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State bars Sunwest Management owner from financial industry

Jon Harder violated numerous securities laws in investment scheme

(Salem) – The Oregon Department of Consumer and Business Services issued a cease-and-desist order against Jon M. Harder of Salem for numerous securities violations related to raising money for senior living properties. Harder consented to the order.

Under the terms of the order, Harder, who owned and operated Sunwest Management Inc., is prohibited from using securities registration exemptions, must surrender his broker/dealer salesperson license, and is not allowed to apply for any licenses issued by the department's Division of Finance and Corporate Securities (DFCS) or the Insurance Division. In addition, if Harder receives any financial benefit from the federal lawsuit settlement under consideration, he must pay \$4.2 million into a restitution fund to benefit Oregonians and others who invested in Sunwest properties.

Salem-based Sunwest operates and manages senior living facilities throughout the United States. From March 2001 to June 2008, Harder solicited more than 1,200 investors – more than 500 from Oregon – and raised more \$250 million to locate, acquire, construct, manage and/or operate senior living facility properties. Sunwest holdings grew from two properties in Oregon to more than 270 in 36 states. However, when the economic downturn began to affect some of its operations, Sunwest started to divert funds to different properties – without informing investors. By the summer of 2008, Sunwest had stopped paying most of its investors, who filed complaints with DFCS and other agencies.

According to the order issued by DFCS, Harder misstated information or omitted facts when soliciting investors, and violated Oregon securities laws by not registering the securities or investments, and using unlicensed salespeople. DFCS also has pending orders against other entities involved in the scheme.

“While the settlement with Mr. Harder is a significant step in resolving the Sunwest case, our investigation continues,” said David Tatman, DFCS administrator. “This is a very complex case with a number of involved entities and individuals.”

DFCS and the U.S. Securities and Exchange Commission (SEC) began investigating Sunwest in September 2008 following a joint examination of Sunwest's captive broker-dealer, Canyon Creek Financial. The examination found a number of discrepancies supporting investor complaints.

As the investigation progressed, DFCS imposed an order suspending Sunwest and its affiliates' use of exemptions from the registration requirements under the Oregon securities law in October 2008. In March 2009, the U.S. Securities and Exchange Commission filed suit against Sunwest in Federal District Court in Eugene. U.S. District Judge Michael Hogan placed Sunwest and most of the affiliated entities into federal receivership. The federal case is ongoing, and the receivership and reorganization specialist continue to operate many of the various entities and businesses.

“Investors should always be skeptical when investing in complex programs,” Tatman said. “The first step is to check with our department to make sure the investment and the salesperson are licensed. We also encourage investors to consult with trusted professionals to determine if the investment is appropriate for them.”

To check on a potential investment or salesperson, consumers can call the Division of Finance and Corporate Securities at 503-378-4140 or go to www.dfcs.oregon.gov.

The Division of Finance and Corporate Securities (DFCS) helps ensure that a wide range of financial products and services are available to Oregonians and protects consumers from financial fraud and abuse. It does that by licensing financial institutions and service providers, regulating the sale of securities in Oregon, investigating complaints and alleged violations of financial-service laws, and providing education and other resources to consumers.

The Department of Consumer and Business Services is Oregon’s largest business regulatory and consumer protection agency. For more information, visit www.dcbs.oregon.gov.

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