

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION**

**A. HEATH ABSHURE,
ARKANSAS SECURITIES COMMISSIONER**

13

PLAINTIFF

v.

No. 10CV-10-269 Filed 05/13/10 15:52:19
Pat O'Brien Pulaski Circuit Clerk
By CR12

**P-R-E, LLC and
SAM L. ANDERSON, ORGANIZER AND REGISTERED AGENT**

DEFENDANTS

COMPLAINT

Comes now the plaintiff, A. Heath Abshure, Arkansas Securities Commissioner, by and through counsel, Theodore Holder, Senior Attorney, and for his complaint alleges the following:

PARTIES

1. A. HEATH ABSHURE (Commissioner) is the Arkansas Securities Commissioner, duly appointed in accordance with Ark. Code Ann. § 23-42-201(a) (Repl. 2000). He is charged with the administration of the Arkansas Securities Act (Act), codified at Ark. Code Ann. §§ 23-42-101 *et seq.* (Repl. 2000). The Commissioner is empowered to make any public or private investigations into violations of the Act. Ark. Code Ann. § 23-42-205(a)(1) (Repl. 2000). The Commissioner or any officer designated by the Commissioner may “administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production” of records and other documents deemed relevant to the investigation. Ark. Code Ann. § 23-42-205(b) (Repl. 2000).
2. P-R-E, LLC (PRE) is a limited liability company formed by Sam Anderson on August 14, 2008.
3. SAM L. ANDERSON is a resident of Hot Springs, Arkansas. He is listed as the organizer of PRE and its registered agent. His address is listed in the initial filing with the Secretary of

State as 1704 Marion Anderson Road, Hot Springs, AR 71913.

JURISDICTION and VENUE

4. This is an action brought pursuant to the Act, specifically Ark. Code Ann. § 23-42-205(c) (Repl. 2000), which permits the Commissioner in case of contumacy or refusal to obey a subpoena to apply to this court for an order to appear before the Commissioner or the officer designated by him and there to produce any documentary evidence subpoenaed and testify if subpoenaed to do so.
5. Venue is proper in Pulaski County. Ark. Code Ann. § 23-42-205(c) specifically identifies the Circuit Court of Pulaski County.

FACTUAL ALLEGATIONS

6. On September 29, 2009, the Commissioner issued an order directing investigation and empowering officers in Case No. S-09-068, *In the Matter of P-R-E, LLC, et al.*, appointing David H. Smith, Chief Counsel, (Smith) as the officer authorized to conduct the investigation pursuant to § 23-42-205 and do such things as “administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production” of documentary evidence. A copy of this order is attached hereto as Exhibit A.
7. On April 5, 2010, Smith issued a subpoena duces tecum to PRE, directing it to produce and deliver certain specified documents on or before April 26, 2010. This subpoena was served on Anderson, the organizer and registered agent of PRE, by certified mail, return receipt requested on April 6, 2010. A copy of the subpoena is attached hereto as Exhibit B. A copy of the cover letter sent with the subpoena showing that the subpoena was served by certified mail, return receipt requested and the receipt number is attached as Exhibit C. A copy of the

return receipt–PS Form 3811, but commonly known as the green card—is attached hereto as Exhibit D.

8. On April 20, 2010, Anderson emailed Smith about the subpoena. Anderson acknowledged that he had been served with the subpoena and asked for an extension of time to respond. On April 26, 2010, Smith replied and agreed to extend the time for compliance with the subpoena to May 5, 2010. A copy of the emails in question is attached hereto as Exhibit E.
9. May 5, 2010 came and went, but no records of any kind have been delivered. To date, no further communications have been received from PRE or anyone purporting to represent or act for PRE.

VIOLATIONS

REFUSAL TO OBEY A SUBPOENA

10. The plaintiff realleges and incorporates by reference all factual allegations set out in ¶¶ 1-9.
11. As the facts set out in ¶¶ 1-9 show, the defendants herein have refused to obey a validly issued subpoena.

CLAIM FOR RELIEF

12. Pursuant to Ark. Code Ann. § 23-42-205(c) (Repl. 2000), the Commissioner may apply to this court for an order requiring a person who has refused to obey a subpoena validly issued pursuant to § 23-42-205(b) to appear before the Commissioner or the officer designated by the Commissioner to produce any documentary evidence subpoenaed and to produce evidence. Failure to obey the order of the court may be punished as contempt of court.
13. An order from this court compelling the defendants to appear with the documentary evidence subpoenaed at the Arkansas Securities Department is necessary to enable the Commissioner

and his staff to properly carry out its functions and responsibilities pursuant to the Act and to properly conduct its investigation of PRE.

