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CARL J. KUNASEK  
COMMISSIONER



ARIZONA CORPORATION COMMISSION

JAMES MATTHEWS  
EXECUTIVE SECRETARY

SECURITIES DIVISION  
1300 West Washington  
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Phoenix, AZ 85007-2996  
TELEPHONE: (602) 542-4242  
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April 6, 1995

Sinclair A. Ziesing, Esq.  
Drinker Biddle & Reath  
Philadelphia National Bank Building  
1345 Chestnut Street  
Philadelphia, PA 19107-3496

RE: AmeriData Delaware, LLC/No-action request  
A.R.S. § 44-1844(A)(8)

Dear Mr. Ziesing:

On the basis of the facts set forth in your letter of March 14, 1995, and in reliance upon your opinion as counsel, the Securities Division will not recommend enforcement action for violation of the Securities Act of Arizona should AmeriData sell preferred securities to "qualified institutional buyers" as defined by Rule 144A of the Securities Act of 1933.

As this position is premised upon the facts set forth in your letter, it should not be relied on for any other set of facts or by any other person. Please also note that this position applies only to the registration requirements of the Act; the anti-fraud provisions of the Act continue to be applicable.

We have attached a photocopy of your letter. By doing this we are able to avoid having to recite or summarize the facts set forth therein.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Dee Ridgell Harris".

DEE RIDDELL HARRIS  
Director of Securities

DRH:jb  
Attachment

LAW OFFICES

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March 14, 1995

EXPEDITED CONSIDERATION REQUESTED

VIA FEDERAL EXPRESS

State of Arizona  
Corporation Commission, Securities Division  
1300 West Washington Street  
Third Floor  
Phoenix, Arizona 85007

Attention: Leslie Block, Esquire

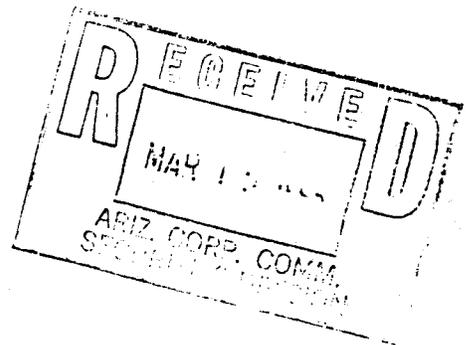
Re: AmeriData Delaware, L.L.C.: No-Action Request

Dear Ms. Block:

Pursuant to a telephone conversation with Marsha Kwasman on March 1, 1995, please consider the following to be a formal request to the Arizona Corporation Commission (the "Commission") to take a no-action position under Section 44-1844(A)(8) of the Arizona Securities Act (the "Act") with respect to securities to be offered and sold to Qualified Institutional Buyers ("QIBs") as defined in Rule 144A of the Securities Exchange Act of 1933 (the "Securities Act").

Section 44-1844(A)(8) exempts from the registration requirements of the Act certain enumerated "institutional investors." On May 25, 1994, the Commission decided to take a "no-action" position with respect to the sale of notes to QIBs in a private offering, which it interpreted as falling within the definition of "institutional investor" in Section 44-1844(A)(8).

Similarly, the issuer in this case, a limited liability company to be formed in Delaware, proposes to offer and sell preferred securities to QIBs and accredited investors as defined under Rule 501 (a) (1), (2), (3), or (7) of the Securities Act. Offers and sales to the institutional accredited investors will be exempt under Section 44-1844(A)(1) and Rule 14-4-126 thereunder. As was set forth in the previous no-action request, the definition of QIBs, as defined below, includes only



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sophisticated institutions which are not in need of the protection of the Act. For this reason, we believe that QIBs should be considered to fall within the definition of "institutional investors" within the meaning of Section 44-1844(A)(8) of the Act.

Under Rule 144A, the term Qualified Institutional Buyer refers to an entity "acting for its own account or for the accounts of other qualified institutional buyers, that in the aggregate owns and invests on a discretionary basis at least \$100 million in securities of issuers that are not affiliated with the entity", including, but not limited to:

- (a) Any insurance company as defined in §2(13) of the Act
- (b) Any investment company registered under the Investment Company Act or any business development company as defined in Section 2(a)(48) of that Act;
- (c) Any Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958;
- (d) Any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;
- (e) Any employee benefit plan within the meaning of Title I of ERISA;
- (f) Any trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (d) or (e) above, except trust funds that include as participants individual retirement accounts or H.R. plans;
- (g) Any business development company as defined in §202(a)(22) of the Investment Advisers Act of 1940;
- (h) Any organization described in §501(c)(3) of the Internal Revenue Code, corporation, partnership, or Massachusetts or similar business trust;
- (i) Any investment adviser registered under the Investment Advisers Act; and
- (j) Any bank, as defined in §3(a)(2) of the Act, any savings and loan association or other institution as referenced in §3(a)(5)9A) of the Act..."

In light of the fact that an entity that meets the definition of a QIB must have a high level of experience and involvement in sophisticated financial matters, we believe that all QIBs have the requisite sophistication and financial

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resources to qualify as "institutional investors". We note that several other states, such as California, Massachusetts and Oregon, have recently amended their "institutional investor" exemptions to specifically include QIBs within the definition of "institutional investor."

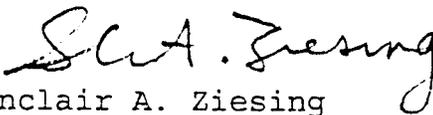
Therefore, we ask the Arizona Corporation Commission to consider QIBs exempt within the meaning of Section 44-1844(A)(8).

I have enclosed a check in the amount of \$200.00 for your consideration of this no-action request.

If you require further information concerning the transaction referenced above, please contact me at (215)988-2689. Please also contact me prior to issuing your written response if you are of the opinion that you cannot issue a no-action letter favorable to the Issuer.

Please acknowledge receipt of this letter and the enclosures by date-stamping the enclosed copy of this letter and returning it to me in the enclosed stamped self-addressed envelope.

Very truly yours,

  
Sinclair A. Ziesing

KMO  
Enclosures

cc: H. John Michel, Jr. Esq.  
Walter J. Mostek, Jr., Esq.  
Paula T. Calhoun, Esq.  
Karen M. Orrio, Legal Assistant.