

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 787

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-23-82
DATE FOR REVIEW 3-4-82
DATE DUE 3-9-82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 3-4-82 Disapproved _____ Returned to Agency 3-5-82

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 3-5-82 Revisor approved 3/1/82 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 2.16.82 Date

N/A Notice of Intent to Solicit Outside Opinion

_____ Order for rulemaking
N/A ~~date of Hearing~~ does not exist - see transmittal memo

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
2 Sufficiency see my note

✓ Affidavit of Mailing Notice or rulemaking
12.23.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register see my note re Notice as mailed for minor problems
✓ At least 30/[redacted] days prior to [redacted]/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

no requests rec'd

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : MARY ALICE BROPHY
Commissioner of Securities & Real Estate

DATE: 3/4/82

ATTN: DANIEL W. HARDY, Ass't. to Commissioner

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Commerce, Securities and Real Estate Division Governing the Minnesota Securities Act (Minn. Stat. Chap. 80A)

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

LDS:drw

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

STATE OF MINNESOTA

Banking Division
(612) 296-2135

Securities and Real Estate
Division
(612) 296-2594

Insurance Division
(612) 296-2488

Administrative Services
Division
(612) 296-2283

DEPARTMENT OF COMMERCE

500 Metro Square Building
St. Paul, Minnesota 55101

RECEIVED
FEB 23 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

February 19, 1982

Jerry Anderson
530 State Office Building

Dear Mr. Anderson:

Enclosed, for your review pursuant to Minn. Stat. § 15.0412, Subd. 4(h), please find the following:

A. Four revisor copies of the rule as adopted, all of which reflect the changes made to the version originally published in the State Register.

B. The original and three copies of the Order of Adoption.

C. One copy of the Notice of Intent to Adopt Rules Without a Public Hearing.

D. The Affidavit of Mailing Notice of Intent to Adopt Rules Without Public Hearing.

E. The mailing list Certificate.

F. The relevant pages of the State Register in which the proposed rule appeared, including the Notice of Intent to Adopt Rules Without a Public Hearing.

G. The Findings of Fact and Conclusions.

H. The Statement of Need and Reasonableness.

It is requested that the Notice of Intent to Adopt Rules Without a Public Hearing, which is signed by the Commissioner of Securities and Real Estate and dated December 7, 1981, be accepted in lieu of the Order for Notice of Intent to Adopt Rules Without a Public Hearing.

The agency did not solicit outside opinion. No written comments or requests for a public hearing were received. Also, no requests for Notice of Submission to the Attorney General were received.

The agency received four requests for copies of the proposed revisions, which requests were honored.

Due to the technical and non-controversial nature of these amendments the agency has not submitted the attached documents to its special assistant attorney general for review. Consequently, there is no Certificate of Compliance with Rulemaking Procedures submitted herewith.

Very truly yours,

MARY ALICE BROPHY
Commissioner of Securities and Real Estate

By: Daniel W. Hardy

DANIEL W. HARDY
Assistant to the Commissioner
612/296-5689

MAB:DWH:cm

2/24 Hardy requested to send Cert. Compliance signed by himself.

Department of Commerce

Securities and Real Estate Division

Adopted Rules SDiv 2014 (Agent Bonding), SDiv 2030 (Cheap Stock) and SDiv 2067 (Definitions), Relating to the Minnesota Securities Act

Rules as Adopted

SDiv 2014 Bond requirements for investment advisors.

A. Amount. Any investment adviser who has custody of, or discretionary authority over, any assets of any client shall have first posted with the commissioner a surety bond in the amount of $25,000, on such form as the commissioner may prescribe.

B. Alternative compliance. Any appropriate deposit of cash or security shall be accepted in lieu of any bond required by this section. An appropriate deposit requires, in the case of deposited securities, that the securities have a market value equal to 120 percent of the amount of the bond which would otherwise be required, and represent an interest in, or debt of, any of the persons whose securities are exempt from registration under Minn. Stat. S 80A.15, subd. 1, clause (a), (b), (c), (d) or (e). At no time shall the market value of the securities on deposit be less than 105 percent of the amount of the required bond. Any deposit of cash or securities under this paragraph shall be made with an escrow agent, and under such terms and conditions as the commissioner deems appropriate, and shall remain with the depository for a period of three years after the last securities transaction conducted by the licensee or the effective date of any bond acquired by the licensee, whichever first occurs. The commissioner shall allow an irrevocable letter of credit in lieu thereof.

C. Nonapplication. SDiv 2014 A. does not apply to any investment adviser who continuously maintains net capital of not less than $100,000.

