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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Securities Act of the State
of Washington by:

Iron Horse Petroleum; Cherokee Gas
Systems, Inc.; Thomas Labry

Respondents.

Order Number S-10-075-10-FO01

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL ORDER
TO CEASE AND DESIST, TO IMPOSE FINES,
AND TO CHARGE COSTS AS TO IRON HORSE
PETROLEUM, INC. AND CHEROKEE GAS
SYSTEMS, INC.

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THE STATE OF WASHINGTON TO: Iron Horse Petroleum, Inc.;
Cherokee Gas Systems, Inc.

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On July 29, 2010, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intent to Enter Order to Cease and Desist, to Impose Fines, and to Charge Costs S-10-075-10-SC01, hereinafter referred to as Statement of Charges,” against Respondents Iron Horse Petroleum, Inc. and Cherokee Gas Systems, Inc.

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The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing, hereinafter referred to as "Notice of Opportunity for Hearing" and an “Application for Adjudicative Hearing”, hereinafter referred to as "Application for Hearing", was served on John W. Cotton, the court-appointed receiver for Iron Horse Petroleum, Inc., on August 2, 2010. The Statement of Charges, together with

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1 a Notice of Opportunity for Hearing, and Application for Hearing, was served on John W. Cotton, the court-
2 appointed receiver for Cherokee Gas Systems, Inc., on August 3, 2010.

3 The Notice of Opportunity for Hearing advised Iron Horse Petroleum, Inc. and Cherokee Gas Systems,
4 Inc. that a written application for an administrative hearing on the Statement of Charges must be received
5 within twenty days from the date of receipt of the notice. Iron Horse Petroleum; Cherokee Gas Systems, Inc.
6 failed to request an administrative hearing within twenty days of receipt of the Statement of Charges and Notice
7 of Opportunity for Hearing, either on the Application for Hearing provided or otherwise.

8 The Securities Administrator therefore will adopt as final the Findings of Fact and Conclusions of
9 Law as set forth in the Statement of Charges and enter a final order against the Respondents to cease and
10 desist from violations of the Securities Act, to impose fines and to charge costs. The Securities
11 Administrator finds as follows:

12 **FINDINGS OF FACT**

13 Respondents

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15 1. Iron Horse Petroleum, Inc. (Iron Horse) is a suspended Oklahoma corporation. Iron Horse
16 was incorporated on May 17, 1993 and suspended by the Oklahoma Tax Commission on August 4, 2006 for
17 failure to pay its franchise tax. Iron Horse's last principal place of business was 1048 Irvine Avenue, Suite
18 193, Newport Beach, CA 92660. On January 20, 2010, Iron Horse was placed in receivership pursuant to a
19 petition by the Securities and Exchange Commission filed in United States District Court for the Central
20 District of California.
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1 2. Cherokee Gas Systems, Inc. (Cherokee) is an Oklahoma corporation whose last principal
2 place of business was 1001 West 17th Street, Costa Mesa, CA 92627. On January 20, 2010, Cherokee was
3 placed in receivership pursuant to a petition by the Securities and Exchange Commission filed in United
4 States District Court for the Central District of California.

5 3. Thomas Labry (Labry) is the president and a salesperson of both Iron Horse and Cherokee .

6 Nature of the Offerings

7 Iron Horse Petroleum, Inc.

8 4. Between approximately 2005 and January of 2009, Iron Horse offered and sold at least
9 \$981,000 worth of investments in oil and gas wells to residents of multiple states.

10 5. Between approximately October of 2007 and December of 2008, Iron Horse offered and sold
11 at least \$200,000 worth of interests in oil and gas wells to at least seven Washington residents. Nearly all of
12 these Washington residents are elderly.

13 6. Representatives of Iron Horse, including Labry, made unsolicited phone calls to Washington
14 residents to solicit investment in Iron Horse. During these initial phone calls, Iron Horse representatives
15 explained an investment opportunity in working interests in Oklahoma oil wells, providing “safe” returns of
16 twenty to twenty five percent annually. After speaking with the residents, Iron Horse would send advertising
17 and offering materials to the residents’ homes. At least one Washington investor learned of Iron Horse
18 through an unsolicited package that arrived at the investor’s home via U.P.S.

