



# RESORT RESOURCES, INC.

March 25, 2013

Chair, Representative Paul Holvey,  
Members of the House Committee on  
Consumer Protection and Government Efficiency

ATTN: Committee Administrator - Email to [Samantha.white@state.or.us](mailto:Samantha.white@state.or.us)

SUBJECT: House Bill 2823  
Committee Public Hearing – March 26, 2013, 1:00 PM

Testimony submitted by Karen Smith for March 26, 2013 public hearing:

My testimony before the Committee is offered at the request and direction of the boards of directors of the following Oregon home owner associations:

Eagle Crest Master Association, incorporated 1985  
Brasada Ranch Residential Owners Association, incorporated 2005  
Brasada Ranch Community Council, incorporated 2005  
Running Y Ranch Resort Owners Association, incorporated 1996  
River View Vista Estates, Inc., incorporated 1990  
Ridgewater Community Association, incorporated 2006

Collectively, these associations represent over 9,000 members and reserve fund balances ranging from \$61,000 to \$1,800,000.<sup>1</sup> In my testimony, I will refer to these associations as “Association Client Group.”

My comments will be limited to the direction of the Association Client Group, which is specific to regaining their ability to responsibly manage and invest association reserve funds.<sup>2</sup> Simply stated, the Association Client Group wishes to regain the ability to responsibly manage and invest their Association reserve funds.

We have the opportunity to make this happen with HB2823.

*Background on Karen Smith and Objectives of Association Client Group – See Exhibit A.*

---

<sup>1</sup> Source: Internally prepared financial statements as of 12/31/2012; approximate balances stated.

<sup>2</sup> These amendments are primarily addressed in Section 1, (2)(a) of the Bill related to the Planned Community Act, and Section 8, (3)(a) of the Bill related to the Condominium Act. My testimony will not involve the other amendments proposed in HB2823.

Comments and Requests Specific to HB2823:

1. **Allowable Investments:**

*We seek a definition that includes direct obligations of the U.S. Treasury (investments that have the full faith and credit of the U.S. Government) and Government Sponsored Enterprises (GSE's). The Association Client Group specifically requests definition to include GNMA (Ginnie Mae) mortgage-backed securities (full faith and credit of U.S. Government) and FNMA (Fannie Mae) and FHLMC (Freddie Mac) (GSE's) mortgage-backed securities.*

*The Association Client Group is not supportive of a definition that would limit investment options to only U.S. Treasuries, notes and bonds.*

Associations in the Client Group had been responsibly managing reserve funds, some since 1985, with investments including these mortgage-backed securities that have a high level of credit quality, improved rates of return over treasuries and significantly more monthly liquidity for cash flow to fund budgeted and unbudgeted expenses.

2. **Investment Objectives:**

We will leave it to the law makers to determine if an investment objective belongs in statutes or would be more appropriate for administrative rules or if at all. However, if investment objectives are stated, a third objective is clearly necessary to complete stated objectives of investments.

Currently, HB2823 states (Section 1, page 2, lines 11-14):

“(f) The investment objectives of an association are:

(A) Preservation of capital; and

(B) Maintaining sufficient liquidity to meet the financial obligations of the planned community.”

*If objectives are to be included, we request adding:*

*(C) to earn investment income given the objectives stated in (A) and (B).*

3. **Reserve Accounts Held in FDIC/SIPC insured institutions:**

Current law limits where reserve accounts may be held to only FDIC insured institutions. HB2823 seeks to expand this to institutions with SIPC (Securities Investors Protection Corporation) insurance. We support this proposed change.

Understanding SIPC is important to wording this change to allow associations to best manage their investments. See narrative in Exhibit B, including publication of Edward Jones Investment.

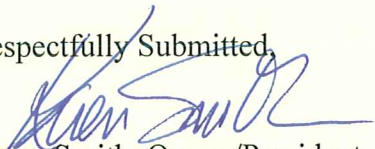
Currently, the wording in draft HB2823 may require amending to best match the SIPC requirement to the insurance product and to work in the best interest of owners associations as they manage investments.

*We request (in HB2823, for an amendment):*

- *Allowing reserve accounts to be held in both FDIC insured institutions and with brokerage firms licensed in Oregon and insured by SIPC.*
- *Not limiting the reserve account amount with a SIPC insured institution. If a SIPC member firm fails, SIPC will arrange for the orderly distribution of client assets either to another broker/dealer or the client. This protection is reasonable. If an association is required to spread investments to multiple broker/dealer firms to stay within an insured limit, the association's interest will not be best served in its management of investments.*

Thank you for the opportunity to provide input on HB2823 for consideration by the Committee.

Respectfully Submitted,

  
Karen Smith, Owner/President  
Resort Resources, Inc.

