

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION

IN THE MATTER OF DETERMINING ) Order Number S-10-075-10-SC01  
Whether there has been a violation of the )  
Securities Act of Washington by: ) STATEMENT OF CHARGES AND NOTICE  
 ) OF INTENT TO ENTER ORDER TO CEASE  
 ) AND DESIST, TO IMPOSE FINES, AND TO  
Iron Horse Petroleum, Inc.; Cherokee ) CHARGE COSTS  
Gas Systems, Inc.; Thomas Labry )  
 )  
Respondents

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

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, Iron Horse Petroleum Inc., Cherokee Gas Systems, Inc., and Thomas Labry, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each to cease and desist from such violations. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

Respondents

1. Iron Horse Petroleum, Inc. (Iron Horse) is a suspended Oklahoma corporation. Iron Horse was incorporated on May 17, 1993 and suspended by the Oklahoma Tax Commission on August 4, 2006 for failure to pay its franchise tax. Iron Horse's last principal place of business was 1048 Irvine Avenue, Suite 193, Newport Beach, CA 92660. On January 20, 2010,

1 Iron Horse was placed in receivership pursuant to a petition by the Securities and Exchange  
2 Commission filed in United States District Court for the Central District of California.

3 2. Cherokee Gas Systems, Inc. (Cherokee) is an Oklahoma corporation whose last  
4 principal place of business was 1001 West 17<sup>th</sup> Street, Costa Mesa, CA 92627. On January 20,  
5 2010, Cherokee was placed in receivership pursuant to a petition by the Securities and Exchange  
6 Commission filed in United States District Court for the Central District of California.

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

9 Nature of the Offerings

10 Iron Horse Petroleum, Inc.

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

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

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

23 7. The materials sent to potential investors included a twelve page, glossy brochure  
24 entitled, “Iron Horse Petroleum,” a subscription agreement concerning investing in the “Walters  
25

1 Field Priddy Sand Unit Development Program,” and a color document entitled, “Iron Horse  
2 Petroleum Cotton County, Oklahoma Monthly Projections.”

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

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

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

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



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

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

7           19. The brochure explained that Cherokee was “engaged in the acquisition,  
8 development, exploration, production and marketing of natural gas and crude oil.” The brochure  
9 further explained that Cherokee’s primary business strategy was “build[ing] a reserve base  
10 through the acquisition and development of producing oil and gas wells that are  
11 underdeveloped.” The brochure stated that investors’ money would be used to those ends. On a  
12 brochure page headed, “Cherokee Project Summary,” Cherokee described the Walters Field  
13 Priddy Sand Unit, its location and size, the number of wells, the number of equipped wells,  
14 injection wells, and the amount of “proved reserves.” The brochure also featured maps, one of  
15 which was an “Aerial Map” purported to be an “Actual Photo” of the Walters Field Priddy Sand  
16 Unit, with the wells’ locations marked.

17           20. The materials contained charts projecting returns of \$725 per month per unit  
18 purchased, amounting to an annual return of approximately thirty five percent. These monthly  
19 payments were promoted in the brochure as a “Project Benefit.” Cherokee has not made these  
20 promised monthly payments to investors.

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

Actions by other agencies against Iron Horse

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

6           23.     On or about September 26, 2000, the Pennsylvania Securities Commission (PSC)  
7 entered a Summary Order to Cease and Desist against Iron Horse, Labry, and two salespersons  
8 of Iron Horse. The PSC found that Iron Horse and Labry had violated the registration of  
9 securities provision of the Pennsylvania Securities Act of 1972 (Act) and section 1-407(a) of the  
10 Act which prohibits issuers from making false statements to the PSC. All respondents were  
11 found to have violated the registration of securities salespersons provision of the Act.

12           24.     On or about January 9, 2001, the Division of Securities of the Wisconsin  
13 Department of Financial Institutions entered an Order of Prohibition and Revocation against Iron  
14 Horse, Labry, and a salesperson of Iron Horse. The Division of Securities found that the  
15 respondents had violated the registration of securities and registration of securities salespersons  
16 provisions of the Wisconsin Uniform Securities Law.

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

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

1 Civil Judgment against Iron Horse and Labry

2 27. Colorado residents who had invested in Iron Horse sued Iron Horse and Labry in  
3 United States District Court for the Central District of California for intentional fraud,  
4 conversion, and violation of the Racketeer Influenced and Corrupt Organizations Act. These  
5 claims were based on the following: 1) misrepresenting Iron Horse as an active Oklahoma  
6 corporation in good standing and engaged in the oil business in California and Oklahoma; 2)  
7 failing to disclose the Illinois, Pennsylvania, Wisconsin, and Alabama administrative orders  
8 discussed in paragraphs twenty two through twenty five of the Tentative Findings of Fact; 3)  
9 misrepresenting that Iron Horse was financially sound and adequately capitalized and that Iron  
10 Horse maintained adequate levels of corporate control and due diligence; and 4) misrepresenting  
11 that Iron Horse would use investor money exclusively for oil exploration and production.