SDiv 2030 Cheap stock.

A. Quantity. The maximum quantity of cheap stock allowable, expressed as a percentage of the total number of shares to be outstanding after the proposed offering, shall be determined by calculating the "fair value of equity investment" (SDiv 2029 (b)) as a percentage of "equity investment" (SDiv 2029 (c)) in accordance with the following formulations:

1. If the percentage is ten percent or less, the maximum quantity of cheap stock allowable shall be three times the percentage.

2. If the percentage is greater than ten percent, the maximum quantity of cheap stock allowable shall be two times the percentage plus ten percent.

The maximum quantity of cheap stock allowable shall not exceed 90 percent of the total number of shares to be outstanding after the proposed offering.

Exhibit SDiv 2030 A.-1.

Maximum Amount of Cheap Stock Allowable

(as a percentage of the shares to be outstanding)

Fair Value of Equity Investment Divided by Equity Investment	Cheap Stock
5%	15%
10%	30%
15%	40%
20%	50%
30%	70%
40%	90%
50%	90%

B. Definition. Cheap stock means securities:

1. Issued in consideration of property tangible or intangible, or services, the value of which has not been reasonably established, or

2. Issued at a price substantially less than the public offering price of the securities and which cannot be justified

with reference to the existence of an active public market for such securities. Securities issued at a price substantially less than the public offering price of the securities means:

a. Securities issued for less than 66 2/3 percent of the public offering price if the securities were issued less than one year prior to registration;

b. Securities issued for less than 50 percent of the public offering price if the securities were issued more than one year but less than two years prior to registration;

c. Securities issued for less than ~~33 2/3~~ 33 1/3 percent of the public offering price if the securities were issued more than two years but less than three years prior to registration.

In the case of unexercised options, or other securities convertible into the same class of security as that proposed to be offered, the aggregate of the cash amount paid and the cash amount required to be paid pursuant to the conversion or exercise privilege shall be divided by the number of shares issuable upon conversion or exercise to determine whether the securities were "issued at a price substantially less than the public offering price."

C. Exclusions. Cheap stock does not include:

1. Securities which have been outstanding more than three years at the time of the proposed registration, provided that the issuer or its predecessors have been in active, continuous business operation for more than three years immediately prior to the proposed registration;

2. Securities of an issuer which had earnings during the fiscal year prior to registration or had earnings during two ~~or~~ of the three fiscal years prior to registration, as determined in accordance with generally accepted accounting principles, after taxes and excluding extraordinary income. For each fiscal year such earnings shall be in an amount equal to four or greater than four percent of the proposed public offering price on all outstanding shares of the same class at the date of application for registration; or

3. Securities previously issued pursuant to a registration under Minn. Stat. ch. 80A.

SDiv 2067 Definitions. For purposes of this subchapter, the following terms mean:

M. "Sponsor" - See SDiv 2058 (o).

Relettering. Reletter SDiv 2067 (a)-(l) as SDiv 2067 A.-L. and SDiv 2067 (n) and (o) as SDiv 2067 N. and O.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
Secretary of State

APPROVED AS TO LEGALITY

March 4, 1982

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jerry D. Adams

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR - 5 1982
Joan Anderson Growe
Secretary of State
2:30 PM

STATE OF MINNESOTA

Banking Division
(612) 296-2135

Securities and Real Estate
Division
(612) 296-2594

Insurance Division
(612) 296-2488

Administrative Services
Division
(612) 296-2283

DEPARTMENT OF COMMERCE
500 Metro Square Building
St. Paul, Minnesota 55101

February 22, 1982

RECEIVED
FEB 26 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Ms. Ann Bateson
Office of the Revisor
670 State Office Building

Dear Ms. Bateson:

Tye attached revisions to the rules relating to the Minnesota Securities Act have been submitted to the Attorney General's office as of today's date.

Very truly yours,

MARY ALICE BROPHY
Commissioner of Securities and Real Estate

By:

DANIEL W. HARDY
Assistant to the Commissioner
612/296-5689

MAB:DWH:cm

cc. Attorney General

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES AND REAL ESTATE DIVISION

In the Matter of the Proposed Adoption of Rules of the State Department of Commerce, Securities and Real Estate Division Governing the Minnesota Securities Act (Minn. Stat. Chap. 80A)

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 28, 1981 and was sent by the United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on December 23, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as SDiv 2014, 2030 and 2067(m) are adopted this 4th day of March 1982 pursuant to authority vested in me by Minnesota Statutes section 80A.25.

