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BEFORE THE ARKANSAS SECURITIES COMMISSIONER

Case No. S-09-068

Order No. S-09-068-10-CD01

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ARKANSAS SECURITIES DEPT.

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**IN THE MATTER OF  
P-R-E, LLC d/b/a PHOENIX RENEWABLE  
ENERGY and STEPHEN R. WALKER**

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### **CEASE AND DESIST ORDER**

On May 7, 2010, the Staff of the Arkansas Securities Department (“Staff”) filed its Request for Cease and Desist Order (“Request”) stating that it had information and evidence that indicated that P-R-E, LLC, d/b/a Phoenix Renewable Energy, and Stephen R. Walker, have violated provisions of the Arkansas Securities Act (“Act”), Ark. Code Ann. §§ 23-42-101 – 509. The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request, and based upon the representations made therein, finds that:

### **FINDINGS OF FACT**

1. The Staff’s Request contains the following representations of fact:
  - a. P-R-E, LLC, d/b/a Phoenix Renewable Energy (“PRE”) is an Arkansas limited liability company with its principal place of business located at 1801 Central Avenue, Suite H, Hot Springs, Arkansas.
  - b. Stephen R. Walker (“Walker”) is a resident of Hot Springs, Arkansas. Walker purports to serve PRE as a board member, director of development, and chief operating officer.
  - c. On its website at [www.phoenixrenewableenergy.com](http://www.phoenixrenewableenergy.com), PRE claims to have been established in response to the demand for alternative energy sources. PRE states that it has the ability to produce wood pellets and power at competitive prices over long

terms to its customers. It also states that it is developing several biomass fired power generation facilities.

d. The Staff began an investigation into the actions of PRE, Walker, and Sam Anderson (“Anderson”), after obtaining a copy of a promissory note and other information. Anderson is a resident of Hot Springs, Arkansas, and purports to serve PRE as a board member and chief executive officer.

e. The initial promissory note obtained by the Staff was entered into by an Arkansas resident (“AR1”) and PRE on July 21, 2009. Walker signed the promissory note on behalf of PRE. The terms on the note list the investment as \$50,000, with PRE promising to pay interest at the rate of 6% per annum. The principal balance and interest of the note were due and payable on November 1, 2009. Correspondence to AR1 from Walker on July 21, 2009, thanking AR1 for his investment in PRE, further explained the details of the transaction by stating, “I am conveying to you...1/2 of 1% ownership in PRE for the sum of \$50,000. The Shares are convertible to 50,000 shares once we start trading on the Frankfurt stock exchange.”

f. AR1 made his investment in PRE, after being solicited to do so by Walker. When he gave his money to Walker in exchange for the promissory note and ownership interest in PRE, AR1 relied on the representations made by Walker. These representations included plans for PRE to open and operate a \$180 million wood pellet plant in Camden, Arkansas, and four additional such plants elsewhere in Arkansas. AR1 also relied on Walker’s representation that his investment would soon convert to shares of common stock that would be listed on the Frankfurt (Germany) Stock Exchange.

g. At the time AR1 invested with PRE, Walker assured AR1 that PRE was at the “ground floor of a major opportunity for the expansion of renewable energy in the United States.” Walker thanked AR1 for the “investment” and stated that he looked forward to a long and “prosperous” relationship with AR1. AR1 received an Operating Agreement of PRE from Walker that included a list of PRE members with AR1’s name added to the bottom of the list.

h. Despite the terms written on the promissory note and representations made in Walker’s July 21, 2009, letter, AR1 actually invested \$30,000 for 30,000 shares of PRE, which was represented to be a 0.3% ownership of the company.

i. AR1 has not been repaid any of the money he invested with Walker and PRE.

j. Another Arkansas resident (“AR2”) entered into a promissory note with PRE on April 14, 2009. AR2 invested \$25,000 and was promised an interest rate of 6% per annum, with principal and interest due and payable on August 1, 2009. The promissory note states, “the Holder will have the right to convert the Principal Sum and accrued interest under this Note into Shares of the Borrower’s Common Stock”. The promissory note provides that the Lender may elect, beginning July 1, 2009, to convert all or part of any unpaid principal and interest into shares of common stock of PRE at an amount of two dollars per share. The note was signed by Walker as Director of Development of PRE.

k. AR2 made his investment in PRE, after being solicited to do so by Walker. When he gave his money to Walker in exchange for the promissory note and ownership interest in PRE, AR2 relied on the representations made by Walker. These

representations included plans for PRE to open and operate a wood pellet plant in Camden, Arkansas. AR2 also relied on Walker's representation that three additional plants would soon be built in Arkansas and that the value of his investment would increase dramatically, when it converted to shares of common stock traded on a stock exchange.