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

15 Securities and Exchange Commission action against Cherokee and Labry

16 29. On January 7, 2010, the Securities and Exchange Commission (SEC) filed a civil  
17 complaint in United States District Court for the Central District of California against Labry and  
18 Cherokee. The SEC alleged that Cherokee had offered or sold unregistered securities in violation  
19 of sections 5(a) and 5(c) of the Securities Act of 1933, and that Cherokee had committed fraud in  
20 the offer or sale of securities in violation of section 17(a) of the Securities Act of 1933, section  
21 10(b) of the Securities Exchange Act, and Rule 10b-5 thereunder.

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

3 31. On January 20, 2010, the District Court issued a temporary restraining order,  
4 enjoining Labry, Cherokee and their associates from, among other things, violations of the  
5 Securities Act of 1933 and of the Securities Exchange Act. The District Court also appointed a  
6 permanent receiver over Cherokee and Iron Horse at that time.  
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8 Misrepresentations and Omissions by Iron Horse

9 32. Iron Horse's offering and advertising materials did not accurately disclose the  
10 interest in the Walters Field site actually owned by Iron Horse. In September of 2000, German  
11 Petroleum Company assigned a one hundred percent working interest and sixty eight percent net  
12 revenue interest in the Walters Field Priddy Sand Unit to Iron Horse. However, in June of 2007,  
13 Iron Horse transferred one hundred percent of its "available working interest" in the Walters  
14 Field site to Energy Group of America. Notwithstanding this transfer, Iron Horse investors in the  
15 State of Washington received materials stating that one unit equaled .75% of a working interest  
16 in the Walters Field site. Moreover, Labry represented to at least one Washington investor by  
17 phone that Iron Horse had a license to drill at the Walters Field site, notwithstanding this transfer  
18 of one hundred percent of Iron Horse's available working interest.

19 33. Neither Iron Horse's salespersons, nor the materials distributed to investors by  
20 Iron Horse, disclosed that Illinois, Pennsylvania, Wisconsin, and Alabama had taken the  
21 administrative actions against Iron Horse, Labry, and others described in paragraphs twenty two  
22 through twenty five of the Tentative Findings of Fact. Furthermore, neither Iron Horse's  
23 salespersons nor the materials distributed to investors by Iron Horse disclosed the civil judgment  
24 entered against Iron Horse and Labry described in paragraphs twenty seven and twenty eight of  
25 the Tentative Findings of Fact.



1 34. Neither Iron Horse’s salespersons nor the materials distributed to investors by  
2 Iron Horse disclosed that Iron Horse’s corporate status was suspended by the Oklahoma Tax  
3 Commission on August 4, 2006 for failure to pay its franchise tax.

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

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

11 Misrepresentations and Omissions by Cherokee

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

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

23 39. Neither Cherokee’s salespersons nor the materials distributed to investors by  
24 Cherokee disclosed the assumptions upon which the profit projections discussed in paragraph  
25 twenty of the Tentative Findings of Fact were based.



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

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

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

7           4.       The offer or sale of said securities was made in violation of RCW 21.20.010  
8 because, as described in paragraphs thirty two through forty of the Tentative Findings of Fact,  
9 Respondents made untrue statements of material fact or omitted to state material facts necessary  
10 to make the statements made, in light of the circumstances under which they were made, not  
11 misleading.  
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13           **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

14           Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities  
15 Administrator intends to order, pursuant to RCW 21.20.390(1), that Iron Horse Petroleum, Inc.,  
16 Cherokee Gas Systems, Inc., and Thomas Labry their agents and employees each cease and  
17 desist from violations of RCW 21.20.010 and RCW 21.20.140 and that Thomas Labry cease and  
18 desist from violations of RCW 21.20.040.

19           **NOTICE OF INTENT TO IMPOSE FINES**

20           Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and  
21 Conclusions of Law, the Securities Administrator intends to order that Iron Horse Petroleum,  
22 Inc. shall be liable for and pay a fine of \$10,000.  
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1 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and  
2 Conclusions of Law, the Securities Administrator intends to order that Cherokee Gas Systems,  
3 Inc. shall be liable for and pay a fine of \$10,000.

4 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and  
5 Conclusions of Law, the Securities Administrator intends to order that Thomas Labry shall be  
6 liable for and pay a fine of \$10,000.

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8 **NOTICE OF INTENT TO CHARGE COSTS**

9 Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and  
10 Conclusions of Law, the Securities Administrator intends to order that Iron Horse Petroleum,  
11 Inc., Cherokee Gas Systems, Inc. and Thomas Labry shall be jointly and severally liable for and  
12 shall pay investigative costs of \$2,000.

13 **AUTHORITY AND PROCEDURE**

14 This Statement of Charges is entered pursuant to the provisions of Securities Act and is  
15 subject to the provisions of RCW 34.05. The respondents, Iron Horse Petroleum, Inc., Cherokee  
16 Gas Systems, Inc., and Thomas Labry may each make a written request for a hearing as set forth  
17 in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING  
18 accompanying this order.

19 If a respondent does not request a hearing, the Securities Administrator intends to adopt  
20 the above Tentative Findings of Fact and Conclusions of Law as final and enter an order to cease  
21 and desist permanent as to that respondent.  
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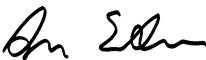
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DATED AND ENTERED this 29th day of July, 2010.



WILLIAM M. BEATTY  
Securities Administrator

Approved by:



SUZANNE SARASON  
Chief of Enforcement

Presented by:



Edward R. Thunen  
Financial Legal Examiner