

funded, subsequent contributions by the AGLR System companies can be substantially reduced to a level adequate to maintain the reserves at a fully funded level and to provide reinstatement coverage that would step in to provide protection if the reserves were exhausted.

The third-party coverage would be provided by a reinsurance company or through the acquisition of a capital markets product that is entered into on an exchange or with an investment-grade counterparty. Applicants request that the Commission reserve jurisdiction with respect to the use of capital markets products to provide third-party coverage until the record has been supplemented with additional detail about the nature of the product. GERIC will establish reserves consistent with the insurance regulations of the British Virgin Islands and sound actuarial practices.<sup>1</sup> As provided in the Captive Order, GERIC will not be operated to generate profits beyond what is necessary to maintain adequate reserves. To the extent that premiums and interest earned on the reserves exceed current claims and expenses, GERIC will accumulate reserves that will allow it to cover claims in years when claims and expenses exceed premiums. To the extent that losses are lower than projected, GERIC will correspondingly lower premiums and thus return excess capital to AGLR System companies.

Applicants assert that GERIC's current insurance program has been effective in managing the AGLR System's insurance costs. As shown in the certificate of notification under rule 24, filed on April 1, 2003, GERIC's operations for the period May 1, 2001, to May 31, 2002, resulted in first year premium savings for the AGLR System of \$386,751. For the period June 1, 2002, through May 31, 2003, GERIC contributed benefits to the AGLR System by making possible the avoidance of a portion of the increase in insurance premiums that followed the terrorist attack of September 11, 2001, and other events. Applicants assert that this experience demonstrates that by providing the AGLR System with the flexibility to access the insurance markets independent of traditional insurers, GERIC serves a valuable function that, although not readily quantifiable, can be

a significant factor in managing insurance costs.

Similarly, Applicants project that the proposed finite program would produce savings for the AGLR System companies. GERIC has compared the AGLR System premium costs for the intermediate risk layer (losses of \$1 million to \$10 million) over four years with the costs associated with funding the captive insurance program. Projected losses over this same period also were analyzed. GERIC's analysis concludes that the finite insurance program could provide savings of several million dollars.

A British Virgin Islands management company has been retained to provide administrative services to GERIC. AGL Services Company ("AGSC") employees are directors and principal officers of GERIC and they oversee the performance of the administrative activities by the management company. The administrative functions directed by AGSC through the management company include: (1) Accounting and reporting activities; (2) legal, actuarial, banking and audit services; (3) negotiating reinsurance contracts, policy terms and conditions; (4) invoicing and making payments, and; (5) managing regulatory affairs. The existing AGSC claim staff performs the claims adjusting function. It is not anticipated that managing the finite program would require additional staff or materially increase the administrative costs associated with GERIC's operations. All goods and services provided by AGSC to GERIC would be provided in accordance with section 13 of the Act and any applicable rules under that section, and costs incurred by GERIC would be recovered in premiums charged to the AGLR System companies.

Applicants propose that in addition to the authorization requested for the finite program, that the Commission increase the Self-Insurance Limit from \$1 million to \$5 million. In some lines of insurance the AGLR System has increased, or expects that it may increase, its self-insured retention. For example, in the automobile liability line of coverage the AGLR System's self-insured retention is now \$2 million. Increasing the self-insured retention helps the AGLR System to manage its insurance costs and to adjust limits in response to inflation. An increase in the Self-Insurance Limit would allow GERIC to retain the risk associated with the self-insured retention of the AGLR System beyond the current \$1 million limit. GERIC will maintain appropriate reserves to cover any risk of loss that it retains under an increased Self-Insurance Limit.

GERIC will continue to be bound by the condition in the Captive Order that it may underwrite additional types of insurance only when: (1) A reinsurer is ceded 100% of the underwritten risk; (2) the insurance is related to an authorized or permitted AGLR System business activity; (3) direct placement of reinsurance by GERIC would be reasonably expected to save the AGLR System a portion of the risk premium it would otherwise have paid; and (4) normal deductible amounts are retained by the AGLR System companies and where GERIC can obtain, as appropriate, excess or stop-loss coverage.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### In the Matter of Tamarak, Inc.; Order of Suspension of Trading

August 25, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tamarak, Inc. ("Tamarak") because of questions regarding the accuracy and adequacy of assertions in press releases by Tamarak, concerning, among other things: (1) Tamarak's plans and financial ability to produce and distribute a television mini-series and movie; (2) Tamarak's projected profits; (3) the purported support by the U.S. Air Force for Tamarak's film projects; and (4) purported discussions between Tamarak and major television and film studios.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in securities related to the above-listed company.

Therefore, *it is ordered*, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in all securities, as defined in Section 3(a)(10) of the Securities Exchange Act of 1934, issued by the above-listed company, is suspended for the period from 9:30 a.m. EDT on Monday, August 25, 2003 and terminating at 11:59 p.m. EDT on Monday, September 8, 2003.