19 7. The materials sent to potential investors included a twelve page, glossy brochure entitled,
20 “Iron Horse Petroleum,” a subscription agreement concerning investing in the “Walters Field Priddy Sand
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1 Unit Development Program,” and a color document entitled, “Iron Horse Petroleum Cotton County,
2 Oklahoma Monthly Projections.”

3 8. Under the terms of the offering materials, Iron Horse was offering one hundred units in the
4 Walters Field Priddy Sand Unit at \$25,000 each, for a total offering of \$2,500,000. The Monthly
5 Projections document asserted that each unit represented a .75% working interest in the entire Walters Field
6 Priddy Sand Unit project. The brochure stated that Iron Horse was seeking investors to assist in the
7 development of forty one oil and support wells located on the Walters Field Priddy Sand Unit in Cotton
8 County, Oklahoma.

9 9. The brochure stated that Iron Horse was “an independent energy company engaged in the
10 acquisition, development, exploration, production and marketing of natural gas and crude oil.” The brochure
11 identified Iron Horse as the driller, operator and leaseholder at the Walters Field site.

12 10. The brochure stated that the location to be developed contained 1,800,000 barrels of proven
13 oil reserves and nine equipped oil wells producing 527 barrels of oil per day. The Monthly Projections
14 document stated that investors could earn up to \$13,162 per unit per month, a return of approximately fifty
15 three percent. The brochure stated that income would be distributed monthly. At least one Washington
16 investor received such a distribution. However, this investor received such distributions for only a few
17 months.

18 11. The brochure stated that investments in Iron Horse provided investors with tax benefits.
19 These benefits included: fifty to seventy five percent of an investment being “written off” for “intangible”
20 drilling costs during the first year of investment; lease, drilling equipment and development costs being
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1 deductible as cost depletion or depreciation over a period of five to seven years; and a tax incentive known
2 as the “Small Producer’s Exemption” being available and rendering approximately fifteen percent of net
3 investment “Tax Free.”

4 12. The materials indicated that Iron Horse managed all aspects of the investments. The brochure
5 stated that the success of the Walters Field project primarily depended on Iron Horse’s superior knowledge
6 and understanding of oil exploration techniques.

7 13. Potential investors were told that their money would be used for the following: acquisition
8 and management of land and oil equipment leases; operation and management of nine existing and
9 producing oil wells, one water supply well and eight water injection wells; repair and “rework” of eighteen
10 existing oil wells for production; construction of five new oil wells; storing, transporting, and marketing and
11 selling the oil.

12 14. Potential investors could invest by completing, signing, and mailing the subscription
13 agreement, with a check, to a post office box in Newport Beach, California.

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15 Cherokee Gas Systems, Inc.

16 15. Between approximately December 5, 2008 and December 31, 2009, more than forty people
17 from fifteen states invested at least \$1.4 million in interests in oil and gas wells through Cherokee. Between
18 January and November of 2009, at least seven Washington residents invested at least \$136,250 in Cherokee.
19 At least seven other Washington residents were offered, but did not purchase, investments through
20 Cherokee.

1 16. Cherokee solicited investment through unsolicited phone calls to potential investors. In aid of
2 this solicitation plan, Labry purchased, with funds received from Cherokee investors, dialing software that
3 automatically placed outbound calls from a pre-loaded database of phone numbers. In these calls,
4 Cherokee's salespersons, including Labry, offered the opportunity to purchase units in oil and gas wells
5 allegedly owned by Cherokee in Oklahoma for \$25,000 per unit. If an investor did not wish to purchase an
6 entire unit, the investor was allowed to purchase a fraction of a unit.

7 17. Cherokee salespersons told investors in these calls that they would begin receiving returns
8 monthly, within forty five to sixty days of investment.

9 18. After the unsolicited phone calls, potential investors received a package containing a cover
10 letter, brochure, and subscription agreement. The brochure Cherokee sent to potential investors was nearly
11 identical to the brochure distributed by Iron Horse described above.