1. A letter from Walker to AR2 dated April 14, 2009, thanked AR2 for "investing" in PRE and stated "...we are at the ground floor of what many feel is a major opportunity in biomass development that will be occurring over the next 20 years in the United States". Walker also stated that he looked forward to a "profitable business relationship" with AR2.

m. AR2 has not been repaid any of the money he invested with Walker and PRE.

n. A third Arkansas resident ("AR3") entered into a promissory note with PRE on August 6, 2009. AR3 invested \$50,000 and was promised an interest rate of 6% per annum and 50,000 shares of PRE, which represented a 0.5% ownership of the company. The promissory note stated that the principal balance was due and payable on October 1, 2009. AR3 received a list of PRE members from Walker that included AR3's name added to the bottom of the list.

o. AR3 made his investment in PRE after being solicited to do so by Walker. When he gave his money to Walker in exchange for the promissory note and ownership interest in PRE, AR3 relied on the representations made by Walker. These representations included plans for PRE to open and operate a wood pellet plant in Camden, Arkansas. AR3 also relied on Walker's representation that PRE would go

public in the European market in October 2009, with Walker estimating an initial share value to be \$8.00 per share.

p. AR3 has not been repaid any of the money he invested with Walker and PRE.

q. A fourth Arkansas resident (“AR4”) entered into a promissory note with PRE on September 2, 2009. AR4, together with three other investors, collectively invested \$25,000 and was promised an interest rate of 6% per annum and 0.25% ownership of PRE. The promissory note stated that the principal balance was due and payable on December 15, 2009.

r. AR4 made his investment in PRE after being solicited to do so by Walker. When he gave his money to Walker in exchange for the promissory note and ownership interest in PRE, AR4 relied on the representations made by Walker. These representations included plans for PRE to open and operate a wood pellet plant in Camden, Arkansas. AR4 also relied on Walker’s representation that PRE had eight such plants under development and joint venture agreements to deliver wood chips to India and Europe.

s. AR4 and his co-investors have not been repaid any of the money they invested with Walker and PRE.

t. A fifth Arkansas resident (“AR5”) entered into a promissory note with PRE on September 2, 2009. AR5 invested \$75,000 and was promised an interest rate of 6%. In correspondence from Walker to AR5 dated September 2, 2009, Walker confirmed a conveyance of 0.75% ownership of PRE to AR5 pursuant to receipt of AR5’s \$75,000 investment. Walker further advised AR5 that PRE would be listed as a public company

on the Frankfurt Stock Exchange in the fourth quarter of the year at which time AR5 would receive 75,000 shares of stock in the company.

u. AR5 made his investment in PRE after being solicited to do so by Walker. When he gave his money to Walker in exchange for the promissory note and ownership interest in PRE, AR5 relied on the representations made by Walker. These representations included plans for PRE to open and operate a wood pellet plant in Camden, Arkansas. AR5 also relied on Walker's representation that PRE would go public in the European market, most likely in Germany.

v. AR5 later invested additional money in PRE and loaned additional money to PRE and Walker. AR5 has not been repaid any of the money he invested with or loaned to Walker and PRE.

w. The Staff has additional information, including a list of PRE members, indicating there are more than fifty persons that invested approximately \$1.4 million in PRE in 2009 and 2010.

x. The Staff has information indicating approximately \$1.4 million in expenditures by PRE and Anderson. These expenditures include over \$250,000 in payments made directly to Walker and over \$80,000 in payments made directly to Anderson, his companies, and his family.

y. The Arkansas residents with investments in PRE described in paragraphs 1.e through 1.p above were not informed by Walker that Walker had filed for Chapter 7 personal bankruptcy prior to entering into the transactions with the Arkansas investors, that the bankruptcy proceeding was unresolved at the time of the transactions, and is ongoing as of the date of this Cease and Desist Order.

z. In October 2009, at a members meeting held by PRE in Hot Springs, Anderson and Walker announced that PRE would not go public, since they now had acquired the funds they needed to go forward with development of the Camden plant. They also announced that board members had decided to postpone repayments of outstanding promissory notes until December 15, 2009.

aa. The Staff has information indicating that PRE and Walker have made recent sales of promissory notes and that their efforts to solicit potential investors to purchase securities and sales of securities are ongoing.

bb. The promissory notes offered by PRE and Walker were not registered as securities pursuant to the Act. In connection with these notes, the Arkansas Securities Department (“Department”) has no record of a filing evidencing either an exemption from registration pursuant to the Act or a notice filing for a federal covered security.

cc. There was never a listing for PRE on the Frankfurt Stock Exchange. As stated above, investors were told in October 2009 that the company had decided not to “go public”.

dd. Walker has never been registered under the Act as an agent of the issuer.