<sup>1</sup> Applicants expect that premium payments would be sufficient to establish and maintain the necessary reserves. If, however, additional capital is required, AGLR may provide capital to GERIC through equity and or debt purchases exempt under Rule 52, or guarantees, letters of credit or other forms of credit support authorized by Commission order. AGL Resources Inc., Holding Co. Act Release No. 27243 (October 5, 2000).

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 03-22026 Filed 8-25-03; 1:30 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48389; File No. SR-MSRB-2003-07]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Proposed Amendments to the MSRB's Telemarketing Rules To Require Participation in the National Do-Not-Call Registry

August 21, 2003.

On August 19, 2003, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-2003-07), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing herewith a proposed rule change to require brokers, dealers and municipal securities dealers to participate in the Federal Trade Commission's ("FTC's") national do-not-call registry. The text of the proposed rule change is below. Additions are italicized; deletions are bracketed.

\* \* \* \* \*

#### Rule G-39. Telemarketing

[(a) No broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer shall:]

[(i) make outbound telephone calls to the residence of any person for the purpose of soliciting the purchase of municipal securities or related services at any time other than between 8 a.m. and 9 p.m. local time at the called person's location, without the prior consent of the person; or]

[(ii) make an outbound telephone call to any person for the purpose of soliciting the purchase of municipal securities or related services without disclosing promptly and in a clear and conspicuous manner to the called person the following information:]

[(A) the identity of the caller and the firm;]

[(B) the telephone number or address at which the caller may be contacted; and]

[(C) that the purpose of the call is to solicit the purchase of municipal securities or related services.]

[(b) The prohibitions of section (a) shall not apply to telephone calls by any person associated with a broker, dealer or municipal securities dealer, or another associated person acting in the direction of such person for the purpose of maintaining and servicing the accounts of existing customers of the broker, dealer or municipal securities dealer under the control of or assigned to such associated person:]

[(i) to an existing customer who, within the preceding twelve months, has effected a securities transaction in, or made a deposit of funds or securities into, an account that, at the time of the transaction or the deposit, was under the common control of or assigned to, such associated person;]

[(ii) to an existing customer who previously has effected a securities transaction in, or made a deposit of funds or securities into, an account that, at the time of the transaction or deposit, was under the control of or assigned to, such associated person, provided that such customer's account has earned interest or dividend income during the preceding twelve months; or]

[(iii) to a broker, dealer or municipal securities dealer.]

[For the purposes of section (b), the term "existing customer" means a customer for whom the broker, dealer or municipal securities dealer, or a clearing broker or dealer on behalf of such broker, dealer or municipal securities dealer, carries an account. The scope of this rule is limited to the telemarketing calls described herein; the terms of this rule shall not otherwise expressly or by implication impose on brokers, dealers or municipal securities dealers any additional requirements with respect to the relationship between a broker, dealer or municipal securities dealer and a customer or between a person associated with a broker, dealer or municipal securities dealer and a customer.]

#### (a) General Telemarketing Requirements

*No broker, dealer or municipal securities dealer or person associated*

*with a broker, dealer or municipal securities dealer shall initiate any telephone solicitation, as defined in paragraph (g)(ii) of this rule, to:*

#### (i) Time of Day Restriction

*Any residence of a person before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location), unless*

*(A) the broker, dealer or municipal securities dealer has an established business relationship with the person pursuant to paragraph (g)(i)(A)(1),*

*(B) the broker, dealer or municipal securities dealer has received that person's prior express invitation or permission, or*

*(C) the person called is a broker, dealer or municipal securities dealer;*

#### (ii) Firm-Specific Do-Not-Call List

*Any person that previously has stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the broker, dealer or municipal securities dealer; or*

#### (iii) National Do-Not-Call List

*Any person who has registered his or her telephone number on the Federal Trade Commission's national do-not-call registry.*

#### (b) National Do-Not-Call List Exceptions

*A broker, dealer or municipal securities dealer making telephone solicitations will not be liable for violating paragraph (a)(iii) if:*

#### (i) Established Business Relationship Exception

*The broker, dealer or municipal securities dealer has an established business relationship with the recipient of the call. A person's request to be placed on the firm-specific do-not-call list terminates the established business relationship exception to that national do-not-call list provision for that broker, dealer or municipal securities dealer even if the person continues to do business with the broker, dealer or municipal securities dealer;*

#### (ii) Prior Express Written Consent Exception

*The broker, dealer or municipal securities dealer has obtained the person's prior express invitation or permission. Such permission must be evidenced by a signed, written agreement between the person and the broker, dealer or municipal securities dealer which states that the person agrees to be contacted by the broker, dealer or municipal securities dealer and includes the telephone number to which the calls may be placed; or*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.