12 19. The brochure explained that Cherokee was "engaged in the acquisition, development,
13 exploration, production and marketing of natural gas and crude oil." The brochure further explained that
14 Cherokee's primary business strategy was "build[ing] a reserve base through the acquisition and
15 development of producing oil and gas wells that are underdeveloped." The brochure stated that investors'
16 money would be used to those ends. On a brochure page headed, "Cherokee Project Summary," Cherokee
17 described the Walters Field Priddy Sand Unit, its location and size, the number of wells, the number of
18 equipped wells, injection wells, and the amount of "proved reserves." The brochure also featured maps, one
19 of which was an "Aerial Map" purported to be an "Actual Photo" of the Walters Field Priddy Sand Unit,
20 with the wells' locations marked.
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1 20. The materials contained charts projecting returns of \$725 per month per unit purchased,
2 amounting to an annual return of approximately thirty five percent. These monthly payments were promoted
3 in the brochure as a "Project Benefit." Cherokee has not made these promised monthly payments to
4 investors.

5 21. To purchase units, investors were instructed to send Cherokee a check and a completed
6 subscription agreement via a prepaid Federal Express envelope provided by Cherokee. Investors received a
7 "Certificate of Participation" indicating that the investor held a certain number of units in the "Working
8 Interest in the Walters Field Priddy Sand Unit." These certificates were signed by Labry.

9 Actions by other agencies against Iron Horse

10 22. On or about August 25, 2000, the Securities Department of the Illinois Secretary of State's
11 Office entered an Order of Prohibition against Iron Horse. The Securities Department found that Iron Horse
12 had violated the registration of securities and registration of securities salespersons provisions of the Illinois
13 Securities Law of 1953.

14 23. On or about September 26, 2000, the Pennsylvania Securities Commission (PSC) entered a
15 Summary Order to Cease and Desist against Iron Horse, Labry, and two salespersons of Iron Horse. The
16 PSC found that Iron Horse and Labry had violated the registration of securities provision of the
17 Pennsylvania Securities Act of 1972 (Act) and section 1-407(a) of the Act which prohibits issuers from
18 making false statements to the PSC. All respondents were found to have violated the registration of
19 securities salespersons provision of the Act.
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1 24. On or about January 9, 2001, the Division of Securities of the Wisconsin Department of
2 Financial Institutions entered an Order of Prohibition and Revocation against Iron Horse, Labry, and a
3 salesperson of Iron Horse. The Division of Securities found that the respondents had violated the
4 registration of securities and registration of securities salespersons provisions of the Wisconsin Uniform
5 Securities Law.

6 25. On or about April 17, 2003, the Alabama Securities Commission (ASC) entered a Cease and
7 Desist Order against Iron Horse, Labry and two salespersons of Iron Horse. The ASC found that the
8 respondents had violated the registration of securities and registration of securities salespersons provisions
9 of the Alabama Securities Act.

10 26. On or about November 13, 2009, the Securities Division of the Arizona Corporation
11 Commission (ACC) entered an Order to Cease and Desist and for Restitution against Iron Horse and Labry.
12 The ACC found that Iron Horse and Labry had violated the registration of securities, registration of
13 securities salespersons, and anti-fraud provisions of the Arizona Securities Act.

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15 Civil Judgment against Iron Horse and Labry

16 27. Colorado residents who had invested in Iron Horse sued Iron Horse and Labry in United
17 States District Court for the Central District of California for intentional fraud, conversion, and violation of
18 the Racketeer Influenced and Corrupt Organizations Act. These claims were based on the following: 1)
19 misrepresenting Iron Horse as an active Oklahoma corporation in good standing and engaged in the oil
20 business in California and Oklahoma; 2) failing to disclose the Illinois, Pennsylvania, Wisconsin, and
21 Alabama administrative orders discussed in paragraphs twenty two through twenty five of the Findings of

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1 Fact; 3) misrepresenting that Iron Horse was financially sound and adequately capitalized and that Iron
2 Horse maintained adequate levels of corporate control and due diligence; and 4) misrepresenting that Iron
3 Horse would use investor money exclusively for oil exploration and production.

4 28. On April 5, 2006, the Colorado investors obtained a final Order and Judgment against Labry
5 and Iron Horse for \$647,776.12. This amount represented actual and punitive damages, attorney's fees and
6 costs, and interest.

7 Securities and Exchange Commission action against Cherokee and Labry

8 29. On January 7, 2010, the Securities and Exchange Commission (SEC) filed a civil complaint
9 in United States District Court for the Central District of California against Labry and Cherokee. The SEC
10 alleged that Cherokee had offered or sold unregistered securities in violation of sections 5(a) and 5(c) of the
11 Securities Act of 1933, and that Cherokee had committed fraud in the offer or sale of securities in violation
12 of section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act, and Rule 10b-5
13 thereunder.

