
State Water Resources Control Board

TO: Kailyn Ellison
Attorney
Office of Enforcement

FROM: Gerald L. Horner
Economist
Office of Enforcement

DATE: May 10, 2016

**SUBJECT: CRUISER HAVEN, INC. AND DELTA WATERWAYS LLC'S ABILITY TO PAY
A PROPOSED \$100,000 ADMINISTRATIVE CIVIL LIABILITY**

This is in response to your request for a determination of Cruiser Haven, Inc. and Delta Waterways LLC's (Dischargers') ability to pay a proposed ACL in the amount of \$100,000. I have reviewed the submitted financial documents and I have concluded that the Dischargers possess the financial resources to pay the proposed ACL in the amount of \$100,000. This determination was made using data submitted by the dischargers and the INDIPAY model.

Financial documents submitted for consideration were: IRS Form 1040, U.S. Individual Income Tax Returns for Kevin E. Hinman for the years 2010 through 2015, IRS Form 1020S (S Corporation) for Cruiser Haven Inc. for 2012 through 2015, bank statements for Delta Waterways LLC DBA Holland Riverside Marina, and a Business Organization Ability to Pay Claim Financial Data Request Form for Delta Waterways LLC, filed by Kevin Hinman on 3/31/2016. However, only financial data from 2014 and 2015 were used in the analysis since the business was restructured in 2013 resulting in a significant reduction in income.

RESULTS

The Dischargers can afford the proposed ACL. Table 1 is the summary sheet from the INDIPAY model.¹ Two tests were made to determine ability to pay. The first is based on cash flow. Cash flow is projected for five years based on reported past average annual income of \$81,317 and annual living expenses of \$34,511 resulting in a cash flow of \$189,198. The conclusion from the cash flow test is that the Dischargers can afford the proposed \$100,000 ACL since the five year projected income of \$189,198 is greater than the \$100,000 ACL.

The second test, debt capacity, is to determine maximum affordable annual debt payments which in this case is \$29,274. This is determined by multiplying a commonly recognized debt payment limit of 36 percent of average annual income (\$81,317) minus any current debt

¹ INDIPAY is designed to determine the ability to pay for individuals and all of the necessary financial data for these Dischargers is reported on the Form 1040, the individual income tax return, and the Financial Data Request Form.

payments. The conclusion is that the dischargers will not have a problem financing the payment of the proposed \$100,000 ACL with annual loan payments of \$25,976.

TABLE 1. PHASE 2 CALCULATION for Run = Holland Riverside Sought Amount: \$100,000

Ability-to-Pay Test A - Cash Flow

Present value (5 years @ 2.2% inflation & 9.9% discounting)	▼	\$189,198
Affordable penalty/contribution (reduced for 5% contingency)	▼	\$100,000

Under Test A, the entire sought amount is affordable.

Ability-to-Pay Test B - Debt Capacity

Maximum affordable annual debt payments (at 36% limit)	▼	\$29,274
Maximum affordable additional debt payments (at 9.9% interest rate)		\$29,274
Affordable penalty/contribution (based on 5-yr debt repay and 5% contingency)		\$100,000

Under Test B, the entire sought amount is affordable.

Impact on Applicant's Financial Status

<i>[scroll to page bottom for income breakdown]</i>	Before Payment	After Payment, Using:	
		Test A	Test B
Income (using 0.3 smoothing constant)	\$81,317	\$81,317	\$81,317
Living expenses (w/ 5% contingency)	\$34,511	\$60,487	\$60,487
<i>105% of \$32,868 nat'l median for household of 1</i>			
<i>0%, 0%, 0% of IRS allowances for: Food; Clothing, personal care; Medical (other than premiums)</i>			
Available cash flow	\$46,806	\$20,830	\$20,830
Assets	\$4,575,304	\$4,575,304	\$4,575,304
Liabilities	\$2,600,423	\$2,700,423	\$2,700,423
Net worth	\$1,974,881	\$1,874,881	\$1,874,881
Annual debt payments (w/ 5% contingency)	\$0	\$25,976	\$25,976
Debt payments as percent of income	0.0%	31.9%	31.9%

Issues Affecting Applicant's Ability to Pay:

- Applicant reports income sources in addition to wages, salaries, interest, and dividends.
- Applicant's total income varies significantly from year to year.

