

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: March 3, 2005
TO: Division of the Commission Clerk and Administrative Services
FROM: Division of Economic Regulation (Brady) **pb**
RE: Docket No. 020640-SU, Application for certificate to provide wastewater service in Lee County by Gistro, Inc.

Please add to the docket file the attached letter dated March 1, 2005, from Kathryn Cowdery, Esq., to Pat Brady, Commission staff. The letter, and its attachments, are in partial response to deficiencies.

Attachment

cc: Division of Economic Regulation (Redemann, Kaproth)
Office of the General Counsel (Gervasi)
Division of the Commission Clerk and Administrative Services

DOCUMENT NUMBER-DATE
02224 MAR-3 '05
FPSC-COMMISSION CLERK



RECEIVED
FLORIDA PUBLIC SERVICE
COMMISSION

05 MAR -1 PM 2: 00

DIVISION OF
ECONOMIC REGULATION

215 SOUTH MONROE STREET
SUITE 815
TALLAHASSEE, FLORIDA 32301

(850) 412-2000
FAX: (850) 412-1307
KATHRYN.COWDERY@RUDEN.COM

March 1, 2005

Pat Brady
Regulatory Analyst
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Via hand-delivery

Re: Dkt. No. 020640-SU: Application for wastewater certificate in Lee County by Gistro, Inc.

Dear Ms. Brady:

By letter of July 24, 2003, Ms. Patti Daniel provided Mr. Holzberg with a list of water and wastewater utilities in Lee County for noticing purposes in accordance with Rule 25-30.030, Florida Administrative Code. Please provide me with an updated list as set forth in Fla. Admin. Code Rule 25-30.030(2).

This letter provides certain information relating to this docket, as requested by Staff.

The PSC informally requested a copy of the settlement agreement regarding certain litigation, if possible. Mr. Holzberg is not able to provide a copy of that settlement agreement because it contains a provision that the agreement shall be held confidential and not disclosed to any third parties except under subpoena or court order.

Attached for your information is the title commitment for the real property for the lift station parcel as described thereon, showing that title to the property is vested in Gistro, Inc. Also enclosed are two electric bills for September 2004 for the two lift stations, and an October 5, 2003 invoice from Graley Mechanical, Inc. for the pump station monthly maintenance in the amount of \$200.00.

Attached is a financial statement for Mr. Holzberg, prepared by Mr. Holzberg and dated November 15, 2004. An audited financial statement would be cost prohibitive and was therefore not prepared.

My understanding is that Staff was going to prepare for Mr. Holzberg the monthly rate that it would recommend in this docket. I would appreciate obtaining that recommended rate from you. Please let me know if you have any additional information.

Sincerely,

Kathryn G.W. Cowdery

Enclosures

TAI:51529:1

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

CHICAGO TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY, a corporation of Missouri, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.

Issued By:

RUDEN, MCCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A. CHICAGO TITLE INSURANCE COMPANY
150 Second Avenue North, Suite 1700
St. Petersburg, FL 33701

(727) ~~885-1938~~ 502-8200



By:

Agnes M. Fair

President

By:

ATTEST

John C. [Signature]

Secretary

By: *[Signature]* cck

Authorized Signatory
Robert S. Schumaker, Esq.

STANDARD EXCEPTIONS FOR OWNER'S POLICY

The owner's policy will be subject to the mortgage, if any, noted under item one of Section 1 of Schedule B hereof and to the following exceptions: (1) rights or claims of parties in possession not shown by the public records; (2) encroachments, overlaps, boundary line disputes, and any matters which would be disclosed by an accurate survey and inspection of the premises; (3) easements, or claims of easements, not shown by the public records; (4) any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records; (5) taxes or special assessments which are not shown as existing liens by the public records.

CONDITIONS AND STIPULATIONS

1. The term "mortgage," when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions, the Exclusions from Coverage and the Conditions and Stipulations of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE A**

RMSS&R File Number
04-3828/50079-0001

Effective Date
September 7, 2004
at 11:00 AM

Commitment Number
04-3828

1. Policy or Policies to be issued:

OWNER'S POLICY (10-17-92)
with Florida Modifications
Proposed Insured:

To be determined

To Be Determined

2. The estate or interest in the land described or referred to in this Commitment and covered herein is Fee Simple, and title thereto is at the effective date hereof vested in:

Gistro, Inc.

