalf in the offer or sale of the securities reasonably believes that:
 - i. immediately prior to making any offer or sale, the prospective investor has such knowledge and experience in financial and business matters that he is capable of evaluating both the merits and risks of the prospective oil, gas or other mineral investments;
 - ii. each purchaser is able to bear the economic risk of the investment. For purposes of determining the ability to bear the economic risk, investors shall be an accredited investor; and
 - iii. each purchaser has access to information concerning the issuer. The disclosure

information provided to qualified investors shall be reasonably adequate in light of the circumstances and conditions then existing between the parties at the date of consummation of sale.

11. This exemption shall not be available to any issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's officers, directors, general partners, beneficial owners of ten percent (10%) or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:
- a. within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by any state securities administrator or the United States Securities and Exchange Commission;
 - b. as been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;
 - c. is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or
 - d. is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

12. The offeror must reasonably believe that each purchaser is purchasing for investment and not

with a view for resale, and each investor must represent in writing that he understands he cannot resell his security without registration or other compliance with the state and federal securities laws; provided, however, sales may be made exclusively by and between those persons described in paragraphs 10(a), 10(b) and 10(c), immediately above, for purposes of assembling leases or other rights for oil and gas production or exploration.

13. No commission shall be paid or given directly or indirectly for soliciting any prospective investor unless the person receiving any such commission is registered as a broker-dealer.

14. This order does not exempt any securities from the antifraud provisions of the Act.

15. This order shall remain in effect until such time as the Department has amended Rule 501.04(a)(12)(c) or has adopted a rule exempting these transactions from the registration provisions of the Act, or this order is otherwise modified or vacated, whichever comes first.

WITNESS MY HAND AND SEAL this 19th day of September, 2007.

A handwritten signature in black ink, appearing to read "M. Johnson". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

MICHAEL B. JOHNSON
SECURITIES COMMISSIONER