

STATE OF MAINE
PENOBSCOT, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-04-042

STATE OF MAINE and)
SECURITIES ADMINISTRATOR,)
)
Plaintiffs,)
)
v.)
)
WILLIAM A GOURLEY, *et al.*,)
)
Defendant.)

CONSENT JUDGMENT

NOW COME the parties and stipulate that judgment in this case shall enter for Plaintiffs State of Maine and Securities Administrator (collectively, “the State”) against Defendants William A. Gourley, Barbara R. Gourley (together, the “Gourleys”), and Bill & Barb Gourley, Inc. (“Gourley, Inc.”) (collectively, “Defendants”) on all counts of the Complaint.

Defendants admit and stipulate to the allegations contained in the Complaint and agree to judgment containing the following relief:

1. Defendants are permanently enjoined from offering or selling any type of security in the State of Maine.
2. Defendants shall pay restitution in the amount of \$4,387,000 to the Securities Administrator for distribution to the investors on a pro rata basis according to their losses. Defendants shall be jointly and severally liable for this restitution obligation. Until the \$4,387,000 is paid in full, the Gourleys shall make a restitution payment for each calendar year as set forth below so that it is received by the Securities Administrator no later than April 30 of the following year. For example, the Gourleys shall make their first payment, for calendar year 2004, so that it is received no later than April 30, 2005. The obligation of the Gourleys to make payment of restitution under this judgment, and to satisfy any execution issued on this judgment is conditioned on the Gourleys earning certain minimum amounts

determined as set out below, and upon the other conditions and obligations set out herein, except that any obligation to make payment of restitution under this judgment or satisfy any execution issued on this judgment by the Gourleys' bankruptcy estate as discussed in paragraph 4, below, or by the estate of either of the Gourleys under subparagraph 2(f), below, is not conditioned on the Gourleys earning certain minimum amounts. All of the claims of the State stated in the Complaint are merged into this judgment. The annual restitution payment shall be calculated and paid as follows:

a. For each year in which the Gourleys' have joint income, as reported on line 22 of the 2004 IRS Form 1040 (or equivalent lines on individual tax return forms filed by the Gourleys with the IRS) (hereinafter referred to as "Total Income"), exceeding the minimum hourly wage prescribed by 29 U.S.C. § 206(a)(1) times 4160 (i.e., 2 people times 40 hours per week times 52 weeks), they shall pay the greater of:

i. 25% of the amount Total Income exceeds the minimum hourly wage prescribed by 29 U.S.C. § 206(a)(1) times 4160; or

ii. 2% of gross receipts or sales, as reported on line 1 of the 2004 IRS Schedule C (Form 1040) (or equivalent lines on equivalent schedules filed with the IRS), for all sole proprietorships, partnerships, or other business entities, in whatever form, in which the Gourleys own an interest and have any role, regardless of how small, in the operation or management of the entity (hereinafter referred to as "Gross Receipts"), multiplied by the Gourleys' percentage of ownership of the entity.

b. For any year in which the Gourleys are required to make a payment under subparagraph 2(a), above, and in which Total Income exceeds \$100,000 or Gross Receipts exceed \$1,000,000, the Gourleys, in addition to the amount set forth in subparagraph 2(a), above, shall pay the greater of:

i. 40% of the amount Total Income exceeds \$100,000; or

ii. 4% of the amount Gross Receipts exceed \$1,000,000, multiplied by the Gourleys' percentage of ownership of the entity.

c. Annual payments shall be accompanied by a complete copy of the federal and state tax returns (for all states) filed by the Gourleys and any entities having Gross Receipts, including all schedules, W-2s, 1099s, and any other documents filed with the taxing authorities.

d. For any year where the Gourleys or any entity having Gross Receipts does not file federal tax returns on or before April 30 of the following year, the Gourleys shall make an estimated payment so that it is received by April 30, along with documentation supporting the amount of the estimated payment. Within fifteen days after the subsequent filing of the applicable federal tax returns, the Gourleys shall forward a copy of the tax returns to the Securities Administrator, along with any additional funds necessary to bring the annual payment up to the amount calculated in accordance with subparagraphs 2(a) and (b) above, plus interest at the IRS rate for late payments calculated from April 30.