### **CONCLUSIONS OF LAW**

2. As defined under the Act, “securities” include promissory notes, evidences of indebtedness, and investment contracts. Ark. Code Ann. § 23-42-102(15)(A)(i), (vi) and (xi). The investments offered by Respondents to investors combined aspects of these three types of securities, but remain securities as defined under the Act.

3. It is unlawful for any person to offer or sell any security that is not registered under the Act or exempt from registration under the Act. Ark. Code Ann. § 23-42-501. The

securities offered and sold by Respondents were not registered under the Act or exempt from registration under the Act. Accordingly, Respondents have violated Ark. Code Ann. § 23-42-501.

4. An agent of an issuer is any individual who represents an issuer in effecting or attempting to effect purchases or sales of securities. An agent of a broker-dealer is any individual who represents a broker dealer in effecting or attempting to effect purchases or sales of securities. Ark. Code Ann. § 23-42-102(1)(A). It is unlawful for any person to transact business in Arkansas as an agent of an issuer, a broker-dealer, or an agent of a broker-dealer without first being registered under the Act. Ark. Code Ann. § 23-42-301. Respondent Walker was neither registered as an agent of the issuer, PRE, nor as a broker-dealer or agent of a broker-dealer, when he solicited Arkansas residents to invest in PRE. Accordingly, Respondent Walker violated Ark. Code Ann. § 23-42-301 when he acted as an agent of the issuer, PRE, in Arkansas without registration. Similarly, PRE violated Ark. Code Ann. § 23-42-301 when it employed Walker, an unregistered agent to solicit Arkansas residents.

5. The seriousness of the violations described in paragraphs 2 through 4 above should not be taken lightly, as violations of Ark. Code Ann. §§ 23-42-301 and 23-42-501 can give rise to civil liability under Ark. Code Ann. § 23-42-106.

6. Whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory to the Commissioner, that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule or order under the Act, the Commissioner may summarily order the person to cease and desist from the act or practice. See Ark. Code Ann. § 23-42-209.



7. It appears that Respondents are continuing to engage in conduct that violates the Act. Based upon the fact that conduct in violation of the Act is ongoing, the seriousness of the violations, the recurrent nature of the violations, the opportunity to commit future violations, the degree of harm to investors resulting from the violations, and the remedial function to be served by this Cease and Desist Order, this Cease and Desist Order is in the public interest and appropriate.

8. The Commissioner is empowered by Ark. Code Ann. § 23-42-205(a) to make any public or private investigations within or outside of Arkansas which he deems necessary to determine whether any person has violated or is about to violate any provision of the Act or any rule or order issued or promulgated under the Act, or to aid in the enforcement of the Act. Based upon the representations made by the Staff in its Request, it is appropriate that the Staff continue its investigation into PRE, Walker, and related parties to determine if further violations of the Act and Rules of the Arkansas Securities Commissioner have occurred. This investigation should include, but not be limited to, a determination of the total amount of unregistered securities sold by PRE in Arkansas and whether persons selling such securities were registered; material misstatements or omissions in connection with the sales of securities, including expansion plans, plans under development, statements regarding “going public,” and the existence of joint venture agreements to deliver product; and the use of proceeds from the sales of securities by Respondents.

### **ORDER**

9. P-R-E, LLC, d/b/a Phoenix Renewable Energy and Stephen R. Walker shall immediately cease and desist from activities violating Ark. Code Ann. §§ 23-42-301 and 23-42-

501, and shall not sell securities until such time as the securities and the person selling the securities are either registered or exempt from registration under the Arkansas Securities Act.

10. The Staff of the Arkansas Securities Department shall continue its investigation into P-R-E, LLC, d/b/a Phoenix Renewable Energy, Stephen R. Walker, and any associated persons, to determine the breadth of the violations described herein as well as any other violations of the Arkansas Securities Act or the Rules of the Arkansas Securities Commissioner.

11. A hearing on this Cease and Desist Order shall be held if requested by the Respondent(s) in writing within thirty days of the date of the entry of this Cease and Desist Order. Ark. Code Ann. § 23-42-209(a)(2)(A). Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner  
201 East Markham, Suite 300  
Little Rock, Arkansas 72201

12. If no hearing is requested and none is ordered by the Commissioner, this Cease and Desist Order will remain in effect until it is modified or vacated by the Commissioner. Ark. Code Ann. § 23-42-209(a)(2)(B).

Dated May 11, 2010

  
A. Heath Abshure  
Arkansas Securities Commissioner