

**STATE OF ARKANSAS  
SECURITIES DEPARTMENT**

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IN THE MATTER OF

BARRY L. EMIGH

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CEASE AND DESIST ORDER  
NO. 02-018-S

**CEASE AND DESIST ORDER**

The Arkansas Securities Department (the "Department") has received information and has in its possession certain evidence that indicates that Barry L. Emigh has violated provisions of the Arkansas Securities Act, Ark. Code Ann. § 23-42-101 *et. seq.* (the "Act").

**FINDINGS OF FACT**

1. On May 29, 2002, and continuing through June 3, 2002, Barry L. Emigh ("Emigh") posted and maintained a website on the world wide web on which the information set forth on Exhibit "A" could be viewed by the public at the address of [http://members.aol.com/ ht a/yourcasinos/index.html?mtbrand+AOL US](http://members.aol.com/ht_a/yourcasinos/index.html?mtbrand+AOL_US). In such information, Emigh offers shares of stock in Diamond State Casinos Limited ("Casinos"), a corporation or limited liability company that he states is to be formed in the future provided a proposed initiative to allow casino gaming is passed by Arkansas voters, to persons who provide him with valid ballot question signatures in furtherance of placing the initiative on the ballot. The offer states that for each valid signature on a ballot question petition, Emigh will issue one share of stock in Casinos provided the initiative passes.

2. Records of the Department contained in the Central Registration Depository as maintained by the National Association of Securities Dealers, Inc., reflect that Emigh is not, nor has he ever been, registered with the Department as an agent in the securities business as required by the Act.
3. The records of the Department do not reflect that the stock of Casinos has ever been registered pursuant to the Act, nor do they reflect that a proof of exemption to exempt the sale of shares of Casinos has ever been filed pursuant to the Act and Rules of the Arkansas Securities Commissioner.
4. On May 30, 2002, Emigh was informed by electronic transmission and by telephone that it was the position of the staff of the Department that the materials attached as Exhibit "A" constitute an offer to sell securities under the Act, that the records of the Department do not reflect that he was registered in Arkansas to offer or sell securities as an agent or that the stock of Casinos is registered or exempt from registration, and that he should cease such offer immediately.
5. By letter transmitted electronically on June 1, 2002, Emigh informed the staff of the Department that he was not going to stop offering the shares inasmuch as he believed that the offering was exempt from the Act because it involved a constitutional amendment and the stock of an entity that would be formed only upon passage of the initiative.

#### **CONCLUSIONS OF LAW**

6. Ark. Code Ann. § 23-42-102(13) defines "offer" or "offer to sell" as every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

7. Ark. Code Ann. § 23-42-501 states that it is unlawful for any person to offer or sell any security which is not registered or which is not exempt from registration under the Act.
8. Ark. Code Ann. § 23-42-301(a) states that it is unlawful for any person to transact business in this state as a broker-dealer or agent unless such person is registered under the Act.

**OPINION**

9. This matter has been properly brought before the Arkansas Securities Commissioner in accordance with Ark. Code Ann. § 23-42-209.
10. From the facts known by the staff of the Department, there is reason to believe that Emigh has engaged in and continues to engage in activity in violation of the Act by offering to sell the securities described in paragraph 1 above.
11. Pursuant to Ark. Code Ann. § 23-42-209(a)(1), the Arkansas Securities Commissioner may order Emigh to immediately cease and desist from the further offer of the securities described herein.
12. Such an Order is in the public interest.

**ORDER**

IT IS THEREFORE ORDERED that Barry L. Emigh **CEASE AND DESIST** from any further actions in the State of Arkansas in connection with the offer of the securities described hereinabove and from any other act or practice constituting a violation of the Act or Rules of the Arkansas Securities Commissioner.

WITNESS MY HAND AND SEAL this 3rd day of June 2002.

A handwritten signature in black ink, appearing to read "M. Johnson". The signature is written in a cursive style with a large, stylized initial "M".

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MICHAEL B. JOHNSON  
ARKANSAS SECURITIES COMMISSIONER