The last section of Table 1 shows the impact of the \$100,000 ACL on the Dischargers' financial status. Projected Net Worth declines from \$1,974,881 to \$1,874,881 due to the increase in liabilities of \$100,000. Annual debt payments of \$25,976 is 31.9% of projected annual income.

The following tables show the data that were used in the analysis.

Table 2. Phase 2 Tax Return Data Inputs

	Applicant				
	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>
Wage income					
Taxable interest income					
Tax-exempt interest income					
Dividend income					
Alimony received					
Business income or loss		-67,639	-128	-69	243
Capital gain or loss					
Other gains or loss					
Total IRA distributions					
Total pensions or annuities					
Farm income or loss					
Total social security					
Other income					
Real estate taxes					
Mortgage and investment interest deduction					
Depletion					
Depreciation/amortization on business accounts					
Taxes paid on rental properties			3,622	58,882	57,679
Depreciation or depletion on rental properties	240,244	322,532	533,446	541,481	561,001
Total income/loss from rental properties/royalties	-158,088	-174,449	-163,494	-217,408	-266,429
Partnership/S corporation income or loss			714	659	111
Estate and trust income or loss					
REMIC income or loss					
Farm rental income or loss					
Depreciation on farm property					
Depreciation on farm rental property					

Table 3. Summary of Applicant's Income Sources (as reported on tax returns)

	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>Average</u>
Wages and salaries	0%	0%	0%	0%	0%	0%
Interest and dividends	0%	0%	0%	0%	0%	0%
Capital gains/losses	0%	0%	0%	0%	0%	0%
Retirement-related	0%	0%	0%	0%	0%	0%
Business	82,156 100%	80,444 100%	370,538 100%	324,663 100%	294,926 100%	230,545
Farm	0%	0%	0%	0%	0%	0%
Other	0%	0%	0%	0%	0%	0%
Total	82,156	80,444	370,538	324,663	294,926	230,545
Weight	51%	49%	0%	0%	0%	
Weighted Income	41,900	39,418				81,317

Table 4. 2014 Assets, Liabilities and Net Worth

	Assets	Liabilities
<u>Bank Accounts</u>	<u>Balance</u>	
2014	\$1,353	
	\$0	
<u>Financial Investments (stocks, bonds, etc.)</u>	<u>Market Value</u>	
Common Stock	\$371,000	
Paid-in Capital	\$27,086	
	\$0	
<u>Retirement Funds and Accounts</u>	<u>Market Value</u>	
	\$0	
<u>Life Insurance Policies (with cash value)</u>	<u>Cash Value</u>	
	\$0	
<u>Vehicles Used for Commuting</u>	<u>Market Value</u>	<u>Loan Balance</u>
	\$0	\$0
<u>Vehicles (other than for commuting)</u>	<u>Market Value</u>	<u>Loan Balance</u>
	\$0	\$0
<u>Primary Residence</u>	<u>Market Value</u>	<u>Mortgage Balance</u>
	\$0	\$0
<u>Real Estate (other than primary residence)</u>	<u>Market Value</u>	<u>Mortgage Balance</u>
	\$0	\$0
<u>Personal Property</u>	<u>Market Value</u>	<u>Debt Balance</u>
	\$0	\$0
<u>Credit Cards and Lines of Credit</u>		<u>Balance Due</u>
		\$0
<u>Other Debts and/or Assets</u>	<u>Market Value</u>	<u>Debt Balance</u>
Facilities	\$4,081,318	\$2,534,467
Accounts Receivable	\$58,090	\$0
Other Assets	\$36,457	\$0
Deferred Taxes	\$0	\$65,956
	\$0	\$0
	<u>Assets</u>	<u>Liabilities</u>
Total:	\$4,575,304	\$2,600,423
		<u>Net Worth</u>
		\$1,974,881