

**STATE OF ARKANSAS
SECURITIES DEPARTMENT**

IN THE MATTER OF
EXEMPTION FOR OFFERS AND SALES
OF SECURITIES PURSUANT TO CERTAIN
COMPENSATORY BENEFIT PLANS

ORDER PROVIDING
AN EXEMPTION FROM
REGISTRATION

ORDER NO. 00-042-S

FINDINGS OF FACT

1. Rule 701 promulgated under the Securities Act of 1933 (the "33 Act") exempts offers and sales of securities under a written compensatory benefit plan or contract established by the issuer, its parents, its majority-owned subsidiaries, for the participation of their employees, directors, general partners, trustees, officers, or consultants and advisors.

2. Pursuant to Rule 701(b) promulgated under the 33 Act, the exemption is available to any issuer that is not subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 and is not an investment company registered or required to be registered under the Investment Company Act of 1940.

3. Ark. Code Ann. §23-42-503(a)(8) exempts any investment contract or other security issued in connection with an employees' stock purchase, savings, pension, profit sharing, stock bonus, stock option, or similar benefit plan. Plans, which do not meet the requirements for qualification under the United State Internal Revenue Code, must file with the commissioner prior to any offer or sale a notice specifying the terms of the plan. The commissioner may by order disallow the exemption within ten (10) days.

4. Neither the Arkansas Securities Act (the "Act") nor the Rules of the Arkansas Securities Commissioner (the "Rules") define employee as used in §23-42-503(a)(8) in connection with compensatory benefits plans. Many states have either exemptions for his type of offering under their respective states securities law or have issued no-action letters addressing this situation. In order to ensure compatibility with the federal requirements and consistency in the application of securities laws to the same offering at both the federal and state levels, it is appropriate to exempt this type of security from the registration provisions of the Act.

CONCLUSIONS OF LAW

Section 23-42-503(a)(9) of the Act provides that the Commissioner may by order exempt certain securities from Sections 23-42-501 and 23-42-502 of the Act as not being necessary or appropriate in the public interest or for the protection of investors.

OPINION

It is not necessary or appropriate in the public interest or for the protection of investors that the offer and sale of securities under a written compensatory benefit plan or contract that is exempt from registration under Rule 701 under the 33 Act be required to be registered under the Act.

ORDER

IT IS THEREFORE ORDERED that the offer and sale of securities under a written compensatory benefit plan or contract that is exempt from registration under Rule 701 under the Securities Act of 1933 shall be exempted from Sections 23-42-501 and 502 of the Arkansas Securities Act.

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

This order shall remain in effect until such time as the Department has amended Section 23-42-503(a)(8) or has adopted a rule exempting these securities from the registration provisions of the Act, or this order is otherwise modified or vacated, whichever comes first.

WITNESS MY HAND AND SEAL this **23** day of August 2000.

A handwritten signature in cursive script, appearing to read "Mac Dodson", written in black ink.

MAC DODSON
SECURITIES COMMISSIONER