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**NEBRASKA DEPARTMENT OF BANKING AND FINANCE
BUREAU OF SECURITIES**

**INTERPRETATIVE OPINION NO. 8: – ISOLATED TRANSACTIONS AND THE SECTION
8-1111(1) EXEMPTION**

This Interpretative Opinion discusses the “isolated transaction” securities exemption provided by Section 8-1111(1) of the Securities Act of Nebraska.

Section 8-1111(1) provides an exemption from registration for “[a]ny isolated transaction, whether effected through a broker-dealer or not.” In determining whether a certain transaction should be considered an isolated transaction exempt from registration, the Department of Banking and Finance (“Department”) will consider the following factors:

1. All of the facts and circumstances concerning the particular securities transaction, and not necessarily any specific number of offers and/or sales of securities;
2. Whether the particular securities transaction is isolated, standing alone, detached and separated from all other transactions; and
3. That there can be but one transaction; however, it is possible to have more than one offer or sale in a transaction, if all such offers and sales are part of a single transaction.

In order to determine whether a transaction is isolated, the Department will analyze all offers and sales, not just those occurring in Nebraska. Offers and sales of securities over a period of time which indicate that the seller has one general purpose in making the sales, and where the sales approximate the same purpose and are detached and separated so as not to be a single transaction, are not part of an “isolated transaction” and are not exempt under Section 8-1111(1). Any securities offered in a transaction which does not qualify for the “isolated transaction” exemption, or for any other exemption from registration, must be registered as provided by Section 8-1104.

The following are examples of securities transactions which the Department views as qualifying for the “isolated transaction” exemption:

1. An organization of a family farm or business as a corporation or limited liability company;
2. A reorganization of an existing partnership as a corporation or limited liability company;
3. The sale of stock by a corporation, or interests by a limited liability company, to one passive investor during a twelve-month period;
4. An incorporation of a company, or reorganization of the company as a limited liability company, by three or fewer individuals, whether passive or active in the operation of the corporation or limited liability company, all of whom are (a) shareholders in the new corporation or members of the new limited liability company, (b) had a prior business relationship, and (c) have not made solicitations to unknown potential investors;

5. The organization of a joint venture to drill and develop an oil or gas well by four or fewer individuals or companies involved in the oil and gas business, whether as drillers, operators, geologists or otherwise, provided no joint venturer joins as a result of one or more of the joint ventures soliciting unknown potential investors; and
6. The sale of an interest in an oil or gas well or lease by an oil and gas promoter to one passive investor during a twelve-month period.

The following are examples of transactions that the Department views as not qualifying for the "isolated transaction" exemption:

1. A development corporation or a promoter thereof sells stock in the company to seven persons during a twelve-month period. See: *Labenz v. Labenz*, 198 Neb. 548, 253 N.W.2d 855 (1977).
2. Sales to five persons at about the same time. (See: *Day v. Saunders*, 528 P.2d 513 (Ore. 1974) and *Thorson v. Richmond*, 518 P.2d 642 (Ore. 1974)).

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