STATE OF MINNESOTA

Mary Alice Brophy

MARY ALICE BROPHY
Commissioner of Securities and Real Estate

To: Larry
Date: 2/26/82
Re: Securities + Real Estate Division, Dept. of Commerce.
— Agent Bonding, Cheap Stock.

Notice of Intent to Adopt w/o a Hearing

See Cert. of Compliance for "explanation" of non-compliance with provision of Atty Gen rule. 1.203.

The most important omission appears to be failure to comply with 1.203 G.10. Inspite of what Notice says, the rules were not attached to and sent out with the Notice as mailed nor does the Notice contain any explanatory statement on the proposed rules

Called Dan Hardy 3/4/82.
He will submit new Order
Adopting Rules and page 3 with
deletion of "four" in line 32.
LDS.

Department of Commerce

Securities and Real Estate Division

Notice of Intent to Amend Rule SDiv 2014 (Agent Bonding) and Rule SDiv 2030 (Cheap Stock), Relating to the Minnesota Securities Act, Without a Public Hearing

Notice is hereby given that, pursuant to her authority under Minn. Stat. § 80A.25 (1980), the Commissioner of Securities and Real Estate intends to amend Rule SDiv 2014 (Agent Bonding) and Rule SDiv 2030 (Cheap Stock), relating to the Minnesota Securities Act (Minn. Stat. ch. 80A). The commissioner desires that the proposed rules be amended without a public hearing in accordance with Minn. Stat. § 15.0412, subd. 4h (1980). On October 5, 1981 the commissioner caused to be published at 6 State Register 576 a notice of intent to amend Rule SDiv 2030 (Cheap Stock) together with a copy of that proposed amendment. This notice, and the proposed amendment to SDiv 2030 which follows, supercedes the earlier notice.

A free copy of the proposed rules may be obtained from the commissioner's office. Those interested in submitting comment pertaining to the proposed rules may do so within 30 days of publication of this notice in the State Register. Additionally, if during the 30-day comment period, seven or more persons make a written request for a hearing on the proposed rules, the commissioner will hold a public hearing in accordance with Minn. Stat. § 15.0412, subdivisions 4 to 4g (1980). A request for a copy of the proposed rules, all comments, any requests for a hearing and all questions regarding the proposed rules should be directed to:

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101
Telephone: (612) 296-5689

The proposed rules may be modified by the commissioner if the modifications are supported by the data and views submitted during the 30-day comment period, provided the modifications do not result in substantial change.

The commissioner has prepared a Statement of Need and Reasonableness which contains a summary of the evidence justifying both the need for, and the reasonableness of, the proposed rules. The Statement of Need and Reasonableness is available for inspection by the public, during regular business hours, at the above address.

If no hearing is required, the commissioner will submit to the Attorney General the proposed rules and notice as published in the State Register, the rules as proposed for adoption, any written comments received by the commissioner during the 30-day comment period, and the Statement of Need and Reasonableness for the rules. On the same day these materials are submitted to the Attorney General the commissioner will notify any person who has requested that the commissioner inform him or her of when these materials have been submitted to the Attorney General. Any person wishing to be so notified should contact Mr. Hardy at the address listed above.

A copy of the existing rules and proposed changes follows this notice.

Finally, Minn. Stat. ch. 10A.03 (1980) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone: (612) 296-5615.

Mary Alice Brophy

Mary Alice Brophy
Commissioner of Securities and Real Estate

December 7, 1981

X X X

In the Matter of the Proposed Amendment of Rule SDiv 2014 (agent bonding) and Rule SDiv 2030 (cheap stock) of the State Department of Commerce, Securities and Real Estate Division Governing Minnesota Statutes, Chapter 80A (Regulation of Securities)

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Daniel W. Hardy, being first duly sworn, deposes and says:

That on the 23d day of December, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing (or) in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Commerce for the purpose of receiving notice of the proposed adoption of rules by this agency.

MARILYN F. STAPLES
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires June 18, 1987

Daniel W. Hardy
DANIEL W. HARDY
Assistant to the Commissioner

Subscribed and sworn to before me this
23rd day of December, 1981.

Marilyn F. Staples
Notary Public

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the State Department of Commerce, Securities and Real Estate Division Governing the Minnesota Securities Act (Minn. Stat. Chapter 80A)

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State Department of Commerce for the purpose of receiving notice of the proposed adoption of rules by this agency is accurate and complete as of 12:00 noon, December 23, 1981.

