

STATE OF ARKANSAS  
SECURITIES DEPARTMENT

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IN THE MATTER OF

SWARTHOUT PROPERTIES, LLC

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ORDER PROVIDING A  
TRANSACTIONAL EXEMPTION  
FROM REGISTRATION  
ORDER NO. 07-80007060-OR005

FINDINGS OF FACT

1. On May 10, 2007, a letter was received by the Arkansas Securities Commissioner requesting that the proposed restructuring of the ownership of Swarthout Properties, LLC (“Swarthout”) be determined to be an exempt transaction pursuant to Arkansas Code Annotated §23-42-504(a)(12).

2. Swarthout was organized on March 29, 2006. The Articles of Organization were filed with the Arkansas Secretary of State on April 3, 2006. The members of Swarthout are Carnical Properties, LLC, an Arkansas limited liability company, SP & R Partnership, a Kansas general partnership, Jay Jungles, Matthew Stafford and Michael Stafford. The three individual members are all residents of Arkansas.

3. Swarthout was structured to construct and own an office building in Rogers, Arkansas. Swarthout leases some of the office space to Stafford & Westervelt, an accounting firm.

4. SP & R Partnership was organized by its partners in 1974 and owns an office building in Chanute, Kansas. The five individual partners of SP & R Partnership are Jerry Stafford, Cecil Prier, John Reichert, James Smith, and Ken Cunningham. The

partners are all members of an accounting firm now known as Stafford & Westervelt. The Chanute, Kansas office building houses one of the offices of Stafford & Westervelt.

5. Two of the individual members of Swarthout are partners in Stafford & Westervelt; and the third individual member of Swarthout is an employee of Stafford & Westervelt. Also, Michael Stafford and Matthew Stafford are the children of one of the partners of Stafford & Westervelt.

6. Carmical Properties, LLC was the landlord for Stafford & Westervelt's Rogers, Arkansas office from 2001 to the end of 2006. The members of Carmical Properties, LLC are long standing clients of Stafford & Westervelt.

7. The proposed restructuring of Swarthout would eliminate SP & R Partnership as a member and redistribute the membership interests among the existing members and the individual partners of SP & R Partnership.

8. The purpose of the restructuring is to eliminate the requirement that partners of SP & R Partnership guarantee a disproportionate amount of the debt because of their status as general partners.

9. The new members of Swarthout under the proposed restructuring will include Jerry Stafford, Cecil Prier, John Reichert, James Smith, and Ken Cunningham.

10. The members under the proposed restructuring represent that the interests will continue to be held for investment and not with a view to distribution.

11. An exemption from registration has been requested pursuant to the Commissioner's discretionary authority under Arkansas Code Annotated §23-42-504(a)(12). All proposed members have access to all necessary financial and other information concerning the interests in Swarthout. All of the members have long standing

personal and business relationships with each other. Based upon the foregoing, the transaction is not the type the Arkansas Securities Act (the "Act") was designed to protect by requiring registration.

### CONCLUSIONS

1. Under § 23-42-504(a)(12) of the Act, the Commissioner may by order exempt certain transactions from §23-42-501 and §23-42-502 of the Act as not being necessary or appropriate in the public interest for the protection of investors.

2. It is not necessary or appropriate in the public interest for the protection of investors of Swarthout to be required to register the restructuring transaction under the Act.

### OPINION

In recognition of the representations made by Swarthout Properties, LLC, it appears registration of these transactions is unnecessary in this instance.

This Order does not exempt the parties from the antifraud provisions of the Act.

### ORDER

IT IS THEREFORE ORDERED that the restructuring of the interests in Swarthout Properties, LLC in the proposed transaction, if done in compliance with the representations made in the letter dated May 8, 2007, and in accordance with the Findings of Fact stated herein, shall be exempted from §23-42-501 and § 23-42-502 of the Act.

WITENSS MY HAND AND SEAL this 21<sup>st</sup> day of May 2007.



MICHAEL B. JOHNSON  
SECURITIES COMMISSIONER