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ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Shaunna Lee-Rice
Docket Control

FROM: Cheryl T. Farson, General Counsel
Securities Division 

DATE: June 7, 2007

RE: Closing docket number RS-00000A-06-0210
A.A.C. R14-4-135

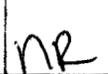
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AZ CORP COMMISSION
DOCKET CONTROL

Attached is a copy of the published Notice of Final Rulemaking for A.A.C. R14-4-135, docket number RS-00000A-06-0210. This document should be included in the docket, but does not need to be distributed. This rulemaking is now concluded and the docket may be closed.

Thank you for your assistance with this matter. If you have any questions or need additional information, please feel free to contact me at 542-0193.

Arizona Corporation Commission
DOCKETED

JUN 11 2007

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Arizona Administrative Register

Notices of Final Rulemaking

salary, retainers, commissions, fees, and compensation for the member's labor or services which would otherwise be taxable as income, such as housing, automobile expenses, travel, and gifts. "Earned income" does not include income received by the member from savings accounts, stocks, bonds, proceeds from rental properties, promissory notes, and other forms of capital investments or from pensions, disability insurance, or social security.

- ~~C.~~ A. No later than April 30 of each year, each member receiving ordinary disability payments during the period prior to the member's normal retirement date shall provide a notarized statement to the local board which identifies all earned income from employment, including self-employment, received by the member in the previous calendar year and describes the work, business, or activities in employment and self-employment from which the member was engaged for compensation received income. The statement shall also include the fair market value of all benefits received by the member during the previous calendar year as compensation for such work, business, or activity, employment or self-employment. Copies of all income tax statements, 1099 forms, and W-2 forms reflecting the member's income for the previous calendar year shall be attached to the notarized statement.
- ~~D.~~ B. Upon written request by a member, the local board may grant the member an additional 30 days to allow the member to provide the local board with the information required under subsection ~~(C)~~: (A).
- ~~E.~~ C. If a member fails to report earned income as required by this rule, the local board shall suspend any further ordinary disability payments to the member until ~~such time as~~ the member reports ~~such~~ earned income for the previous year.
- D. After the local board reviews the reported income information, the secretary shall return the copies of all income tax statements, 1099 forms, and W-2 forms to the member.

R13-8-112. Rehearing on Original Determination

- A. The local board shall conduct rehearings pursuant to A.R.S. § 38-847(H) as though the rehearings were an adjudicative proceeding under A.R.S. Title 41, Chapter 6, Article 6 (A.R.S. § 41-1061 et seq.).
- B. If the fund manager applies for a rehearing, the claimant whose benefit determination may be affected shall be a party to the proceeding.
- C. By ten calendar days prior to the rehearing, the claimant or fund manager shall submit to the local board a list of witnesses whom the claimant or fund manager intends to call to testify at the hearing and of all exhibits which the claimant or fund manager intends to use at the hearing as well as a copy of all listed exhibits.
- D. By ten calendar days prior to the rehearing, the claimant or fund manager may submit to the local board a written statement setting forth the facts of the case and a brief addressing relevant issues.
- E. If the claimant, fund manager, or local board desires subpoenas pursuant to A.R.S. § 41-1062(A)(4), ~~said~~ the subpoenas shall be submitted at least ten calendar days prior to the rehearing to the secretary for issuance by the presiding hearing officer. Service of the subpoenas is the responsibility of the party requesting issuance of the subpoenas.
- F. Applications for permission to take depositions pursuant to A.R.S. § 41-1062(A)(4) shall be submitted to the secretary for determination by the presiding hearing officer.
- G. Unless the local board decides otherwise, the chairperson of the local board shall function as the presiding hearing officer. ~~The local board may appoint a hearing officer to preside over the rehearing and to make written findings of fact and conclusions of law and a written recommendation to the local board with respect to any issues presented at the rehearing.~~
- H. The burden of proof for establishing a disability shall be with the claimant.

R13-8-115. Confidentiality of Medical Records and Data

- A. Medical records and data of members held by the local board are confidential and are exempt from public copying and inspection requirements of A.R.S. § 39-121 et seq.
- B. The local board shall discuss all medical records and specific medical data in executive session, including the taking of testimony that is specifically required to be maintained as confidential by state or federal law, unless the member signs a consent form to discuss the member's medical records and data in an open meeting.
- C. The member, member's legal counsel, and only individuals whose presence is reasonably necessary in order for the local board to carry out its executive session responsibilities may attend an executive session pursuant to A.R.S. § 38-431.03(A)(2) to discuss the member's medical records and specific medical data.