Margaret Aune

Margaret Aune
Administrative Services
Department of Commerce

GENERAL LIST
TO RECEIVE NOTICE OF RULEMAKING HEARINGS IN COMMERCE

Bonnie Bannanno
Room 300 - 1745 Univ. Ave.
St. Paul, Mn. 55104

Kenneth Peterson
Exec. Director
Minn. Public Interest Research Group
2412 Univ. Ave. S. E.
Minneapolis, Mn. 55414

James Miller, Sr., Attorney
Minn. Public Interest Research Group
2412 Univ. Ave. S. E.
Mpls, Mn. 55414

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Bldg.
Minneapolis, Mn. 55402

Director, Developmental
Disabilities Planning Office
200 Capitol Sq. Bldg.
St. Paul, Mn. 55101

Fredrik M. Christiansen
Room 911 - Capitol Square Bldg.
St. Paul, Mn. 55101

Minnesota Board of Nursing
717 Delaware St. S. E.
Minneapolis, Mn. 55414

John T. Farmer, Exec. Director
Minn. Manufactured Housing Assn.
222 East Little Canada Rd., Suite 222
Little Canada, Mn. 55117

Kent E. Eklund, Coms'r.
Minn. Dept. of Econ. Develop.
480 Cedar St.
St. Paul, Mn.

Charles Schaffer,
Research Analyst
Minn. Dept. of Econ. Develop.
480 Cedar St.
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Richard C. Buske
Administrative Director
Minn. Dept. of Econ. Develop.
480 Cedar St.
St. Paul, Mn.

Michael J. Ahern
Moss, Flaherty, Clarkson
& Fletcher
2350 IDS Center
80. South Eighth St.
Minneapolis, Mn. 55402

Charles A. Kroeger
Exec. Director
QSS Inc.
P.O. Box 838
Faribault, Mn. 55021

Courey, Schwinn, Kodadek &
1830 Soo Line Bldg./ Reece
Minneapolis, Mn. 55402

Minneapolis Tribune
425 Portland Ave.
Minneapolis, Mn. 55488

MacArthur Co.
2400 Wycliff St.
St. Paul, Mn. 55114

Susan P. Robertson
Exec. Director
Room 430 - State Office Bldg.
St. Paul, Mn. 55155
Legis. Comm. to Review Admin Rules

State Bond & Mortgage Co.
Attn: David A. Peterson
100-106 No. Minn. St.
New Ulm, Mn. 56073

William F. Brooks, Jr.
900 Midland Bk. Bldg.
Minneapolis, Mn. 55401

Thomas G. Graham
900 Midland Bank Bldg.
Minneapolis, Mn. 55401

Claudia Smith
Corporate Law Dept.
The St. Paul Companies, Inc.
385 Washington St.
St. Paul, Mn. 55101

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room,
State Capitol Bldg.

Paul J. Huber, Ltd.
1821 University Ave.
St. Paul, MN 55104

Donald E. Montgomery
Exec. Director
Minn. Chapter, Assoc. Builders & Contractors, Inc.
6300 Walker St., Suite 109
Minneapolis, MN 55416

John S. Jackson
General Counsel
Minn. Bankers Assn.
332 Baker Bldg.
Minneapolis, MN 55402

David R. Knodell, Esq.
Olson, Gunn & Seran Ltd.
315 Peavey Bldg. 730 Second Av. So.
Minneapolis, Mn 55402

Thomas M. Polt
Attorney at law
McCarthy Bldg.
Eyota, MN 55934

Phillips Legislative Service Inc.
459 Rice St.
St. Paul, MN 55103

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
314 Minnesota Bldg.
St. Paul, Mn 55101

R. J. Barto, Plant Manager
Midland Glass Company, Inc.
P. O. Box 69
Shakopee, MN 55379

Prof. Robert Snyder
248 Classroom - Ofc. Bldg.
1994 Buford Ave.
University of Minnesota
St. Paul, MN 55108

C. Blaine Harstad,
Harstad & Rainbow
1036 Midland Bank Bldg.
Minneapolis, MN 55401

Conrad M. Fredin
Attorney at law
811 First National Bank Bldg.
Duluth, MN 55802

delete 6-2-81
Government Center Library
C-2359 Government Center
300 South 6th Street
Minneapolis, MN 55487

Broeker, Hartfeldt, Hedges & Grant
2850 Metro Drive,
Suite 800
Mpls., Mn. 55420

~~Alice K. Anderson~~
~~175 So. Western~~
~~St. Paul, MN 55102~~ remove

Ella Gross
1001 Penn No.
Minneapolis, Mn. 55411

D. Grommen
4410 E. 4th
Hibbing, Mn. 55746

Charlotte Vick, CLE
2507 Fremont N.
Minneapolis, Mn. 55411

Public Interest Advocacy Clinic
Hamline University School of Law
St. Paul, Mn. 55104

