

Statute

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ARIZONA CORPORATION COMMISSION

JAMES MATTHEWS
EXECUTIVE SECRETARY
SECURITIES DIVISION
1300 West Washington
Third Floor
TELEPHONE: (602) 542-4242
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November 9, 1993

Martin R. Miller, Esq.
Orrick, Herrington & Sutcliffe
599 Lexington Avenue
New York, NY 10022

RE: Industrial Development Authority of the County of Maricopa
Insured Health Facility Revenue Bonds (Catholic Healthcare West)
1993 Series A/No-Action Request
A.R.S. §§ 44-1843(A)(1), 44-1843.01(A)(5)

Dear Mr. Miller:

On the basis of the facts set forth in your letters of November 2 and 3, 1993, 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 the transaction 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.

Please be aware that dealer registration is required for securities exempt under A.R.S. § 44-1843(A)(1), as set forth in the provisions of A.A.C. R14-4-104(A)(5).

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 cursive script, appearing to read "Dee Rid dell Harris".

DEE RIDDELL HARRIS
Director of Securities

DRH:jb
Attachment

ORRICK, HERRINGTON
& SUTCLIFFE

November 2, 1993

FEDERAL EXPRESS

Ms. Leslie Block
Corporation Commission,
Securities Division
1200 West Washington Street
Suite 201
Phoenix, Arizona 85007



Re: The Industrial Development Authority
of the County of Maricopa
Insured Health Facility Revenue Bonds
(Catholic Healthcare West) 1993 Series A

Dear Ms. Block:

After a review of the Arizona Securities Act (the "Act"), and the published no action letters and policy statements we request that you issue a no action letter that the offering would be exempt from registration in Arizona because the above referenced Bonds would be exempt pursuant to Section 44-1843.A.1 of the Act as those of a political subdivision of Arizona.

Please be advised that your office took a "no-action" position with regard to a similar offering by this issuer on behalf of Catholic Healthcare West this past summer.

We are writing to you regarding the Insured Health Facility Revenue Bonds (Catholic Healthcare West) 1993 Series A (the "Bonds") of The Industrial Development Authority of the County of Maricopa (the "Authority").

The Bonds will be issued pursuant to an indenture, dated as of November 1, 1993 (the "Arizona Indenture"), between the Arizona Authority and Bank One, Arizona, N.A., as trustee (the "Arizona Trustee"). The proceeds of the Arizona Bonds will be loaned to the Corporation pursuant to a loan agreement, dated as of November 1, 1993 (the "Arizona Loan Agreement"), between the Arizona Authority and the Corporation. The proceeds of such loan will be used along with other available funds to refund the Arizona Authority's Insured Health Facility Revenue Bonds (Mercy Health System), 1985 Series A, B and C. See "PLAN OF REFUNDING -

NY1-35071.1

40181-68-MRM-11/02/93

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- The 1985 Arizona Bonds" in the draft preliminary official statement.

The Authority was created pursuant to the statute currently entitled "Industrial Development Financing," Title 35, Chapter 5, Articles 1 through 5, Arizona Revised Statutes, as amended, (Sections 35-701 through 35-761, inclusive) (the "Arizona Act"). The Authority is a nonprofit corporation designated as a political subdivision of the State of Arizona. The Authority is authorized to issue the Bonds by virtue of the power granted to it under the Arizona Act.

The Bonds are secured under the provisions of the respective Indentures and Agreements and will be payable from payments made by the Corporation under the respective Agreements, from payments made by the Members of an Obligated Group described below on certain Obligations described below issued by the Corporation under the Master Indenture described below and from certain funds held under the respective Indentures. The Obligations will be issued by the Corporation on behalf of the Members of the Obligated Group under and pursuant to the terms of the Master Indenture, whereunder the Members of the Obligated Group jointly and severally are obligated to make payments on the Obligations according to the terms thereof when due. Payments on the respective Obligations are required to be in an amount sufficient to pay when due the principal of and premium, if any, and interest on the respective Bonds which such Obligation secures. Bonds are secured solely by the respective Indenture pursuant to which they are issued and payable solely from payments under their respective Agreement and Obligation.

The Corporation is presently the parent (directly or indirectly) of nine California nonprofit public benefit corporations, which presently operate fifteen acute care hospitals in California. The Corporation is also the sole corporate member of an Arizona nonprofit corporation (the "Arizona Obligated Group Member") which operates an acute care hospital, and is the sole corporate member of a Nevada nonprofit corporation (the "Nevada Obligated Group Member") which operates an acute care hospital. The Corporation and such corporations

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are and, upon the issuance of the Bonds, Mercy Hospital of Mt. Shasta, will be, joint and several obligors and guarantors of obligations issued pursuant to a Master Indenture (the "Master Indenture"), as more fully described in Appendix A hereto. The Corporation and such other corporations will be referred to herein collectively as the "Obligated Group" or "Obligated Group Members," and, each individually, as an "Obligated Group Member."

