

Statute file



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ARIZONA CORPORATION COMMISSION

SECURITIES DIVISION
1300 West Washington
Third Floor
TELEPHONE: (602) 542-4242
FAX: (602) 542-3583

November 9, 1993

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

RE: City of Henderson, Nevada
Insured Health Facility Refunding Revenue Bonds
(Catholic Healthcare West) 1993 Series A
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 letters.

As this position is premised upon the facts set forth in your letters, 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 photocopies of your letters. 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

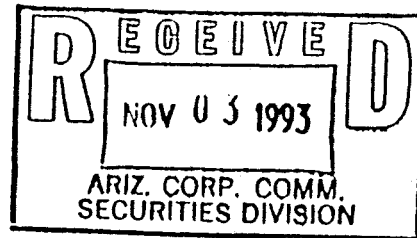
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Attachment

**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: City of Henderson, Nevada Insured
Health Facility Refunding 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 the State of Nevada.

We are writing to you regarding the Insured Health Facility Refunding Revenue Bonds (Catholic Healthcare West) 1993 Series A (the "Bonds") of City of Henderson, Nevada (the "City").

The Bonds will be issued pursuant to an indenture, dated as of November 1, 1993 (the "Nevada Indenture"), between the City and First Interstate Bank of Nevada, N.A., as trustee (the "Nevada Trustee"). The proceeds of the Bonds will be loaned to the Corporation pursuant to a financing agreement, dated as of November 1, 1993 (the "Nevada Financing Agreement"), between the City and the Corporation. The proceeds of such loan will be used along with other available funds to refund the Nevada Issuer's Insured Health Facility Revenue Bonds (Catholic Healthcare West) 1989 Series A. See "PLAN OF REFUNDING -- The 1989 Nevada Bonds" in the draft preliminary official statement.

NY1-35072.1

40181-68-MRM-11/02/93

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& SUTCLIFFE

Ms. Leslie Block
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The City is a municipal corporation and political subdivision of the State of Nevada. Pursuant to the City Economic Development Revenue Bond Law, Nevada Revised Statutes, as amended (Section 268.512 through Section 268.568) (the "Nevada Act"), the City is authorized to issue the Nevada Bonds for the financing or refinancing of the acquisition, construction, improvement or equipping of projects, including health and care facilities, as defined in the Nevada Act.

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

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 each 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

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& SUTCLIFFE**

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"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 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 of the draft preliminary official statement. 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."

The Bonds are payable from Revenues from the Obligated Group Members, nonprofit entities. The purpose of the offerings is to refund previously issued debt obligations. The City is a political subdivision of the State of Nevada 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, we would argue that this subsection 5. was not intended to deny

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& SUTCLIFFE**

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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 and 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

**ORRICK, HERRINGTON
& SUTCLIFFE**

November 3, 1993

BY FAX (602) 542-3583

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

- Re: California Health Facilities Financing Authority
Insured Health Facility Refunding Revenue Bonds
(Catholic Healthcare West) 1993 Series A 1993 Series B
- Re: The Industrial Development Authority
of the County of Maricopa
Insured Health Facility Revenue Bonds
(Catholic Healthcare West) 1993 Series A
- Re: City of Henderson, Nevada Insured
Health Facility Refunding 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 submitted on behalf of the three above referenced offerings requests that you issue "no-action" letters that such offerings 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.

Those applications should have been delivered to your office today by federal express.

As we discussed on the telephone yesterday, in answer to your request, what follows are the "California Test" question and answer sheets filled out, to the best of their information, by attorneys at our firm on each of the three issuers involved in these simultaneous offerings.

NY1-33070.1

40181-01-MRM-11/03/93

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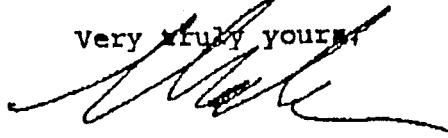
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& SUTCLIFFE**

Leslie Block
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I would appreciate your review of these applications in an expeditious manner. The questions presented in these requests are very similar to those posed in two offerings for which we received "no action" letters this past summer.

Thank you very much for all your assistance with regard to this matter. Please feel free to call me at (212) 326-8834 with any comments or questions you may have.

Very truly yours,



Martin R. Miller

Enclosures

City of Henderson

1. The statute or other law under which the corporation is formed;

A municipal corporation and Political Subdivision, Nevada
Constitution

2. the non-profit nature of the corporation;

a political subdivision of State of Nevada

3. the net earnings will not inure to any private individual but
will be irrevocably dedicated to the political entity;

political subdivision

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

municipal corporation - upon dissolution; all assets to City

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;

City Council

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.

political subdivision - subject to open meeting laws

Additional Factors

7. the business of the corporation;

Pursuant to the City Economic Development Revenue Bond Law,
Nevada revised Statutes, as amended (Section 268.512 through
268.568, inclusive) the City is authorized to issue its bonds for
the financing or refinancing of the acquisition, construction,
improvements or equipping of projects, including health and care
facilities.

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;?

no