

M. L. SJOGREEN, Esq.
COMPLIANCE LAW, PLLC
47 Dutch Church Road
Petersburgh, New York 12138

January 17, 2004

BY FAX #303-861-2126
Colorado Division of Securities
1580 Lincoln, Suite 420
Denver, Colorado 80203

Re: Request for Interpretative Opinion pursuant to S.11-51-705 concerning deferred compensation plan.

Dear Sir or Madam:

I am writing on behalf of an insurance company licensed to do business in Colorado which wishes to establish a deferred compensation plan for its independent sales agents residing in Colorado. All payments made pursuant to the plan will be made in cash only and the "contract," if any, is not one that can be borrowed against or otherwise used for the benefit of the plan participant separately from the eventual cash payment.

Does Colorado consider such a plan a "security" for purposes of registration under Colorado's securities law?

If so, is S.11-5-1-307(1)(i) available for such a plan even though the agents are not full time employees? This plan will qualify for an exemption from federal securities registration pursuant to Rule 701 of the Securities Act of 1933. If your employee benefit plan exemption is not as broad as Rule 701, which allows non-employee consultants, etc. to participate, may I request a no-action letter from your department for these particular circumstances? The agents who benefit from the plan are all sophisticated self-employed businessmen, owning their own insurance agencies.

Please let me know the current fee for Interpretative Opinions and I will forward it immediately.

Thank you very much for your help.

Sincerely,


Martha Sjogreen

STATE OF COLORADO

Division of Securities

Department of Regulatory Agencies

1580 Lincoln, Suite 420
Denver, Colorado 80203
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Fred J. Joseph
Securities Commissioner



Bill Owens
Governor

Richard F. O'Donnell
Executive Director

February 2, 2004

Via Electronic Transmission and U.S. Mail

Martha Sjogreen
Compliance Law, PLLC
47 Dutch Church Road
Petersburgh, New York 12138

RE: Deferred Compensation Plan

Our File Nos: OP 2004-26-461 and A-004-004

Dear Ms. Sjogreen:

The Division of Securities is in receipt of your letter dated January 17, 2004, regarding the above-referenced matter. In your letter, you request, on behalf of an insurance company licensed to conduct business in Colorado, the position of the Division relative to whether a deferred compensation plan to be established by the insurance company for its independent sales agents in Colorado is subject to the provisions of the Colorado Securities Act ("Act"), and if so, whether the plan is exempt from the registration requirements of the Act.

According to your letter, we understand the insurance company that you represent wishes to establish a deferred compensation plan for its sales agents located in Colorado. All payments made pursuant to the plan will be cash only. Also, the plan will not be designed to allow participants to borrow against contributions to the plan or to otherwise utilize the plan and its benefits separately from the eventual cash payment. Finally, we understand the plan will qualify for an exemption from the registration provisions of the federal securities laws pursuant to Rule 701 promulgated by the United States Securities and Exchange Commission.

Based on the representations contained in your letter, the Staff will not recommend to the Securities Commissioner that formal enforcement proceedings be initiated against the insurance company or any of its officers, directors, or control persons for violation of the registration provisions of the Act, provided, however, that the deferred compensation plan must qualify for the federal exemption from securities registration found in Rule 701 promulgated under the Securities Act of 1933.

Martha Sjogreen
February 2, 2004
Page 2

It should be noted that by this letter, the Staff only expresses position as to the recommendation of formal enforcement proceedings under the Act and does not purport to express any formal opinion or conclusion. Also, it should further be noted that the position taken is done so based on the facts as presented, and any change in those facts or circumstances described might require a different response.

If there are any questions, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Djokic". The signature is written in a cursive style with a large, prominent initial "R".

Richard Djokic
Deputy Securities Commissioner