e. If the Gourleys file any amended tax returns, within fifteen days after filing the amendment, the Gourleys shall forward a copy of the amended returns to the Securities Administrator, along with any additional funds necessary to bring the corresponding annual payment up to the amount calculated in accordance with subparagraphs 2(a) and (b) above, plus interest calculated at the IRS rate for late payments from the date the annual payment originally was due.

f. Beginning with the first calendar year after the death of the first of the Gourleys to die, the multiplier 4160 in subparagraph 2(a), above, shall be reduced to 2080. The annual payment obligation shall cease upon the death of the second of the Gourleys to die. Notwithstanding any existing annual payment obligation, and without affecting any such obligation, upon the death of each of the Gourleys, Plaintiffs may collect from the decedent's

estate, as otherwise permitted by law, any part of the \$4,387,000 restitution obligation remaining unpaid.

g. The Gourleys shall comply with any reasonable request from the Securities Administrator or her staff for additional substantiating documentation within ten days after receipt of the request.

3. Unless the Gourleys, without good cause, fail to comply with paragraph 2, above, Chapter 502 of Title 14 of the Maine Revised Statutes Annotated shall not apply to enforcement of this Consent Judgment. However, if the Gourleys, without good cause, fail to comply with any of their obligations under paragraph 2, above, Plaintiffs shall be entitled to collect from the Gourleys any part of the \$4,387,000 restitution obligation remaining unpaid using the procedures set forth in Chapter 502 of Title 14, or any other lawful means, and without limitation by the annual payment process or any minimum earning conditions described in paragraph 2, above. In any proceeding concerning an alleged failure to comply with paragraph 2, the Gourleys shall have the burden of proving by a preponderance of the evidence that they had good cause for failing to comply.

4. The parties hereto acknowledge that, on March 10, 2004, Gourley, Inc. filed a voluntary petition under Chapter 7 of the United States Bankruptcy Code (the "Code") in the United States Bankruptcy Court for the District of Maine (the "Bankruptcy Court"), which bankruptcy case remains pending and has been assigned Case No. 04-10427 LHK (the "Gourley, Inc. Case"). The parties hereto acknowledge that, on March 10, 2004, the Gourleys filed a voluntary petition under Chapter 7 of the Code in the Bankruptcy Court, which bankruptcy case remains pending and has been assigned Case No. 04-10425 LHK (the "Gourleys Case"). Pursuant to § 701 of the Code, Gary M. Growe (the "Trustee") is the duly appointed, qualified, and acting Chapter 7 trustee in the Gourley, Inc. Case and the Gourleys Case. Any and all rights, remedies, and claims of the State against the respective bankruptcy

estates of either the Gourley, Inc. Case or the Gourleys Case under this Consent Judgment shall be treated as general, nonpriority unsecured claims against the respective bankruptcy estates of the Gourley, Inc. Case and the Gourleys Case. Moreover, neither the Trustee nor the respective bankruptcy estates of the Gourley, Inc. Case and the Gourleys Case shall have any obligations or liability under this Consent Judgment other than the said estates' respective obligations to make distributions to the State on its said claims in accordance with the Code.

Dated: March 30, 2005

Respectfully submitted,

G. STEVEN ROWE
Attorney General

/s/ Michael J. Colleran
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/s/ William A. Gourley
William A. Gourley

/s/ Barbara R. Gourley
Barbara R. Gourley

/s/ Gary M. Growe
Bill & Barb Gourley, Inc.
By Gary M. Growe, Chapter 7 Trustee

/s/ Peter M. Garcia
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Attorney for Defendants

April 6, 2005

Judgment entered for Plaintiffs in accordance with the terms of this Consent Judgment. This Court retains jurisdiction over this matter.

/s/ Andrew M. Mead
Justice, Superior Court
Andrew M. Mead

At the direction of the Court, this Order shall be incorporated into the docket by reference. Rule 79(a)