NOTICE OF FINAL RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION – SECURITIES

[R07-148]

PREAMBLE

1. Sections Affected

Rulemaking Action

Notices of Final Rulemaking

R14-4-135

Amend

2. The specific authority for the rulemaking, including both the authorizing statutes (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 44-1821 and 44-1845

Implementing statute: A.R.S. § 44-1843

Constitutional authority: Arizona Constitution, Article XV, §§ 6 and 13

3. The effective date of the rule:

June 30, 2007

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 12 A.A.R. 1425, April 28, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 2288, June 30, 2006

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Abby Henig

Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, Third Floor
Phoenix, AZ 85007-2996

Telephone: (602) 542-0187

Fax: (602) 594-7402

E-mail: ahenig@azcc.gov

6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:

R14-4-135 ("rule 135") provides an exemption from registration with the Arizona Corporation Commission ("Commission") for securities that qualify for federal registration with the United States Securities and Exchange Commission ("SEC") under the Multijurisdictional Disclosure System.

On July 1, 1991, the Multijurisdictional Disclosure System ("MJDS") became effective upon its implementation by the SEC and regulatory authorities in Canada. (SEC Release No. 33-6902; SEC Release No. 34-29354). The MJDS provides a mechanism for reciprocity in cross-border offerings of securities between the U.S. and Canada. The basis for this reciprocity is the principle of mutual acceptance of the home jurisdiction's disclosure requirements and securities registration review procedures. Under MJDS, a Canadian issuer that qualifies as a "substantial issuer" is able to use a registration statement prepared in accordance with Canadian requirements to offer its securities in the U.S. Such an offering may be part of a simultaneous offering in the U.S. and Canada, or it may be made only in the U.S. Except in special circumstances, the SEC will not conduct a review of the registration application in addition to the Canadian review for Canadian MJDS securities offerings. For offerings made simultaneously in both jurisdictions, the registration of the offering of securities will automatically become effective with the SEC when it is cleared by the Canadian securities regulator. Offerings made only in the U.S. will automatically obtain SEC effectiveness within a specified number of days after filing.

In order to accommodate MJDS offerings, the Commission adopted rule 135 in 1991, providing an exemption for MJDS offerings effective with the SEC, as long as a filing had been made with the Commission seven days before an offering in Arizona was made.

Since adoption of rule 135, the review period in Canada has been reduced. The Commission amended rule 135 so that offerings filed pursuant to the MJDS system become effective in Arizona upon the effective date with the SEC, provided that before the offer is made a prospectus or offering circular is filed with the Commission and the requisite fee is paid.

The impetus behind the original rulemaking was the encouragement of legitimate capital raising activities across national borders. Removal of the seven-day period underscores this original intent; predicating the exemption on the securities registration being effective with the SEC and offering materials being filed with the Commission ensures investor protection.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

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Notices of Final Rulemaking

Pursuant to A.R.S. § 41-1055(D)(3), the Commission is exempt from providing an economic, small business, and consumer impact statement.

10. A description of the changes between the proposed rule, including supplemental notices, and the final rule:
None

11. A summary of the comments made regarding the rule and the agency response to them:
The Commission did not receive written comments to the rule.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None

13. Any material incorporated by reference and its location in the text:
None

14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:
Not applicable

15. The full text of the rule follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION – SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Section
R14-4-135. Exempt Securities – Multijurisdictional Disclosure System

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

R14-4-135. Exempt Securities – Multijurisdictional Disclosure System

An offering of securities within this state which has been declared effective with the U.S. Securities and Exchange Commission (the “SEC”) on Form F-7, F-8, F-9, or F-10 shall be added to the class of securities exempt under A.R.S. § 44-1843, provided that before an offer is made in Arizona:

1. A prospectus or an offering circular, the standards of form or content which are prescribed by any provision of the Securities Act of 1933, or rules and regulations promulgated thereunder, and Form F-7, F-8, F-9, or F-10, whichever is applicable, shall be filed with the Commission ~~at least seven days before the offering is made;~~ and
2. A nonrefundable exemption fee as provided in A.R.S. § 44-1861(G) shall be paid to the Commission.