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November 15, 1991

Carol Dey Hibbs, Esq.
Tonkin, Torp, Galen, Marmaduke & Booth
1600 Pioneer Tower
888 S.W. Fifth Ave
Portland, OR 97204-2099

RE: David Evans & Associates, Inc./No-Action Letter
R14-4-308

Dear Ms. Hibbs:

On the basis of the facts set forth in your letter of October 23, 1991, and after giving due consideration to the fact that the company relied in good faith on advice of prior counsel, and that the company is offering full rescission for past transactions, the Securities Division will not recommend enforcement action for violation of the Securities Act of Arizona should the rescission offer take place as set forth in your letter.

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,

DEE RIDDELL HARRIS
Director of Securities

DRH:JB

Attachment

TONKON, TORP, GALEN, MARMADUKE & BOOTH

ATTORNEYS AT LAW

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October 24, 1991

FEDERAL EXPRESS

Arizona Corporation Commission
Securities Division
1200 West Washington Street
Phoenix, Arizona 85007

Attention: Mr. Lee Pool

Re: David Evans and Associates, Inc.; Rescission Offer

Dear Lee:

You and I discussed the issues raised by an issuer who may have violated Arizona securities laws by selling stock to employees in Arizona without registering the securities or qualifying for an exemption. You and I discussed the fact that Arizona law does not provide a procedure for an issuer to voluntarily remedy such a situation. However, we concluded that the best way to eliminate any potential liabilities of the issuer was to offer rescission to the applicable shareholders and to request a no-action letter from the Arizona Securities Division stating that it would not take any enforcement action against the issuer.

On behalf of our client, David Evans and Associates, Inc. (DEA or the "Company"), we hereby request a no-action letter from the Arizona Securities Division stating that it will not take enforcement action against the Company if the Company offers rescission, on the terms outlined below, to the nine Arizona residents who purchased a total of 21,000 shares of common stock from the Company in June 1991 for a total price of \$22,260.

Background

The Company is planning to offer rescission to certain employees residing in Oregon, Washington, California and Arizona who purchased shares of DEA common stock in 1989, 1990 and 1991. All sales involving Arizona residents occurred in 1991, and the

Company is planning to offer rescission to all Arizona shareholders, except to two Arizona residents who were issued shares in connection with a merger that was effected in March 1991. The issuance of those shares was exempt under Arizona Code Section 44-1844(6).

If the Company had made certain filings, the June 1991 sales to the Arizona employees could have qualified for exemption under Section R14-4-101 (Rule 101) and/or under Section R14-4-102 (Rule 102) of the Arizona securities regulations. The offering was made only to employees. The aggregate amount of the offering involving Arizona residents was less than \$100,000, and no commissions were paid. However, no filings were made in Arizona prior to the sales in Arizona.

Legal Analysis

Arizona law does not provide a mechanism for an issuer to voluntarily offer rescission to correct possible registration problems that the issuer has discovered. Arizona's Rule 308 (R14-4-308) does specify requirements for rescission and/or restitution when ordered by the Commission.

As you and I discussed, some states consider rescission offers to be offers of securities, which may qualify for registration or exemption in the same way that a regular securities offering qualifies. However, under Arizona law, a rescission offer is not an offer of securities. Therefore, the exemptions under Rules 101 and 102 are not available for a rescission offer.

Because of the way rescission offers are treated under Arizona law, you suggested that the Company offer rescission to the Arizona residents, complying as much as possible with the rescission requirements of Rule 308, to effectively eliminate any shareholder damages against DEA, and that the Company request a no-action letter from the Arizona Securities Division, as described above.

Documents and Information in Support of Request for No-Action Letter

Enclosed in support of our request for a no-action letter are the following documents:

1. A draft of the Private Placement Memorandum that will be sent to all employees to whom rescission is being offered. The terms of the offering (see

pages 6 to 11 in the Private Placement Memorandum) comply with the requirements of Rule 308.

2. A letter to Arizona residents that will accompany the Private Placement Memorandum, pursuant to which they will either accept or reject the rescission offer.
3. A consent to service of process.
4. A check in the amount of \$200 in payment of your fee.

The primary factors in support of the requested no-action letter are: (1) the sales were made only to employees; (2) the sales to Arizona residents would have qualified for exemption under Rule 101 and/or 102 if certain filings had been made prior to the sales; (3) the Company is offering rescission in compliance with the requirements established by Rule 308; and (4) there is no specific mechanism or procedure under Arizona law for an issuer who may have violated the Arizona securities law by selling unregistered securities to remedy the possible violation.

We are qualifying the rescission offer with the securities regulators of Oregon, Washington and California. We are hoping to have approval to proceed with the offering from each of those regulators within approximately two weeks. We would appreciate your prompt response to this request. Please contact me if you need any additional information or if you have any questions.

Sincerely,



Carol Dey Hibbs

CDH:jeh
Enclosures