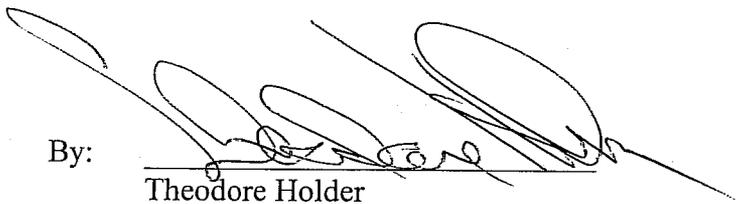
RELIEF REQUESTED

WHEREFORE, the Commissioner respectfully requests this Court to issue an order to PRE and Anderson directing PRE to appear with the documentary evidence subpoenaed at the offices of the Arkansas Securities Department on or before the close of business (4:30 p.m.) on the seventh day after service of the order is made on PRE through Anderson, excluding weekend days and legal holidays.

Respectfully submitted,

A. Heath Abshure
ARKANSAS SECURITIES COMMISSIONER

By:



Theodore Holder
SENIOR ATTORNEY

Attorney for Plaintiff

TABLE OF EXHIBITS

EXHIBIT A - Order Directing Investigation and Empowering Officers

EXHIBIT B - Copy of Subpoena Duces Tecum No. S-09-068-10-SB04, issued on April 5, 2010 by David H. Smith, Chief Counsel, Arkansas Securities Department.

EXHIBIT C - Copy of the cover letter sent with Subpoena Duces Tecum No. S-09-068-10-SB04 showing that the subpoena was served by certified mail, return receipt requested and the receipt number.

EXHIBIT D - Copy of the return receipt– PS Form 3811, but commonly known as the green card.

EXHIBIT E - String of emails beginning with an email from Sam Anderson to David H. Smith on April 20, 2010 and ending with an email from Sam Anderson to David H. Smith on April 26, 2010.

STATE OF ARKANSAS
SECURITIES DEPARTMENT

RECEIVED

09 SEP 29 PM 3:47

ARKANSAS SECURITIES DEPT.

IN THE MATTER OF

P-R-E, LLC, STEPHEN R. WALKER,
SAM L. ANDERSON, AND RELATED
ENTITIES AND PERSONS

No. S-09-068-09-OI01

ORDER DIRECTING INVESTIGATION AND
EMPOWERING OFFICERS

I.

The Staff of the Arkansas Securities Department has in its possession certain evidence which, if true, indicates that activity by P-R-E, LLC doing business as Phoenix Renewable Energy ("PRE") and Stephen R. Walker ("Walker"), Sam L. Anderson ("Anderson") and other persons or entities affiliated therewith have violated various sections of the Arkansas Securities Act, including, but not limited to:

Ark. Code Ann. § 23-42-301, which states it is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is registered under the Act.

Ark. Code Ann. § 23-42-501, which states it is unlawful for any person to offer or sell any security in this state unless: (1) it is registered under the Act; (2) the security or transaction is exempted under the Act; or (3) it is a covered security.

Ark. Code Ann. § 23-42-507, which states it is unlawful for any person in connection with the offer, sale or purchase of any security, directly or indirectly: (1) to employ any device, scheme or artifice to defraud; (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or; (3) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

II.

The Arkansas Securities Commissioner ("Commissioner") is empowered by Ark. Code Ann. § 23-42-205 to make investigations to determine whether any provision of the Arkansas Securities Act or any rule or order promulgated or issued pursuant thereto has been violated or is about to be violated.

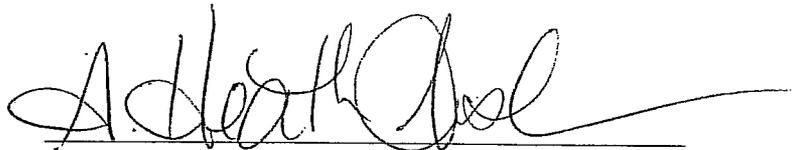
Exhibit A

III.

The Commissioner, or any officer designated by him, is further empowered by Ark. Code Ann. § 23-42-205 to administer oaths and affirmations, subpoena witness, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which are deemed to be relevant or material to the inquiry.

IT IS THEREFORE THE ORDER OF THE SECURITIES COMMISSIONER OF THE STATE OF ARKANSAS, pursuant to Ark. Code Ann. § 23-42-205, that an investigation be commenced to determine what action, if any, should be taken in the above referenced matter, and the Securities Commissioner hereby appoints David H. Smith, Attorney, as officer for the Arkansas Securities Department, to conduct an investigation and administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, correspondence, memoranda, agreements and other documents and records which are deemed to be relevant or material to the inquiry.

