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FILED

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Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

LEWIS & CLARK LTC RISK RETENTION
GROUP INC.,

Idaho Registration No. 3535
NAIC No. 11947

Docket No. 18-3043-15

**ORDER REQUIRING
COMPLIANCE WITH
COURT-ISSUED INJUNCTION
AND WITHDRAWING RISK
RETENTION GROUP
ELIGIBILITY**

The Director of the Idaho Department of Insurance (“Director”), acting pursuant to Idaho Code §§ 41-4811 and 41-213(1), hereby makes following findings and conclusions of law:

FINDINGS

1. LEWIS & CLARK LTC RISK RETENTION GROUP INC. (LEWIS & CLARK) is a risk retention group domiciled in the state of Nevada and is registered in Idaho to transact casualty insurance, excluding workers’ compensation, under registration number 3535. As such, the Director has jurisdiction over LEWIS & CLARK.

2. LEWIS & CLARK has not filed a Statement of Premium Taxes and Fees for Idaho for calendar years 2012, 2013 or 2014, and has paid no Idaho premium taxes for said calendar years other than a small prepayment in December 2012 in the amount of approximately two hundred fifty-nine dollars (\$259).

3. On February 28, 2013, an Order of Liquidation was entered in the Eighth Judicial District Court of Nevada, Clark County, in Case No. A-12-672047-B, against LEWIS & CLARK, based on the petition of the Nevada Insurance Commissioner alleging that LEWIS & CLARK is insolvent, as determined in a financial review by a management analyst at the Nevada Division of Insurance.

4. The court's Order of Liquidation directed the Nevada Insurance Commissioner to collect and liquidate the assets of LEWIS & CLARK. The order also provided that LEWIS & CLARK is "enjoined and restrained . . . from doing, operating and conducting any business of or on behalf of [LEWIS & CLARK] under any charter, permit, license, power or privilege, belonging to or heretofore issued by or to [LEWIS & CLARK], and from in any manner conducting, or doing or engaging in the business of insurance on behalf of [LEWIS & CLARK]."

CONCLUSIONS OF LAW

A. FAILURE TO FILE STATEMENT OF AND TO PAY PREMIUM TAXES

5. Idaho Code § 41-4805(3) provides:

All risk retention groups operating in [Idaho], and all premiums paid for any coverage within [Idaho] to any risk retention group, shall be subject to the same premium tax provisions . . . as are applicable to foreign admitted insurers. . . .

Further, each risk retention group shall report to the director all premiums paid to it for risks insured within [Idaho].

6. Idaho Code § 41-402 sets forth the requirements for the reporting of premium and payment of premium taxes by insurers authorized to operate in Idaho. Such requirements include premium tax calculations and payment and reporting schedules, providing in part, at subsection (4), that “[o]n or before March 1, any balance of tax due for the preceding calendar year shall be paid to the director.”

7. LEWIS & CLARK’s failure to timely file a Statement of Premium Taxes and Fees for calendar years 2012, 2013 and 2014, and to pay premium taxes due to Idaho, if any, by March 1 of the following calendar year, respectively, constitutes a violation of Idaho Code § 41-4805(3).

B. HAZARDOUS FINANCIAL CONDITION OR FINANCIAL IMPAIRMENT

8. Idaho Code § 41-4805(8)(b) prohibits the “solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.”

9. The Director concludes that, based on the above-described Order of Liquidation by the Eighth Judicial District Court of Nevada, Clark County, LEWIS & CLARK is in a hazardous financial condition and is financially impaired within the meaning of Idaho Code § 41-4805(8)(b) and, therefore, that further operation of LEWIS & CLARK in Idaho would be a violation of such statute.

C. COURT-ISSUED INJUNCTION

10. Idaho Code § 41-4805(11) provides that “[a] risk retention group not chartered in this state and doing business in this state must comply with a lawful order issued in . . . a

delinquency proceeding commenced by another state's insurance director if there has been a finding of financial impairment." Further, the federal Product Liability Risk Retention Act of 1981, as amended, provides, at 15 U.S.C. § 3902(a)(1)(H) that any state may require a risk retention group to "comply with an injunction issued by a court of competent jurisdiction, upon a petition by the state insurance commissioner alleging that the group is in hazardous financial condition or is financially impaired."

11. The Director concludes that the Order of Liquidation issued by the Eighth Judicial District Court of Nevada, Clark County, as described above, constitutes an injunction issued by a court of competent jurisdiction, and that, because such order prohibits LEWIS & CLARK from engaging in the business of insurance, LEWIS & CLARK is no longer eligible to transact insurance in Idaho.

ORDER

The Director, having reviewed the foregoing and the requirements of title 41, chapter 48, Idaho Code, and finding good cause therefor,

IT IS HEREBY ORDERED that LEWIS & CLARK shall comply with the Order of Liquidation described herein and shall not transact insurance in Idaho.

IT IS FURTHER ORDERED that that registration of LEWIS & CLARK as an eligible risk retention group in the state of Idaho is withdrawn.

IT IS FURTHER ORDERED that the withdrawal of LEWIS & CLARK's registration does not absolve LEWIS & CLARK of the requirement to report and pay to Idaho any premium taxes due for calendar years 2012, 2013 and 2014.

IT IS FURTHER ORDERED that the preceding shall become a Final Order effective twenty-one (21) days from the date of service of the Order unless a hearing is requested as more particularly set forth below under the Notification of Rights.

IT IS SO ORDERED.

DATED this 15th day of April, 2015.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



THOMAS A. DONOVAN
Acting Director

NOTIFICATION OF RIGHTS

This order of the Director shall be final and is effective twenty-one (21) days from the date of service of the order unless a request for hearing is received by the Director as permitted herein. In accordance with Idaho Code § 41-232A and IDAPA 04.11.01 *et seq.*, you are hereby notified of the right to request a hearing before the Director of the Department of Insurance. Any such hearing request must be made in writing and be filed and served upon the Director within twenty-one (21) days after service of this order. Failure to file and serve a written request for a hearing upon the Director within the twenty-one (21) day time period shall be deemed a waiver of the opportunity for a hearing.

Any written request for a hearing shall be served on the Director of the Idaho Department of Insurance, addressed as follows:

Director
Idaho Department of Insurance
P.O. Box 83720
Boise, ID 83720-0043

A copy shall also be provided to the Department's counsel in this matter at the following address:

Richard B. Burleigh
Deputy Attorney General
Idaho Department of Insurance
P.O. Box 83720
Boise, ID 83720-0043

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the effective date of this final order; or (b) an order denying a 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 a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of April, 2015, I caused a true and correct copy of the foregoing ORDER REQUIRING COMPLIANCE WITH COURT-ISSUED INJUNCTION AND WITHDRAWING RISK RETENTION GROUP ELIGIBILITY to be served upon the following by the designated means:

Lewis & Clark LTC Risk Retention Group Inc.
3655 Brookside Parkway, Suite 200
Alpharetta, GA 30022

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Lewis & Clark LTC Risk Retention Group Inc.
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Nevada Division of Insurance
Scott J. Kipper, Commissioner
1818 East College Pkwy., Suite 103
Carson City, NV 89706

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email

Richard B. Burleigh
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile
- via email


Pamela Murray