/ks

Attachments:

Exhibit A

Exhibit B

## EXHIBIT A

### Background on Karen Smith and objectives of Association Client Group

I own a business, Resort Resources, Inc., located in Bend, Oregon. Through this business which I started in the early 90's, I have offered a variety of management and consulting services to planned community developers and owners associations. My first involvement with an Oregon planned community was in 1985 as a management employee for the developer of Eagle Crest Resort. I take pride in our actions as developer to have professional reserve studies conducted as soon as the owner associations were formed AND funding the asset reserve accounts. Over the past 25+ years, I have gained a rich understanding of the Planned Communities Act (and Condominium Act) and owner association and developer responsibilities under the Act(s).

At the time the most recent law change took effect amending the Planned Community Act, each association in the Association Client Group held reserve fund investments that included certificates of deposit held in FDIC insured institutions, money market accounts held with an Oregon licensed securities broker-dealer, and a combination of mortgage-backed securities issued by GNMA ("Ginnie Mae"), FNMA ("Fannie Mae") and FHLMC ("Freddie Mac") also held with an Oregon licensed securities broker-dealer. Associations in the Client Group had been responsibly managing reserve funds, some since 1985, with investments including these mortgage-backed securities that have a high level of credit quality, improved rates of return over treasuries and significantly more monthly liquidity for cash flow to fund budgeted and unbudgeted expenses. With the 2009 law change that took effect in 2010, the Association Client Group has seen dramatically decreased rates of return as a direct result of the restrictions in the Act(s), not just as a result of the interest rate environment.

The decision of the members in this Association Client Group was to work toward a correcting law change. Their stated objective was:

*"To accomplish two changes to the Oregon Planned Community Act and the Oregon Condominium Act (collectively, the "Act"), with the laws in question being Senate Bill 963 Sec. 13 – Amended ORS 94.670(2)(a)(b) (Planned Community Act) and Senate Bill 963 Sec. 29 – Amended ORS 100.480(3)(a)(b) (Condominium Act). One change to clarify: what is an "Obligation of the federal government" as it pertains to allowable investments. Second change to allow cash and government securities be held at both SIPC and FDIC insured institutions."*

Simply stated, the Association Client Group wishes to regain the ability to responsibly manage and invest their Association reserve funds.

In June 2012, I approached a group of professionals self-named the "Condominium/HOA Working Group". The initial HB2823 has been proposed through this group.



## Resort Resources, Inc.

Resort Resources, Inc. provides consulting services in the areas of community association planning, structuring, and documentation, in addition to preparing land sales registrations at the state and federal level. Our work with developers and property owner associations is focused on sharing our knowledge, experience and expertise to assist them in achieving their objectives. Our experience extends to projects within and outside the United States combining various types of uses, including residential, large mixed use developments, resort condominiums and vacation ownership, commercial, hotel, golf clubs, and other recreational components.

Resort Resources, Inc. is a member of Community Associations Institute. Karen Smith holds the CMCA designation; Lesley Edwards, Associate and licensed appraiser, holds the Reserve Specialist (RS) designation from CAI and Professional Reserve Analyst (PRA) designation and is a member of the Association of Professional Reserve Analysts.

*Our services* are directed in a wide range of areas unique to planned community development including:

- Community association planning and structuring; developer to owner-managed association transitions
- Land and timeshare sales registration work at state and federal levels
- Reserve studies for asset repair and replacement; Maintenance Plans
- Property tax analysis and appeal services
- Owner Association administrative, management and accounting services

***Karen Smith*** is the founder and President of Resort Resources, Inc.. Ms. Smith is a native of Seattle, WA, moving to Bend, OR in 1982. Ms. Smith graduated from Linfield College with a B.S. in Business Management, emphasis in accounting. Her real estate and property management background began with corporate property management for a Seattle firm prior to managing all administrative aspects of the Eagle Crest Resort development from the design phase through development and sales in the 1980's. Ms. Smith has had extensive experience in designing governance structures, systems and documents for developers of resorts and planned communities, including residential, recreational and mixed-used projects. In addition, her expertise extends to managing and transitioning owners associations from developer control to successful owner-managed associations. Her involvement in the development field also includes consulting regarding and preparation of federal (Interstate Land Sales Full Disclosure Act) and state registrations for homesite, condominium and timeshare sales.

June 2012

## EXHIBIT B

### Narrative Regarding Securities Investors Protection Corporation (SIPC) Insurance

Compared to FDIC insured institutions, SIPC provides equal guarantees for cash and additionally provides protection for the safekeeping of the proposed allowable government securities. SIPC firms not only insure cash deposits up to \$250,000 like the FDIC, but many SIPC firms provide additional insurance to provide for more secure safekeeping of accounts in excess of \$250,000. SIPC insurance differs from FDIC insurance. SIPC insurance provides some cash insurance coverage and is really designed as the first line of defense in the event a brokerage firm fails owing customers cash and securities that are missing from customer accounts. If a SIPC member firm fails, SIPC will arrange for the orderly distribution of client assets either to another broker/dealer or to the client. If securities or cash is missing from a client's account, SIPC will pay to replace them up to \$500,000 for securities, including \$250,000 for cash.