Kristin Larson
2215 W. 21st St.
Minneapolis, Mn. 55405

Larry Bakken
Hamline Law School
1536 Hewitt
St. Paul, Mn. 55102

EFFECTIVE AS OF NOON - 12/5/80

M. Anne
Adm. Service

2/10/80 City of Brooklyn Center
6301 Shingle Creek Pkwy
Brooklyn Center, Mn. 55430

2/24/80 John M. Broeker
Broeker, Hartfeldt, Hedges & Grant, Atty-at-law
2850 Metro Drive, Suite 800
Minneapolis, Mn. 55420

,81 Frundt, Frundt & Johnson, Atty at law
117 West 5th St.
Blue Earth, Minnesota 56013

8/25/81 - M. Anne
10/2/81 - M. Anne

SECURITIES DIVISION LIST TO RECEIVE NOTICE OF RULEMAKING HEARINGS IN COMMERCE

Harry E. Dinwiddie
Investors Diversified Services, Inc.
IDS Tower,
Minneapolis, Mn. 55402

Janet C. Rosen
Coles & Wise, Ltd.
One IBM Plaza - Suite 4501
Chicago, Ill. 60611

Lee T. Peterson
Nelson, Nelson, Kufus & Assoc.
Attys. at law
665 No. Snelling Ave.
St. Paul, Mn. 55104

Bernard Rosenberg
Robins, Davis & Lyons
33 So. Fifth St.
Minneapolis, Mn. 55402

John P. Flaten
Rider, Bennett, Egan & Arundel
900 First National Bk. Bldg.
Minneapolis, Mn. 55402

Richard C. Heimerl
Craig-Hallum, Inc.
133 South Seventh St.
Minneapolis, Mn. 55402

Minn. School of Real Est. Inc.
140 West 98th St.
Oxboro Plaza Bldg.
Bloomington, Mn. 55420

Avron L. Gordon
Peterson, Engberg & Peterson
700 Title Ins. Bldg.
Minneapolis, Mn. 55401

Bradley J. Gillan
Peterson, Engberg & Peterson
700 Title Ins. Bldg.
Minneapolis, Mn. 55401

Richard G. Pepin, Jr.
Peterson, Engberg & Peterson
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Minneapolis, Mn. 55401

Archibald Spencer
4040 IDS Center
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Lindley S. Branson
300 Roanoke Bldg.
Minneapolis, Mn. 55402

Lance J. Johnson, Atty at law
1500 Northwestern National Bk.Bldg.
St. Paul, Mn. 55101

Abdo & Abdo, P.A.
Attys at law
1020 Dain Tower
Minneapolis, Mn. 55402

Vincent A. Pellerito, Pres.
Land Registrations, Inc.
4603 North 16th St., Suite #2
Phoenix, Ariz. 85016

Mairs and Power, Inc.
Investment Counsel
W-2062 First Nat'l. Bk. Bldg.
St. Paul, Mn. 55101

Richard H. Smith, Director
Dept. of Land Registration
P. O. Box 569
Bentonville, Arkansas 72712

Linn J. Firestone
7900 Xerxes Ave. So. #1500
Minneapolis, Mn. 55431

Willys P. Jones
Allison-Williams Co.
1560 Northwestern Bank Bldg.
Minneapolis, Mn. 55402

Gary M. Berkson, Staff Counsel
Gallery of Homes, Inc.
1001 International Blvd.
Atlanta, Georgia 30354

Geo. H. Frisch
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St. Paul, Mn. 55116

Peter Kimble
Greater Elk River United Way
Box 36
Elk River, Mn. 55330

Philip B. Sears, Esq.
Mosburg & Wright, Inc.
2200 Classen Blvd., 4th Fl.
Oklahoma City, Oklahoma 73106

Kathy R. Van Kleeck
Legislative Analyst
Motorcycle Industry Council Inc.
1001 Connecticut Ave. N. W.
Washington, D. C. 20036

EFFECTIVE AS OF NOON - 12-5-81
M. Aune
Adm. Services

8-25-81 M. Aune

10-2-81 M. Aune

12-23-81 - M. Aune

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce
Securities and Real Estate Division

Proposed Rules SDiv 2014 (Agent Bonding) and SDiv 2030 (Cheap Stock), Relating to the Minnesota Securities Act

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that, pursuant to her authority under Minn. Stat. § 80A.25 (1980), the Commissioner of Securities and Real Estate intends to amend SDiv 2014 (Agent Bonding) and SDiv 2030 (Cheap Stock), relating to the Minnesota Securities Act (Minn. Stat. ch. 80A). The commissioner desires that the proposed rules be amended without a public hearing in accordance with Minn. Stat. § 15.0412, subd. 4h (1980). On October 5, 1981 the commissioner caused to be published at 6 *State Register* 576 a notice of intent to amend SDiv 2030 (Cheap Stock) together with a copy of that proposed amendment. This notice, and the proposed amendment to SDiv 2030 which follows, supercede the earlier notice.

