

LAWRENCE G. WASDEN
Attorney General

A. RENÉ MARTIN – I.S.B. #3188
Deputy Attorney General
State of Idaho
Department of Insurance
700 West State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone: (208) 334-4204
Facsimile: (208) 334-4298
rene.martin@doi.idaho.gov

FILED 
MAR 08 2013
Department of Insurance
State of Idaho

Attorneys for Department of Insurance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
OF THE STATE OF IDAHO**

In the Matter of:

LEWIS & CLARK LTC RISK RETENTION
GROUP INC.

Idaho Registration No. 3535
NAIC No. 11947

Docket No. 18-2850-13

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Insurance (Department), hereby alleges the following facts that constitute a basis for the issuance of an order, pursuant to Idaho Code §§ 41-4811 and 41-213(1)(a), requiring LEWIS & CLARK LTC RISK RETENTION GROUP INC. (LEWIS & CLARK), to immediately cease and desist from engaging in the business of insurance in Idaho.

FINDINGS OF FACT

1. LEWIS & CLARK is a risk retention group domiciled in the state of Nevada and registered in Idaho to transact casualty insurance, excluding workers' compensation insurance, under registration number 3535.

2. On February 28, 2013, an Order of Liquidation was entered in the Eighth Judicial District Court of Nevada, in and for Clark County, in Case No. A-12-672047-B, against LEWIS

& CLARK, based on a “Motion for Order of Liquidation,” filed by the Commissioner of Insurance for the State of Nevada (Nevada Commissioner). The Nevada Commissioner’s motion was accompanied by a document labeled “Points and Authorities,” which document included the statement that LEWIS & CLARK is “unequivocally ... insolvent.” The court’s Order of Liquidation directed the Nevada Commissioner to liquidate the business of, and to collect and liquidate the assets of, LEWIS & CLARK.

CONCLUSIONS OF LAW AND VIOLATIONS

3. Idaho Code § 41-4805(8)(b) prohibits the “solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or is financially impaired.” The issuance of the above-described Order of Liquidation, and the motion and supporting documents which resulted in such order, leads to the conclusion that LEWIS & CLARK is “in hazardous financial condition or is financially impaired” within the meaning of Idaho Code § 41-4805(8)(b).

4. Because LEWIS & CLARK is in hazardous financial condition or is financially impaired within the meaning of Idaho Code § 41-4805(8)(b), as set forth in paragraphs 2 and 3 above, for LEWIS & CLARK to continue to transact the business of insurance in Idaho under such circumstances would violate the prohibition set forth in Idaho Code § 41-4805(8)(b).

5. Idaho Code § 41-4812 provides that “[a] risk retention group which violates any provision of [title 41, chapter 48, Idaho Code] will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its license and/or the right to do business in this state.”

6. Idaho Code § 41-4811 provides that the Director of the Idaho Department of Insurance (Director) is authorized to use any of the powers authorized by title 41, Idaho Code, to enforce the laws of this state, so long as such powers are not specifically preempted by the

Product Liability Risk Retention Act of 1981, as amended. Such section authorizes the Director to issue such orders as necessary to enforce Idaho laws, including title 41, Idaho Code.

7. Idaho Code § 41-213(1)(a) provides that, if the Director believes that any person has engaged in or is about to engage in any act or practice which violates title 41, Idaho Code, the Director may issue an order requiring the person to cease and desist from any prohibited act or practice.

8. Idaho Code § 67-5247 provides that an agency may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

ORDER

The Director, having reviewed the foregoing, finding good cause, and determining that the entry of this order is required for the protection of the public,


NOW, THEREFORE, based on the foregoing, and pursuant to the sections of the Idaho Code set forth above, IT IS HEREBY ORDERED that LEWIS & CLARK shall immediately CEASE AND DESIST from engaging in the business of insurance in Idaho.

This ORDER TO CEASE AND DESIST is effective immediately and shall remain in effect until such time as the Director determines that LEWIS & CLARK's financial condition warrants the withdrawal of this order.

IT IS SO ORDERED.

DATED this 8th day of March, 2013.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



WILLIAM W. DEAL
Director

NOTIFICATION OF RIGHTS

This is a final order of the Director. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or
- iv. The real property or personal property that was the subject of the agency action is located.

An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 8th day of March, 2013, I caused a true and correct copy of the foregoing ORDER TO CEASE AND DESIST to be served upon the following by the designated means:

Lewis & Clark LTC Risk Retention Group Inc.
c/o UNI-TER Underwriting Management Corp.
3655 Brookside Parkway, Suite 200
Alpharetta, GA 30022-1430

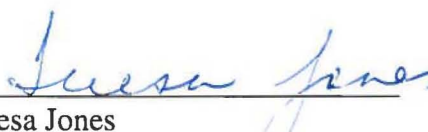
☒ first class mail
☒ certified mail
☐ hand delivery
☐ via facsimile

Nevada Department of Business & Industry
Division of Insurance
Scott J. Kipper, Commissioner
1818 E. College Parkway, Suite 103
Carson City, NV 89706

☒ first class mail
☐ certified mail
☐ hand delivery
☐ via facsimile

A. René Martin
Deputy Attorney General
Idaho Department of Insurance
P.O. Box 83720
Boise, ID 83720-0043

☐ first class mail
☐ certified mail
☒ hand delivery
☐ via facsimile


Teresa Jones