More information available at [www.sipc.org](http://www.sipc.org)

Additional information available on attached publication of Edward Jones Investments, Member SIPC.

# Account Protection

## SIPC Protection

### What is SIPC?

Securities Investor Protection Corporation (SIPC) was established as a nonprofit entity by Congress in 1970. SIPC protects client assets in the event of a member firm's bankruptcy or insolvency and securities or cash are missing from a client's account. Edward Jones is a member of SIPC.

### How does SIPC protection work?

- SIPC provides up to \$500,000 of protection for brokerage accounts held in each separate capacity, including a maximum of \$250,000 for uninvested cash balances.
  - For example, separate capacity means that a single account, a joint account and an IRA account held at Edward Jones would each receive its own individual SIPC protection. On the other hand, if a client has two single accounts at Edward Jones, the accounts would receive combined protection up to \$500,000, including a maximum of \$250,000 for uninvested cash balances.
- Even in the unlikely event a broker-dealer fails, the “Customer Protection Rule” – Rule 15c3-3 of the Securities and Exchange Commission (SEC) – requires brokerage firms that have custody of customer assets to keep those assets separate from their own accounts. In other words, customers' cash must be placed in a special, separate “reserve” account; and fully paid customer securities must be kept separate from firm and customer margin securities.
- SIPC coverage does not protect against market fluctuations – that is, if 100 shares of a stock are missing, 100 shares are to be returned regardless of value. SIPC coverage is only triggered in the event a broker-dealer becomes insolvent and eligible assets are missing from the account.
- If a client has one account with one SIPC member and another account with a second SIPC member, the accounts are treated as separate accounts, and each account is entitled to SIPC protection.

[www.edwardjones.com](http://www.edwardjones.com)  
Member SIPC

**Edward Jones**<sup>®</sup>  
MAKING SENSE OF INVESTING

## Which investments at Edward Jones are protected by SIPC?

- The cash and securities – such as stocks and bonds held by a client in firm name at Edward Jones – are generally protected by SIPC. Among the investments not eligible for SIPC protection are some investment contracts (such as limited partnerships) and some fixed annuity contracts.
- The eligible assets must be held in firm name.
  - When you register (hold) a security in firm name, Edward Jones becomes the custodian of the security. Examples of some securities that may not be held in firm name include insurance products, annuities, limited partnerships, restricted stocks, some mutual funds and some bonds.
  - Investments in money market funds that are held in firm name are considered a covered security and may receive SIPC protection up to \$500,000. They are not subject to the \$250,000 uninvested cash balance limit.

**For more information on SIPC, please visit [www.sipc.org](http://www.sipc.org).**

## Additional Account Coverage

In addition to SIPC protection, Edward Jones provides supplemental coverage to its clients through underwriters at Lloyd's. This coverage would be triggered in the event of the financial failure and liquidation of Edward Jones if clients' assets are not returned by the firm or through SIPC. As of February 2010, this supplemental policy provides an aggregate firmwide limit of \$900 million for all claims of the clients of Edward D. Jones & Co., L.P., with a limit per account of \$1,900,000 for uninvested cash balances.

The policy only covers missing securities in the event of theft, misplacement, destruction, burglary, embezzlement or abstraction. It does not protect against losses due to the rise and fall of the market.

## FDIC Insurance

Federal Deposit Insurance Corporation (FDIC) insurance applies to CDs and deposits in the Insured Bank Deposit Program offered at Edward Jones and is backed by the full faith and credit of the U.S. government. FDIC insurance protects investors should the institution that issues a CD fail due to bankruptcy or other financial difficulties.

## How much coverage does FDIC insurance provide?

CDs offered by Edward Jones are bank-issued and FDIC-insured up to \$250,000 (principal and interest accrued but not yet paid) per depositor, per insured depository institution, for each account ownership category. For more information on FDIC insurance, including coverage limits on trust accounts and certain retirement accounts, please visit [www.fdic.gov](http://www.fdic.gov) or contact your financial advisor. For information on FDIC limits regarding the Insured Bank Deposit Program, please see the Program Disclosure Document.

SIPC coverage, additional coverage and FDIC insurance do not remove market risk or ensure the performance of investments in your accounts. An account's value may fluctuate based on market conditions.



**David J Bishop**  
Financial Advisor

1020 Sw Indian Ave Suite 103  
Redmond, OR 97756  
541-923-8848

[www.edwardjones.com](http://www.edwardjones.com)  
Member SIPC

**Edward Jones**<sup>®</sup>  
MAKING SENSE OF INVESTING