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State Issues Order To Stop Los Alamos Resident From Selling Unauthorized Securities To Senior Citizens & Retirees In An Illegal Scheme

SANTA FE – The New Mexico Regulation and Licensing Department's Securities Division today issued a cease and desist order against a Los Alamos resident who sold securities totaling over \$200,000 to mostly retirees and senior citizens in Los Alamos, in violation of state law.

Jerome Griggs Beery, who is not a state-licensed investment broker, has been ordered to cease selling unauthorized promissory notes to residents of Los Alamos and any other New Mexicans.

Beery, 79, raised tens of thousands of dollars from at least 10 Los Alamos investors from January 2007 through July 2013 with a promise of paying annual interest ranging from 4 percent to 12 percent. All investors lost nearly \$170,000.

"We want to warn Los Alamos residents about this individual who has been preying on vulnerable investors who are elderly and retirees," said Alan R. Wilson, Securities Division Director. "Mr. Beery is not a licensed investment broker and none of his promissory notes are registered with the State as required under the law. He is peddling promissory notes as investments, in a very risky and illegal scheme."

Two Los Alamos residents invested \$60,000 with Beery and lost nearly \$50,000. Two other Los Alamos Residents invested \$50,000 and lost over \$30,000. Beery allegedly used investors' own money to pay them back some interest payments and then stopped making any payments.

Beery allegedly told two investors he invested their money in MF Global that filed for bankruptcy. The Bankruptcy Trustee for MF Global told State Securities investigators that there was no record of Berry investing in MF Global.

Beery also raised \$93,000 from promissory notes from six Los Alamos investors to remodel a home in Albuquerque. However, that house was

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remodeled two years earlier, and no remodeling occurred after Beery collected the investors' money.

Beery filed for bankruptcy in February 1994 and he has liens from the Internal Revenue Service for unpaid taxes worth \$126,000.

Wilson warned investors to be cautious before investing their money. "The Securities Division maintains a list of all licensed brokers and approved securities for investments. By calling us or visiting our website, investors can find out if a broker is registered with the state and if the investments he or she selling is legitimate," Wilson said.

The Regulation and Licensing Department's Securities Division protects New Mexicans from fraud and financial abuse by licensing investment professionals, registration of securities made in the state, and offering anti-fraud and educational programs to the public, and investigating fraud and other violations of the state securities laws. To learn more about investment fraud, visit the division's website at www.RedFlagsNM.com.

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STATE OF NEW MEXICO REGULATION AND
LICENSING DEPARTMENT SECURITIES
DIVISION

IN THE MATTER OF:)
Jerome Griggs Beery)
(ALIAS: Jerry Beery)) Case No. 13-09-0021
Respondent.)

ORDER TO CEASE AND DESIST AND
NOTICE OF INTENT TO IMPOSE SANCTIONS

The Director of the New Mexico Securities Division ("Director") after investigation has good reason to believe, and therefore alleges the following:

I. FACTS

1. That Jerome Griggs Beery ("Beery") was, at all times relevant hereto, a New Mexico resident with a principal address of P.O. Box, 4712, 565 Navajo, Los Alamos, New Mexico 87544.
2. That from on or about January 17, 2007, to at least July 7, 2013, Beery offered and sold Promissory Notes (the "Notes") to residents ("investors") of Los Alamos and White Rock, New Mexico.
3. The Notes offered and sold by Beery were for a period of twelve (12) months and represented that they would pay annual interest ranging from 4% to 12%. The Notes further represented that they would pay regular monthly payments.

NOTES SOLD RELATING TO BEERY'S DISCRETIONARY INVESTMENTS

4. During the offer and sale of Notes to four (4) Los Alamos investors, Beery represented that he would use their money to "invest" to earn the represented interest. Beery did not specify how he would invest the money obtained from these four Los Alamos investors.
 - a. From January 2007 to August 2011, two (2) of these Los Alamos investors invested a total of \$60,000 in Notes issued by Beery. The investments were in five (5) separate increments. At the time of each new investment Beery issued a new Note and added the unpaid principal balance to the new notes. Beery made regular monthly payments to these investors until May 2012. In or about June 2012, Beery contacted the investors and represented the he had no money and could no longer make payments on the Notes. Beery had no further contact with these investors about the Notes. As a result of their investments

with Beery, these two (2) specific investors have sustained an approximate net loss of \$49,640.

- b. From February 2010 to February 2012, the other residents of Los Alamos invested four (4) times in the Beery Notes for a total of \$50,000. As he had done with the other Los Alamos investors in subparagraph (a), above, Beery issued a new Note with each new investment and added the unpaid principal balance to new notes. Beery made regular monthly payments to these investors until February 2013. At this time the investors contacted Beery to inform him of their intent to withdraw their principal investment to pay for unrelated medical expenses. Beery did not contact the investors until in or about May 2013. At this time Beery gave the investors a document stating the commodities firm that he used, MF Global, filed bankruptcy. The document further stated that Beery was contacting the MF Global Bankruptcy Trustee in an attempt to release his account in the amount of \$320,000. This was the last contact Beery had with these investors. The Bankruptcy Trustee for MF Global advised the Division that they found no record of any account in the name of Beery at MF Global. To date these two (2) specific investors have sustained an approximate net loss of \$30,062.
- c. To date, the above investors have sustained an aggregate net loss of \$79,702 as a result of their respective investments in the Notes issued by Beery.