14 30. The SEC sought, among other things, to enjoin Labry, Cherokee and their associates from
15 further violation of the Securities Act of 1933 and of the Securities Exchange Act, to have the assets of
16 Labry and Cherokee frozen, to have a receiver appointed over Cherokee, to have Labry and Cherokee
17 ordered to disgorge all ill-gotten gains, and to have Labry and Cherokee ordered to pay civil penalties.

18 31. On January 20, 2010, the District Court issued a temporary restraining order, enjoining Labry,
19 Cherokee and their associates from, among other things, violations of the Securities Act of 1933 and of the
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1 Securities Exchange Act. The District Court also appointed a permanent receiver over Cherokee and Iron
2 Horse at that time.

3 Misrepresentations and Omissions by Iron Horse

4 32. Iron Horse's offering and advertising materials did not accurately disclose the interest in the
5 Walters Field site actually owned by Iron Horse. In September of 2000, German Petroleum Company
6 assigned a one hundred percent working interest and sixty eight percent net revenue interest in the Walters
7 Field Priddy Sand Unit to Iron Horse. However, in June of 2007, Iron Horse transferred one hundred percent
8 of its "available working interest" in the Walters Field site to Energy Group of America. Notwithstanding
9 this transfer, Iron Horse investors in the State of Washington received materials stating that one unit equaled
10 .75% of a working interest in the Walters Field site. Moreover, Labry represented to at least one Washington
11 investor by phone that Iron Horse had a license to drill at the Walters Field site, notwithstanding this
12 transfer of one hundred percent of Iron Horse's available working interest.
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14 33. Neither Iron Horse's salespersons, nor the materials distributed to investors by Iron Horse,
15 disclosed that Illinois, Pennsylvania, Wisconsin, and Alabama had taken the administrative actions against
16 Iron Horse, Labry, and others described in paragraphs twenty two through twenty five of the Findings of
17 Fact. Furthermore, neither Iron Horse's salespersons nor the materials distributed to investors by Iron Horse
18 disclosed the civil judgment entered against Iron Horse and Labry described in paragraphs twenty seven and
19 twenty eight of the Findings of Fact.
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1 34. Neither Iron Horse’s salespersons nor the materials distributed to investors by Iron Horse
2 disclosed that Iron Horse’s corporate status was suspended by the Oklahoma Tax Commission on August 4,
3 2006 for failure to pay its franchise tax.

4 35. Neither Iron Horse’s salespersons nor the materials distributed to investors by Iron Horse
5 disclosed the assumptions upon which the profit projections discussed in paragraph ten of the Findings of
6 Fact were based.

7 36. Iron Horse made misrepresentations of material fact concerning the use of Iron Horse
8 investors’ money. Washington investors’ money was deposited into a Bank of America account on which
9 Labry was an authorized signatory. Payments from this account equivalent to 44.3% of total deposits have
10 been made to Labry.

11 Misrepresentations and Omissions by Cherokee

12 37. Neither Cherokee’s salespersons, nor the materials distributed to investors by Cherokee,
13 disclosed that Iron Horse had been offering and selling interests in the Walters Field Priddy Sand Unit site
14 since as early as 2000.

15 38. Cherokee’s offering and advertising materials did not accurately disclose the interest in the
16 Walters Field site actually owned by Cherokee. In February of 2004, Iron Horse assigned an overriding
17 royalty interest of seventeen percent of net revenue to Cherokee. In October of 2008, Cherokee executed an
18 assignment of this interest in the Walters Field site that provided that Cherokee retained “an overriding
19 royalty interest that equates to a two percent net revenue interest” in the property. According to Cotton
20 County records, Cherokee has not owned a working interest in the Walters Field site since 2000. However,
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1 Cherokee investors received materials stating that one unit equaled .75% of a working interest in the
2 Walters Field site.

3 39. Neither Cherokee's salespersons nor the materials distributed to investors by Cherokee
4 disclosed the assumptions upon which the profit projections discussed in paragraph twenty of the Findings
5 of Fact were based.