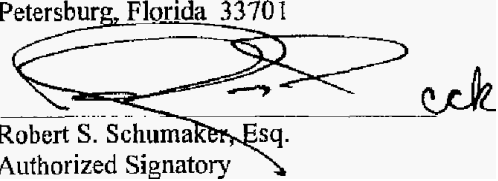
3. The Land is described as follows:

A parcel of land lying in the North 1/2 of the Southeast 1/4 of Section 25, Township 47 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Commencing at the East 1/4 corner of Section 25, Township 47 South, Range 25 East, run South 89°14'12" West, along the 1/4 Section Line for a distance of 581.82 feet to the West right-of-way of Southern Pines Drive; thence run South 10°52'26" East, along said right-of-way 162.52 feet to the point of intersection of the West right-of-way of Southern Pines Drive and the South right-of-way of Forest Mere Drive; thence run South 89°14'12" West, along the South right-of-way of Forest Mere Drive, a distance of 443.39 feet to the point of curvature of a curve; thence run Southwesterly along said curve, concave to the Southeast having a radius of 30.00 feet to a point on the curve and the Point of Beginning of said parcel, having a chord bearing of South 69°38'39" West, a chord distance of 20.09 feet, an arc distance of 20.48 feet, and central angle of 39°06'50"; thence run South 44°02'23" East, a distance of 24.36 feet; thence run South 45°57'37" West, a distance of 11.00 feet; thence run North 44°02'23" West, 23.10 feet to a point on a curve; thence run Northeasterly along said curve, concave to the Southeast, having a radius of 30.00 feet, a chord bearing of North 39°25'40" East, an arc distance of 11.12 feet and a chord distance of 11.06 feet to the Point of Beginning of said parcel.

RUDEN, MCCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.
150 Second Avenue North, Suite 1700
St. Petersburg, Florida 33701

By:


Robert S. Schumaker, Esq.
Authorized Signatory

STP:467769:1

Note: This Commitment consists of insert pages labeled in Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This Commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert pages.

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B - Section 1**

Commitment Number 04-3828

I. The following are requirements to be complied with:

1. Instrument(s) necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.
 - (a) Warranty Deed from Gistro, Inc., a Florida corporation, to the Proposed Insured, conveying the land described in Schedule A. (NOTE: If the proposed instrument of conveyance is to be executed by an Officer other than a Chief Executive Officer, President or Vice President, a certified Resolution authorizing said Officer to sign on behalf of the corporation must be recorded.)
2. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
3. Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.
4. The actual value of the estate or interest to be insured must be disclosed to the Company, and subject to approval by the Company, entered as the amount of the Policy to be issued. Until the amount of the Policy to be issued shall be determined and entered as aforesaid, it is agreed that as between the Company, the applicant for this Commitment, and every person relying on this Commitment, the Company cannot be required to approve any such evaluation in excess of \$100,000.00, and the total liability of the Company on account of this Commitment shall not exceed said amount.
5. The name or names of the proposed insured under the policy must be furnished and this commitment is subject to such further exceptions and/or requirements as may then be deemed necessary.
6. Satisfactory evidence must be furnished showing that Gistro, Inc., a corporation organized under the laws of Florida, is currently in good standing in that state.
7. Production of a Resolution of the Board of Directors of Gistro, Inc., authorizing and approving the conveyance of the land described in Schedule A to the Proposed Insured.
8. Proof of payment of municipal liens, charges and assessments.
9. Payment of real estate taxes and assessments for the year 2004. (Account 25-47-25-B3-0110A.0010).
10. Redemption of Tax Certificate No. 04-026528 for the year 2003, sale of 2004.
11. Satisfactory evidence must be furnished from the Secretary or other Officer of the Association that all assessments against the land described in Schedule A (including, but not limited to, special assessments or payments due to others such as master associations), are paid in full to date.
12. Recordation of an affidavit by a person having actual knowledge of the facts, sufficient to establish that Elfy Holzbrg, grantee in deeds recorded in Official Records Book 3091, page 2083 and Official Records Book 3091, page 2085, is one and the same as Elfy Holzberg, grantor in deed recorded in Official Records Book 3287, page 2804, of the public records of Lee County, Florida.

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B - Section 1**

13. Recordation of an Affidavit, by a person having actual knowledge of the facts, sufficient to establish that Gistro Corporation, grantee in deed recorded in Official Records Book 3287, page 2804, and grantor in deed recorded in Official Records Book 3359, page 2787, of the public records of Lee County, Florida, is one and the same as Gistro, Inc., a corporation, incorporated August 17, 2000, as Document Number P00000079551 in the office of the Florida Department of State, Division of Corporations.
14. Quit Claim Deed from Forest Mere Joint Venture, a Florida general partnership, executed by all of the general partners, and J. Fritz Holzberg and Elfy Holzberg, as single persons, or joined by their respective spouses, if married, to Gistro, Inc., a Florida corporation, which Quit Claim is required due to the fact that the deed recorded in Official Records Book 3287, page 2804, was executed and delivered prior to the grantee's incorporation, and due to the fact that the deeds recorded in Official Records Book 3609, page 3251 and Official Records Book 3609, page 3553, were executed improperly.
15. We have revised the legal description to more accurately describe the premises; future conveyances should conform to the revised description.
NOTE: The land is not part of Springs Lakes, Phase One.
16. Surveyor's Certificate sufficient to establish that no portion of the land described in Schedule A lies within the boundaries of Forest Mere Court, a Condominium, recorded in Official Records Book 2489, page 1832, of the public records of Lee County, Florida.
17. Satisfaction of, or partial release of the lands described in Schedule A from, the following Judgments:
 - (a) Judgment recorded in Official Records Book 2774, page 1700;
 - (b) Judgment recorded in Official Records Book 2806, page 270;
 - (c) Judgment recorded in Official Records Book 2895, page 2303;
 - (d) Judgment recorded in Official Records Book 2950, page 4090 and Official Records Book 2954, page 2156;
 - (e) Judgment recorded in Official Records Book 3050, page 2193, Affidavit recorded in Official Records Book 3050, page 2195, all of the public records of Lee County, Florida.