A free copy of the proposed rules may be obtained from the commissioner's office. Those interested in submitting comment pertaining to the proposed rules may do so within 30 days of publication of this notice in the *State Register*. Additionally, if during the 30-day comment period, seven or more persons make a written request for a hearing on the proposed rules, the commissioner will hold a public hearing in accordance with Minn. Stat. § 15.0412, subdivisions 4 to 4g (1980). A request for a copy of the proposed rules, all comments, any requests for a hearing and all questions regarding the proposed rules should be directed to:

Mr. Daniel W. Hardy
Assistant to the Commissioner
Securities and Real Estate Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101
Telephone: (612) 296-5689

The proposed rules may be modified by the commissioner if the modifications are supported by the data and views submitted during the 30-day comment period, provided the modifications do not result in substantial change.

The commissioner has prepared a statement of need and reasonableness which contains a summary of the evidence justifying both the need for, and the reasonableness of, the proposed rules. The statement of need and reasonableness is available for inspection by the public, during regular business hours, at the above address.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

If no hearing is required, the commissioner will submit to the Attorney General the proposed rules and notice as published in the *State Register*, the rules as proposed for adoption, any written comments received by the commissioner during the 30-day comment period, and the statement of need and reasonableness for the rules. On the same day these materials are submitted to the Attorney General the commissioner will notify any person who has requested that the commissioner inform him or her of when these materials have been submitted to the Attorney General. Any person wishing to be so notified should contact Mr. Hardy at the address listed above.

A copy of the existing rules and proposed changes follows this notice.

Finally, Minn. Stat. ch. 10A.03 (1980) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone: (612) 296-5615.

December 7, 1981

Mary Alice Brophy
Commissioner of Securities and Real Estate

Rules as Proposed

SDiv 2014 ~~(a). No agent's license shall be issued or renewed unless the agent shall have first posted with the Commissioner a surety bond in the amount of $5,000, in the case of an agent for a broker-dealer, and $5,000 in the case of an agent for an issuer, on such form as the Commissioner may prescribe.~~

~~(b) An issuer or broker-dealer may post a blanket surety bond to cover all of its agents, in lieu of the bond required by paragraph (a) of this section. A blanket bond for the agents of a broker-dealer shall be in the sum of $5,000 for each agent up to a maximum of $50,000. A blanket bond for the agents of an issuer shall be in the sum of $5,000 for each agent up to a maximum of $50,000, or ten percent of the total offering price of the registration of securities of the issuer, whichever is less.~~ Bond requirements for investment advisors.

~~(c)~~ A. Amount. Any investment adviser who has custody of, or discretionary authority over, any assets of any client shall have first posted with the commissioner a surety bond in the amount of $25,000, on such form as the commissioner may prescribe.

~~(d)~~ B. Alternative compliance. Any appropriate deposit of cash or security shall be accepted in lieu of any bond required by this section. An appropriate deposit requires, in the case of deposited securities, that ~~such~~ the securities have a market value equal to 120 percent of the amount of the bond which would otherwise be required, and represent an interest in, or debt of, any of the persons whose securities are exempt from registration under Minn. Stat. § 80A.15, ~~subdivision~~ subd. 1, ~~clauses~~ clause (a), (b), (c), (d) or (e) ~~(1978), as amended~~. At no time shall the market value of the securities on deposit be less than 105 percent of the amount of the required bond. Any deposit of cash or securities under this ~~clause~~ paragraph shall be made with an escrow agent, and under such terms and conditions as the commissioner deems appropriate, and shall remain with the depository for a period of three years after the last securities transaction conducted by the licensee or the effective date of any bond acquired by the licensee, whichever first occurs. The commissioner shall allow an irrevocable letter of credit in lieu thereof.

~~(e) The provisions of SDiv 2014(a) and (b) do not apply to any agent employed by a broker-dealer who continuously maintains net capital of not less than $100,000.~~ C. Nonapplication. SDiv 2014 ~~(c)~~ A. does not apply to any investment adviser who continuously maintains net capital of not less than $100,000.