6 40. Cherokee made misrepresentations of material fact concerning the use of Cherokee investors'
7 money. Contrary to the materials received by Cherokee investors, Cherokee used a very small amount of
8 investor money for oil production. Out of \$1.65 million deposited, at least \$1.4 million of which is investor
9 money, only \$18,700 worth of expenditures from Cherokee's accounts was attributable to oil production.
10 Moreover, Cherokee is not receiving income from oil and gas production at the Walters Field site. Labry,
11 who is the only signatory on Cherokee's accounts, withdrew at least \$268,200 in cash from Cherokee
12 accounts. Labry also withdrew \$614,409 with which he purchased cashier's checks payable to individuals
13 who were not investors, including an individual convicted of mail and wire fraud in 1998, and the attorney
14 who represented Labry and Iron Horse in the civil action described in paragraphs twenty seven and twenty
15 eight of the Findings of Fact. Labry also spent at least \$17,737 from Cherokee accounts on the dialing
16 software described in paragraph sixteen of the Findings of Fact.
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18 Registration Status

19 41. Iron Horse Petroleum, Inc. is not currently and has not previously been registered to sell its
20 securities in the State of Washington, and has not filed a claim of exemption.
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1 42. Cherokee Gas Systems, Inc. is not currently registered and has not previously been registered
2 to sell its securities in the State of Washington, and has not filed a claim of exemption.

3 43. Thomas Labry is not currently registered as a securities salesperson or broker-dealer in the
4 State of Washington, and has not previously been so registered.

5
6 **CONCLUSIONS OF LAW**

7 Based upon the above Findings of Fact, the following Conclusions of Law are made:

8 1. The offer or sale of investments described above constitutes the offer or sale of a security as
9 defined at RCW 21.20.005(10) and (12).

10 2. The offer or sale of said securities is in violation of RCW 21.20.140 because no registration
11 for such offer or sale is on file with the Securities Administrator.

12 3. Thomas Labry has violated RCW 21.20.040 by offering or selling said securities while not
13 registered as a securities salesperson or broker-dealer in the State of Washington.

14 4. The offer or sale of said securities was made in violation of RCW 21.20.010 because, as
15 described in paragraphs thirty two through forty of the Findings of Fact, Respondents made untrue
16 statements of material fact or omitted to state material facts necessary to make the statements made, in light
17 of the circumstances under which they were made, not misleading.

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19 **FINAL ORDER**

20 Based upon the foregoing:

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1 It is hereby ORDERED that the Respondents, Iron Horse Petroleum, Inc. and Cherokee Gas
2 Systems, Inc., their agents, and employees each cease and desist from offering and/or selling securities
3 in any manner in violation of RCW 21.20.140, the section of the Securities Act of Washington
4 requiring registration.

5 It is further ORDERED that Iron Horse Petroleum, Inc. and Cherokee Gas Systems, Inc., their
6 agents, and employees each cease and desist from violation of RCW 21.20.010, the anti-fraud section
7 of the Securities Act.

8 It is further ORDERED that Iron Horse Petroleum, Inc. and Cherokee Gas Systems, Inc. shall
9 each be liable for and pay a fine of \$10,000.

10 It is further ORDERED that Iron Horse Petroleum, Inc. and Cherokee Gas Systems, Inc. shall be
11 jointly and severally liable for and shall pay the Securities Division's investigative costs incurred in
12 this matter in the amount of \$2,000.

13 It is further ORDERED that payment of the fines and costs described above shall be deferred
14 until Iron Horse Petroleum, Inc.'s and Cherokee Gas Systems, Inc.'s investors have been repaid in full.
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16 **AUTHORITY AND PROCEDURE**

17 This Final Order is entered pursuant to the provisions of RCW 21.20.110 and 21.20.390, and is
18 subject to the provisions of RCW 21.20.120 and Chapter 34.05 RCW. Respondents have the right to
19 petition the superior court for judicial review of this agency action under the provisions of chapter 34.05
20 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.50.510 and sections
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1 following. Pursuant to 21.20.395, a certified copy of this order may be filed in Superior Court. If so
2 filed, the clerk shall treat the order in the same manner as a Superior Court judgment as to the fine,
3 and the fine may be recorded, enforced, or satisfied in like manner.
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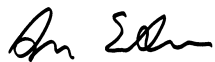
5 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE**
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7 DATED AND ENTERED this 10th day of September, 2010.
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12 _____
13 William M. Beatty
14 Securities Administrator
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16 Approved by:

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18 _____
19 Suzanne Sarason
20 Chief of Enforcement
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Presented by:

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23 _____
24 Edward R. Thunen
25 Financial Legal Examiner
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