Payment of the principal of and interest on the Bonds when due (other than by reason of any redemption, except for mandatory sinking fund redemptions or any acceleration of the due date of principal) is to be insured by a financial guaranty insurance policy (the "Bond Insurance Policy") issued by Municipal Bond Investors Assurance Corporation.

The Certificates are payable from Revenues from the Obligated Group Members, nonprofit entities. The purpose of the offerings is to refund previously issued indebtedness. The Authority is a political subdivision of the State of Arizona and its bonds would be exempt under Section 44-1843.A.1 of the Act.

Under Section 44-1843.01 5 of the Act, the exemption is taken away for securities of political subdivisions used to provide monies for constructing, improving, equipping or furnishing . . . skilled nursing facilities, for use by entities other than municipal. As described in the draft preliminary official statement the Obligated Group Members may have skilled nursing facilities or other clinics as part of their acute care hospitals. However, the exclusion continues on to provide that such securities are excluded only if they are not fully secured by payments to be made by an entity owning or operating or repurchasing or leasing a hospital from a political subdivision. We would argue that the Bonds would be within the language of the last phrase in paragraph 5., in that the Obligated Group Members own or operate "hospitals." We would argue that this offering comes within the "spirit" of that section as well as the exact language in that the Obligated Group Members operate public purpose hospital facilities. The Bonds are also secured by a municipal bond insurance policy, so they are not secured only by entities operating hospitals. However,

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we would argue that this subsection 5. was not intended to deny the exemption to Bonds which were insured, since the insurance makes the Bonds a more secure investment for the Bondholder.

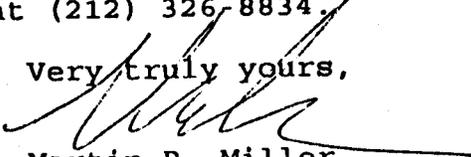
Additionally, in connection with the previous offering involving the Corporation for which we asked and were granted no-action by your office, you asked us to check as to whether the members of the Obligated Group which are obligated to pay on the Bonds issued are all involved in operating or owning hospitals. Please see Appendix A page A-1 in the draft preliminary official statement, the eleven corporation in the Obligated Group operate sixteen acute care hospitals. I have confirmed with attorneys in our office in Sacramento that the Catholic Healthcare West is the parent either directly or indirectly of various not for profits in California which own the acute care hospitals. Upon issuance of the Bonds, Mercy Hospital, a nonprofit, will join the obligated group and it also operates an acute care hospital in Mt. Shasta. This is also stated on page 1 of the Draft Preliminary Official Statement. These not for profit corporations the Obligated Group Members are involved in other businesses, however, they do own and/or operate these acute care hospitals. The same is true with the Arizona subsidiary and the Nevada subsidiary of Catholic Healthcare West.

This office requests that you take a no-action position in writing with regard to the offering of the Bonds.

Enclosed is a check in the amount of \$200 for the fee for our request. Enclosed is a draft of the preliminary official statement.

Please feel free to contact me with any comments or questions you may have at (212) 326-8834.

Very truly yours,


Martin R. Miller

Enclosure

Industrial Development Authority of the County of Maricopa

1. The statute or other law under which the corporation is formed;
ARS §35-701 - 35-761 (see OS page 1)
2. the non-profit nature of the corporation; non profit that is a political subdivision of state of Arizona 35-702
3. the net earnings will not inure to any private individual but will be irrevocably dedicated to the political entity;

Article 5 of Articles of Incorporation

4. upon dissolution, liquidation or winding up, the assets will be distributed to the political entity;

§35-752 provides that dissolution would result in all assets going to political entity

5. the political entity approved the formation, articles of incorporation, bylaws, and the officers and directors of the corporation, as well as the proposed method of financing;

County of Maricopa Board of Supervisors §35-705, 35-704

6. the political entity will be notified of meetings of the directors or members of the corporation and that representatives of the political unit can attend and make comments at those meetings.

ARS 38-431 et. seq. public body includes corporation that are a political subdivision and subject to open meeting laws

Additional Factors

7. the business of the corporation;
to encourage industrial development
8. the political unit must approve any amendments to the articles of incorporation or bylaws as well as any new officers or directors (sufficient if the political entity has right of disapproval; yes
9. whether the corporation has received a ruling from the IRS that the interest received on the bonds will be tax-exempt; no
10. whether the SEC has taken a no-action position as to the sale of the bonds without registration under the federal securities laws; Don't know