WITNESS MY HAND AND SEAL THIS 29th day of September, 2009.

A handwritten signature in cursive script, appearing to read "A. Heath Abshire", written over a horizontal line.

A. HEATH ABSHURE

ARKANSAS SECURITIES COMMISSIONER



SUBPOENA DUCES TECUM

SUBPOENA NO. S-09-068-10-SB04

TO: P-R-E, LLC

Exhibit B

IN THE MATTER OF: P-R-E, LLC, *et. al*

Pursuant to Ark. Code Ann. § 23-42-205, you are hereby directed to produce and deliver copies for inspection to the attorney listed below the following books, papers, documents, or other tangible things described on or before **April 26, 2010**:

For the period of January 1, 2008, to the present, the following books, records, and other documents¹ (including schedules and summaries thereof) in your possession or control relating to: P-R-E, LLC ("PRE"), as well as its respective directors, officers, employees, and agents; PRE's subsidiaries and affiliates as well as the directors, officers, employees, and agents of its subsidiaries and affiliates; and the investment products ("Products") offered by PRE, including, but not limited to:

1. All documents which indicate the correct legal name and business address of PRE; its date and state and/or country of formation; and the name, position, home address, and telephone number of each officer and director of PRE;
2. All documents which constitute any advertising materials, brochures, pamphlets, circulars, subscription forms, offeree and purchaser questionnaires, bailment agreements, contracts, certificates, or any other documents connected with PRE and with the offers and sales of the Products;
3. All documents which constitute consulting, performance, or service agreements relating to the offering and selling of the Products;

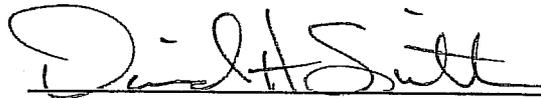
¹The term "document" or "documents" as used in this subpoena shall mean the original and all non-identical copies (whether non-identical because of handwritten notation or otherwise) and all written or graphic matter, however produced, and any other tangible record or electronic data compilation capable of reproduction in written form, including, without limitation, correspondence, memoranda, minutes, telephonic records, reports, telexes/faxes, diaries, calendar entries, contracts, and letters of agreement, and including any and all existing drafts of all documents.

4. All documents which indicate the names, addresses, and telephone numbers of all individuals and/or entities to whom you offered or sold the Products; in addition, for all purchasers, documents which indicate the amount or number of Products offered or sold to each; the consideration paid or promised by each; the method of payment (i.e., cash, check, property, service, notes, or other); the date of payment; and any disbursement of the payments, including date paid, purpose, amount, and to whom paid;
5. Copies of any and all documents which reflect the criteria, if any, used to determine the suitability of each investor for the investment;
6. Copies of any and all records which reflect the offering, sale or issuance of promissory notes, stocks, shares, partnerships, limited partnerships, interests, investments or investment programs, or agreements to raise capital in this or any other state;
7. All documents which show communications by any representative of PRE pertaining directly or indirectly to the offer or sale of the Products;
8. All documents which show communications to any individual and/or entity pertaining directly or indirectly to PRE attempting to recruit them to offer and sell the Products; in addition, all documents which indicate the name, address, and telephone number of all individuals and/or entities whom PRE recruited;
9. Copies of PRE's federal and state income tax returns;
10. All documents identifying any bank accounts in PRE's name;
11. All checks deposited into any bank account for which PRE has a beneficial interest;
12. All financial statements, whether audited or unaudited, including, but not limited to, balance sheets, profit and loss statements, income statements, cash flow statements, payment ledgers; forecasts, and projections, for PRE;
13. Any accounting records and books of original entry of PRE including, but not limited to, cash receipts journals, cash disbursement journals, accounts receivable journals, general ledgers, and subsidiary ledgers;
14. All documents submitted with any state or federal securities agency for the purpose of compliance, reporting, or seeking exemptions from registration; and
15. All documents relating to any civil, criminal or regulatory action taken against PRE, as well as its directors, officers or agents, in the past ten years.

THIS SUBPOENA IS ISSUED PURSUANT TO ARKANSAS SECURITIES ACT, ARK. CODE ANN. § 23-42-205.

Location where documents are to be delivered: **ARKANSAS SECURITIES DEPARTMENT
201 E. Markham, Suite 300
Little Rock, Arkansas 72201**

Dated this 5th day of April, 2010.