SDiv 2030 Cheap stock.

~~(a) The amount of "cheap stock" allowable, based upon the "fair value of the equity investment" as defined in SDiv 2029(b), shall not exceed three times the first 10 percent of equity investment and two times any further equity investment to a maximum number of shares of cheap stock allowable of 90 percent of the total number of shares to be outstanding after the proposed offering.~~ A. Quantity. The maximum quantity of cheap stock allowable, expressed as a percentage of the total

number of shares to be outstanding after the proposed offering, shall be determined by calculating the "fair value of equity investment" (SDiv 2029 (b)) as a percentage of "equity investment" (SDiv 2029 (c)) in accordance with the following formulations:

1. If the percentage is ten percent or less, the maximum quantity of cheap stock allowable shall be three times the percentage.

2. If the percentage is greater than ten percent, the maximum quantity of cheap stock allowable shall be two times the percentage plus ten percent.

The maximum quantity of cheap stock allowable shall not exceed 90 percent of the total number of shares to be outstanding after the proposed offering.

Exhibit SDiv 2030 A.-1.
Maximum Amount of Cheap Stock Allowable
(as a percentage of the shares to be outstanding)

Fair Value of Equity Investment Divided by Equity Investment	Cheap Stock
5%	15%
10%	30%
15%	40%
20%	50%
30%	70%
40%	90%
50%	90%

~~(b)~~ B. Definition. Cheap stock means securities:

~~(1)~~ 1. Issued in consideration of property tangible or intangible, or services, the value of which has not been reasonably established, or

~~(2)~~ 2. Issued at a price substantially less than the public offering price of the securities and which cannot be justified with reference to the existence of an active public market for such securities. Securities issued at a price substantially less than the public offering price of the securities means:

~~(aa)~~ a. Securities issued for less than 66⅔~~%~~ percent of the public offering price if the securities were issued less than one year prior to registration~~.~~;

~~(bb)~~ b. Securities issued for less than 50~~%~~ percent of the public offering price if the securities were issued more than one year but less than two years prior to registration;

~~(cc)~~ c. Securities issued for less than 33⅓~~%~~ percent of the public offering price if the securities were issued more than two years but less than three years prior to registration.

In the case of unexercised options, or other securities convertible into the same class of security as that proposed to be offered, the aggregate of the cash amount paid and the cash amount required to be paid pursuant to the conversion or exercise privilege shall be divided by the number of shares issuable upon conversion or exercise to determine whether the securities were "issued at a price substantially less than the public offering price."

~~(c)~~ C. Exclusions. Cheap stock does not include:

~~(1)~~ 1. Securities which have been outstanding more than three years at the time of the proposed registration, provided that the issuer ~~of~~ or its predecessors have been in active, continuous business operation for more than three years immediately prior to the proposed registration;

~~(2)~~ 2. Securities of an issuer which ~~(a)~~ had earnings during the fiscal year prior to registration or ~~(b)~~ had earnings during two or the three fiscal years prior to registration, as determined in accordance with generally accepted accounting

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principles, after taxes and excluding extraordinary income~~,~~ ~~if~~. For each fiscal year such earnings ~~are~~ shall be in an amount equal to 4 four or greater than four percent of the proposed public offering price on all oustanding shares of the same class at the date of application for registration; or

~~(3)~~ 3. Securities previously issued pursuant to a registration under Minn. Stat. ch. 80A.

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. § 15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. § 10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the board.

A statement of need and reasonableness describing the board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 27, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. If persons desire a public hearing on a proposed rule, the board requests but does not require that they identify the particular provisions to which they object. Also, the board would appreciate receiving their suggestions for modifications to the proposed language and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or request to Ms. McCoy at the address above.

Upon adoption of the final rules, without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written request to Ms. McCoy.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, MN 55155, telephone (612) 296-5615.

Rules as Proposed

The board proposes to amend existing rules pertaining to several areas within its jurisdiction. The board proposes to amend campaign financing rules (9 MCAR §§ 1.001-1.0043) with respect to filing deadlines, allocation of campaign literature expenses, treatment of contribution and expenditure limits for candidates who seek more than one office, contribution limitations for

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES AND REAL ESTATE DIVISION

In the Matter of the Proposed Adoption of Rules of the State Department of Commerce, Securities and Real Estate Division Governing the Minnesota Securities Act (Minn. Stat. Chapter 80A)

FINDINGS OF FACT AND CONCLUSIONS

Having published notice of intent to adopt the above-entitled rules without a public hearing in the State Register on December 28, 1982, having sent the same notice by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on December 23, 1982, receiving no comments during the 30-day comment period, I hereby find the following:

(1) that rules SDiv 2014 and 2030 should be amended as proposed, except for the correction of a typographical error in SDiv 2030 B.2.c.