NOTES RELATED TO CLAIMED RESIDENTIAL REMODELING PROJECT

5. From January 2008 to July 2013, Beery also offered and sold Notes to four (4) other residents of the Los Alamos, New Mexico area and obtained a total of \$93,000. These investors reported that Beery sold them the Notes orally representing that he would use the money to remodel a home he purported to own at 824 Cagua Drive SE, Albuquerque, New Mexico. These Notes were also for twelve (12) months and had interest rates ranging from 4% to 6%. These Notes also represented that they would pay regular monthly payments. As of the date of this Order these investors continue to receive regular monthly checks from Beery.
 - a. Property and tax records for Bernalillo County, New Mexico disclose that the home at 824 Cagua Drive was owned by an unrelated third party until April 2013. The confirmed owner of the Cagua property told Division staff that she entered into an agreement with Beery to remodel her home in 2006. Beery represented that he would personally perform and fund the remodeling. The home would then be sold and any profit was to be split between her and Beery.
 - b. The owner of the Cagua property told Division staff that Beery completed remodeling on the home in 2006 and spent no more than \$45,000. She also informed the Division that she did not authorize, and had no knowledge of, the sale of Notes by Beery for her home on 824 Cagua Drive.

FINDINGS COMMON TO ALL TRANSACTIONS

6. In connection with each of the Notes bought and sold in paragraphs one (I) through five (5) above, Beery told all investors that he would pay them interest ranging from 4% to 12%. In furtherance of this representation, Beery issued cashier's checks purchased from Los Alamos National Bank and gave those checks to investors representing the cashier's checks as "interest" earned on their investments. Analysis of bank records reveals that in fact, Beery employed a scheme to defraud investors by using money from said investors to purchase the cashier's checks. Beery then induced the sale of additional promissory notes to the investors, using the cashier's checks as a history of prior performance on the investments, in violation of §58-13C-501(A).
7. A search of United States Bankruptcy records for the state of New Mexico, discloses that on or about February 25~1994, Beery and his wife, Joyce K. Beery, filed a joint petition seeking Chapter 7 bankruptcy protection (Case No. 94-10504-s7). As of the date of this order the bankruptcy case is still pending, as an adversarial proceeding, before the United States Bankruptcy Court, for the District of New Mexico.
8. Records from the Clerk Offices in Bernalillo and Los Alamos County New Mexico reveal that on or about May 23~2008, and May 29,2009, the Internal Revenue Service filed liens against Beery and his wife Joyce totaling over \$126~000.
9. That in connection with the offer and sale of the Notes, Beery failed to disclose the information discussed in paragraphs six (6)~seven (7), and eight (8) above, to the New Mexico investors, in violation of §58-13C-501(B).

II. CONCLUSIONS OF LAW

1. The Notes described above are "securities" within section 102 (DO) of the New Mexico Uniform Securities Act of 2010 (2010 Act), §58-13C-102.DD, see also UJI 14-4310 (defining securities to include Promissory Notes).
2. Respondent Beery is the "issuer" of the Notes described above within the meaning of Section 102 (R) of the 2010 Act, §58-13C-102.R.
3. Division records disclose that the Notes are: (a) not registered under Section 301 of the 2010 Act, §58-13C-301; (b) not exempt from registration under Section 201 of the 2010 Act, §58-13C-201; (c) not a federally covered security; and (d) the securities transactions related to the Notes are not exempt under Section 203 of the 2010 Act, §58-13C-203.
4. Division records also disclose that Respondent Beery was neither licensed in New Mexico as a sales representative, nor was Beery exempt from such licensure under Section 401/403 of the 2010 Act, §58-13C-401/403.

III. ORDER

Entry of this Order is in the public interest, appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act.

IT IS, THEREFORE, ORDERED THAT:

1. Pursuant to §58-13C-604 of the Act, the Respondent shall cease and desist soliciting offers to purchase, and offering and selling securities of any kind in New Mexico without first complying with all requirements of the Act.

FURTHER, THE DIRECTOR CONTEMPLATES TAKING THE FOLLOWING ACTIONS:

1. Pursuant to §58-13C-604 of the Act, Respondent Jerome Griggs Beery be permanently barred from association with any licensed broker-dealer or investment adviser in New Mexico.
2. Pursuant to §58-13C-604 of the Act, the Director has discretion to assess a fine up to \$10,000 for each violation of the Act. The contemplated fine in the amount of \$5,000 shall be imposed on the Respondent Jerome Griggs Beery.
3. Pursuant to §58-13C-601 of the Act, Respondent Jerome Griggs Beery pay the cost of this investigation in the amount of \$500.
4. Further proceedings may be conducted to determine whether Respondent has violated additional provisions of the Act and whether further or alternative sanctions should therefore be imposed.

Any information the Respondent provides to the Division could be shared with any law enforcement agency for use in a subsequent civil or criminal prosecution.

NOTICE OF ADMINISTRATIVE HEARING RIGHTS

Respondent is hereby notified of his statutory right to request an administrative hearing on the Cease and Desist and Notice of Intent to Impose Sanctions in the above referenced matter. Administrative hearings are governed by § 58-13C-604(b)(4)-(II) NMSA 1978. Respondent has fifteen (15) days from receipt of this notice to file a written request for a hearing. The request may be sent in the form of U.S. Postal Service Form 3800, Receipt for Certified Mail, or via email totheDirectoratvictoria.suraez@state.nm.us. The Director will set the matter for hearing no more than sixty (60) days and not less than fifteen (15) days from receipt of the hearing request. The Director will promptly notify the Respondent of the time and place for hearing. The Director or an appointee will conduct the hearing. The Director or his

appointee will pass upon the admissibility of evidence and may exclude evidence that is incompetent, irrelevant, immaterial or unduly repetitious.

As discussed more fully in 58-13C-604(b), any Respondent requesting a hearing is entitled to: appear on its own behalf or may be represented by an attorney; present all relevant evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; request and obtain discovery, including the names and addresses of witnesses.

ENTERED AT Santa Fe, New Mexico this *y.*} day of *~'1J* 2014.

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Alan R. Wilson, Director
New Mexico Securities Division