DAVID H. SMITH, Chief Counsel

Direct dial: (501) 324-8694

Email: dsmith@securities.arkansas.gov

MIKE BEEBE
GOVERNOR

A. HEATH ABSHURE
COMMISSIONER



HERITAGE WEST BUILDING, SUITE 300
201 EAST MARKHAM STREET
LITTLE ROCK, ARKANSAS 72201-1692
TELEPHONE: (501) 324-9260
FACSIMILE: (501) 324-9268

ARKANSAS SECURITIES DEPARTMENT

April 5, 2010

VIA CERTIFIED MAIL, RRR

Sam Anderson
Registered Agent for P-R-E, LLC
1704 Marion Anderson Road
Hot Springs, AR 71913

Re: In the Matter of P-R-E, LLC, *et. al*
Arkansas Securities Department Case No. S-09-068

Dear Mr. Anderson:

Enclosed with this letter is a Subpoena *Duces Tecum*, which requires P-R-E, LLC to provide the Staff of the Arkansas Securities Department with certain described documents for inspection and copying on or before April 26, 2010, at 4:30 p.m.

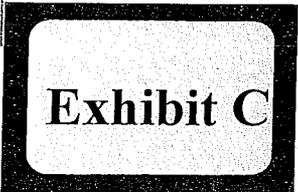
Should you have any questions or wish to discuss this matter prior to April 26, feel free to contact me at (501) 683-0806, or David H. Smith at (501) 324-8694. Thank you in advance for your cooperation.

Sincerely,

Shannon L. Holloway
STAFF ATTORNEY

Enclosure

Confirmation Services	Package ID: 9171082133393191240359	E-CERTIFIED
	Destination ZIP Code: 71913	1STCL REGULAR LETTER
	Cust Recd Add Sam Anderson Registered Agent for P-R-E, LLC 1704 Marion Anderson Road Hot Springs, AR 71913	PBP Account #: 43213222 Serial #: 4391984 APR 05 2010 4:03P



UNITED STATES POSTAL SERVICE

05 APR 2011 09:31

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

ARKANSAS SECURITIES DEPARTMENT
HERITAGE WEST BUILDING - THIRD FLOOR
201 EAST MARKHAM
LITTLE ROCK, ARKANSAS 72201

RECEIVED
10 APR - 8 AM 7:38
ARKANSAS SECURITIES DEPT

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:

Sam Anderson
Registered Agent for P-R-E, LLC
1704 Marion Anderson Road
Hot Springs, AR 71913

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

Sam Anderson

C. Date of Delivery

4-8-10

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
(Transfer from service label)

91 7108 2133 3931 9124 0359

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Exhibit D

David Smith

From: Sam Anderson [sa@phoenixrenewableenergy.com]
Sent: Monday, April 26, 2010 3:17 PM
To: David Smith
Subject: RE: In the Matter of P-R-E, LLC et al, Arkansas Securities Case # S-09-068

Thank you sir,

Sam Anderson

From: David Smith [mailto:david.smith@securities.arkansas.gov]
Sent: Monday, April 26, 2010 3:15 PM
To: Sam Anderson
Cc: Judy Roberts
Subject: RE: In the Matter of P-R-E, LLC et al, Arkansas Securities Case # S-09-068

Mr. Anderson:

Given your reported medical issues, the Staff hereby agrees to extend the time for you to comply with Subpoena S-09-068-10-SB04 from April 26, 2010 to May 5, 2010.

Sincerely,

David H. Smith

Chief Counsel

Arkansas Securities Department

(501) 324-8694

From: Sam Anderson [mailto:sa@phoenixrenewableenergy.com]
Sent: Tuesday, April 20, 2010 4:33 PM
To: David Smith
Subject: In the Matter of P-R-E, LLC et al, Arkansas Securities Case # S-09-068

Dear Mr. Smith,

It looks like I was served with a Subpoena Duces Tecum some time after April 5th.

I was hospitalized from March 17th until March 23rd and stayed home to recuperate for a little over three weeks. My memory during that time is pretty shaky. I had been on 1000mg of steroids daily during my hospital stay and I felt like I came pretty close to death the first week afterward as I was taken off the steroids cold turkey.

Obviously, I am not going to have the time to gather the exhaustive list you have requested in the time that remains. I am pretty sure, for my comfort and yours, I probably ought to have an attorney that runs the middle on this.

Can we agree to an extension of your time frame?

Sam Anderson
CEO, P-R-E, LLC

Exhibit E