(2) that rule SDiv 2067(M) should be amended by the addition of a cross-reference, which was inadvertently deleted when the rules were first adopted in 1975.

STATE OF MINNESOTA
Department of Commerce
Securities and Real Estate Division

Mary Alice Brophy

MARY ALICE BROPHY
Commissioner of Securities and Real Estate

Date: February 16, 1983

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
SECURITIES AND REAL ESTATE DIVISION

In the Matter of the Proposed Amendment of Rule SDiv 2014 (Agent Bonding) and Rule SDiv 2030 (Cheap Stock), Relating to Minnesota Statutes, Chapter 80A (Regulation of Securities)

STATEMENT OF NEED AND REASONABLENESS

Notice is hereby given that, pursuant to her authority under Minn. Stat. Section 80A.25 (1980), the Commissioner of Securities and Real Estate intends to amend Rule SDiv 2014 (Agent Bonding) and Rule SDiv 2030 (Cheap Stock), relating to the Minnesota Securities Act (Minn. Stat. ch. 80A). The Commissioner desires that the proposed rules be amended without a public hearing in accordance with Minn. Stat. Section 15.0412, subd. 4h (1980). The statutory authority to amend these rules is either necessary or appropriate in the public interest or for the protection of investors. Furthermore, the Commissioner has determined that the proposal is consistent with the policy and provisions of Chapter 80A. The need for and reasonableness of the proposed amendments is as follows:

SDiv 2014 (Agent Bonding) The requirement that securities agents post a surety bond with the Commissioner at the time of the issuance or renewal of their license has been eliminated in order for Minnesota to conform to the standardized application employed by the Central Registration Depository (CRD), a central computerized licensing service which is designed to allow agents, and eventually broker-dealers, to become licensed simultaneously in every jurisdiction in which they intend to do business. The CRD was developed by the National Association of Securities Dealers (NASD) and state regulatory agencies. Minnesota will participate in the system beginning in 1982.

SDiv 2030 (Cheap Stock)

SDiv 2030(a) was amended effective February 23, 1981 as part of a comprehensive revision of the rules relating to the Minnesota Securities Act, Chapter 80A. The intent of that change was to allow an increase in the amount of "cheap stock" which may be issued by a company. "Cheap stock" is defined in SDiv 2030(b) and (c). The rule amended as of February 23, 1981, has proven to be generally difficult for practitioners to interpret and apply, the calculation involved is difficult and confusing, and the rule could be read to include a dilution factor not intended by the agency when the amendment was proposed.

This proposed revision retains the intent and substance of the February 23, 1981 revision but is drafted to resemble the original language of the rule, which included a chart that was helpful to practitioners In addition this proposal more clearly sets forth the substance of the rule and should be more easily understood and interpretated by issuers, attorneys and the general public.

Mary Alice Brophy

MARY ALICE BROPHY
Commissioner of Securities and Real Estate

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Daniel W. Hardy, Assistant to the Commissioner of Securities and Real Estate of the Department of Commerce, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedures Act and the rules of the Attorney General have been followed. Any exceptions are noted below.

Dan W. Hardy

Assistant to the Commissioner
of Securities and Real Estate

Dated: February 25, 1982

Exceptions:

My review of the relevant documents disclosed that the following rules of the Attorney General have not been strictly complied with--

A. 1 MCAR § 1.203 E. The agency has requested that the Notice of Intent to Adopt Rules Without a Public Hearing, which is signed by the Commissioner of Securities and Real Estate and dated December 7, 1981, be accepted in lieu of the Order for Notice of Intent to Adopt Rules Without a Public Hearing.

B. 1 MCAR § 1.203 G. 2 & 10. The Notice of Intent to Adopt Rules Without a Public Hearing does not contain a statement that the agency has determined that adoption (amendment) of the rules will be noncontroversial in nature. Also, neither the proposed amendments nor a statement of the nature and effect of the amendments was attached to or included in the Notice.

By way of explanation for these "exceptions", the Securities Act Rules were comprehensively amended in February of 1981 pursuant to noncontroversial procedures and prior to the final adoption of the Attorney General's rules regarding noncontroversial rulemaking. The documents submitted herewith were patterned after the documents submitted pursuant to the earlier revisions. The "exceptions" were unintentional as the drafter was not aware of the revisions to the Attorney General's Rules.