

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SECURITIES

In the Matter of
LIGHT MANAGEMENT SYSTEMS FUND, LLC,
CORPORATE DEPOSIT PROGRAM, TODD C. SMITH,
and SHELLY J. WADDELL,

PETITION FOR ORDER

Respondents.

File No. S-02072(EX)

The staff of the State of Wisconsin Department of Financial Institutions, Division of Securities, Bureau of Registration & Enforcement has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats., and as a result thereof alleges as follows:

1. Light Management Systems Fund, LLC ("LMSF") is a foreign business entity with last known business addresses of 9089 Clairemont Mesa Blvd., #210, San Diego, CA 92123.
2. Corporate Deposit Program, Inc. ("CDP") is a foreign business entity, which is the managing member of LMSF, with a last known business address at that of LMSF.
3. Todd Christian Smith (California Bar #167013) ("Smith") is an individual who at all times material hereto has been the President and Secretary of CDP, with a last known business address at that of LMSF.
4. Shelly J. Waddell (11/17/60) ("Waddell") is an individual who at all times material hereto has been Treasurer of CDP, with a last known business address at that of LMSF.
5. Ambient Control Systems, Inc. ("Ambient") is a foreign business entity with a last known address of 1810 Gillespie Way, Ste. 210, El Cajon, CA 92020-1094.
6. Altec Irrigation, Inc. ("Altec") is a foreign business entity, which is a wholly owned subsidiary of Ambient, with a last known address at that of Ambient.
7. Kurt J. Penberg (DOB 8/15/61) ("Penberg") is, upon information and belief, the President and CEO of Altec, with a last known business address at that of Ambient.
8. Jonathan M. Luck ("Luck") is the President of Ambient, with a last known address at that of Ambient.
9. Upon information and belief, LMSF was formed for purpose of investing in Ambient.
10. During the period between November 2001 and March 2002, unknown agents, on behalf of LMSF, CDP, Smith, and Waddell, offered and sold to at least two persons in Wisconsin membership units in LMSF.
11. Upon information and belief, investors can play a passive role in the company with no duties and responsibilities.

12. Upon information and belief, each investor will not be involved in the day-to-day management of LMSF, since there are too many investors for them to each have any meaningful input, and they do not have the expertise or experience necessary to perform its duties.
13. Since the investors will be involved in a common enterprise with the expectation of profits to be derived from the essential managerial efforts of others, the "membership units" offered by the respondents are investment contracts as defined by section DFI-Sec. 1.02(6)(a), Wis. Adm. Code, and are therefore securities as defined by sec. 551.02(13), Wis. Stats.
14. The LMSF investment contracts have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.
15. All Respondents have violated sec. 551.21(1), Wis. Stats., by offering unregistered securities in Wisconsin.
16. On April 9, 2002, the Division of Securities received a Form D Notice of Sale of Securities ("the Notice") indicating that the membership units in LMSF had been offered and sold to two investors in Wisconsin for a total of \$17,250.
17. Page 2 of the Notice lists CDP as "Managing Member."
18. Smith signed page 6 of the Notice on March 28, 2002, as "President of Managing Member."
19. On December 30, 2003, Smith sent an e-mail message to staff which states: "CDP was merely an 'escrow' company for the fund providing account and compliance services for the LMSF."
20. Since Smith's statements to division staff referred to in paragraphs 17 through 19 concerning CDP are contradictory, Smith has violated sec. 551.54, Wis. Stats., by making a false or misleading filing with the Division of Securities.
21. On November 30, 1999, the State of South Dakota issued a Cease and Desist Order against Ambient based on allegations of securities law violations.
22. On April 4, 2001, the State of California issued a Cease and Desist Order against Ambient, Penberg, and Luck, based on allegations of securities law violations.
23. On November 29, 2001, the State of Illinois issued a Cease and Desist Order against Ambient based on allegations of securities law violations.
24. On August 9, 2002, Penberg was indicted on two counts of conspiracy to defraud the United States and two counts of manipulative and deceptive devices in the U.S. District Court for the Eastern District of New York (Islip) (Case No. 02-CR-879).
25. On April 29, 2003, the State of Pennsylvania barred LMSF from offering or selling securities in that state for a period of fifteen (15) years, based on allegations of securities law violations.
26. On November 25, 2003, the State of Connecticut issued an Administrative Order against LMSF, based on allegations of securities law violations, including fraud.