**A.L.T.A. COMMITMENT
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B - Section 2**

Commitment Number 04-3828

- II. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.
1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
 2. Standard Exceptions:
 - a. Rights or claims of parties in possession not shown by the Public Records.
 - b. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises.
 - c. Easements, or claims of easements, not shown by the Public Records.
 - d. Any lien, or right to a lien, for service, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
 - e. Taxes or special assessments which are not shown as existing liens by the Public Records.
 - f. Any claim that any portion of said lands are sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands and lands accreted to such lands.
 - g. Taxes and assessments for the year 2005 and subsequent years.
 3. Standard exceptions (b) and (c) may be removed from the policy when a satisfactory survey and surveyor's report and inspection of the premises is made.
 4. Standard exceptions (a) and (d) may be removed upon receipt of a satisfactory affidavit-indemnity from the party shown in title and in possession stating who is in possession of the lands and whether there are improvements being made at date of commitment or contemplated to commence prior to the date of closing which will not have been paid for in full prior to the closing.

Standard Exception 2(f) of Schedule B - Section 2 is hereby deleted.
 5. Terms, covenants, conditions, restrictions, easements, assessments and possible liens created by and set forth in the Declaration recorded March 15, 1984, in Official Records Book 1716, page 3219, as affected by Summary Judgment recorded in Official Records Book 3286, page 4539, of the public records of Lee County, Florida, including, but not limited to one or more of the following: provisions for private charges or assessments; liens for liquidated damages; and/or option, right of first refusal or prior approval of a future purchaser or occupant; but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant(s): (a) is exempt under Chapter 42, Section 3607 of the United States Code; or (b) relates to handicap, but does not discriminate against handicapped persons.
 6. Notice to Purchaser recorded in Official Records Book 3946, page 1700, as corrected in Official Records Book 4047, page 1188, of the public records of Lee County, Florida.

STP:467769:1

NOTE: On loan policies, junior and subordinate matters, if any, will not be reflected in Schedule B.
ARB2 4/99 SB

CHICAGO TITLE INSURANCE COMPANY
REPORT TO AGENTS ON STATUS OF TITLE

NUMBER: 200406672

TO: Cathy Kalyvas
Ruden, McClosky, Smith, Schuster
150 Second Avenue North
17th Floor
St. Petersburg, Florida 33701-3327

LIFT STATION

This report on the status of title is being furnished at your request to assist in the preparation of a CHICAGO TITLE INSURANCE COMPANY (the Company) title insurance commitment and policy to be issued by your office. Only the results of an examination of the record title are reflected herein.

After you have reviewed this report, you must still -

- (a) Add requirements to Schedule "B" you find necessary from your analysis of the present transaction, surveys, prior title evidence and exceptions to Schedule B reflecting matters you may have actual knowledge of which are not already shown in Schedule "B".
- (b) Review the transaction in accordance with criteria discussed in the Standard Underwriting Risk section of the Underwriting Guide.
- (c) If the amount of the policy(ies) to be issued exceed your agency limits, obtain written authorization to issue the commitment from the Company. This report is NOT authorization to issue the commitment.

This report has been furnished to you in a format that will allow for part of it to be used as the inserts for the title insurance commitment to be issued. You will need to complete Schedule A as well as add any additional requirements you deem necessary as a result of the above. You must keep a copy of the entire report in your file.

This report consists of the following:

- This leader sheet
- Schedule A
- Schedule B - Section 1
- Schedule B - Section 2

NOTE: Personal property tax information has NOT been searched.

THIS REPORT IS PROVIDED FOR THE SOLE PURPOSE OF THE ISSUANCE OF A CHICAGO TITLE INSURANCE COMPANY COMMITMENT AND POLICY BY THE ADDRESSEE AS AUTHORIZED BY THE COMPANY. THE COMPANY DISCLAIMS LIABILITY TO THE ADDRESSEE OR ANY THIRD PARTY IN THE EVENT THIS INFORMATION IS USED FOR A PURPOSE OTHER THAN AS STATED.

CHICAGO TITLE INSURANCE COMPANY

By: _____
George Rainville

Date: December 6, 2004

**AMERICAN LAND
TITLE ASSOCIATION
STANDARD FORM
COMMITMENT**



Statement Date: OCT 01 2004
 Customer Name: GISTRO INC
 Service Address: 28650 SOUTHERN PINES DR # SWR

ACCOUNT Number: 51103-11155

Service Dates: SEP 01 04 to OCT 01 04
 Service Days: 30

Next Scheduled Read Date: NOV 01 2004

Previous Statement Balance	Payments (-)	Additional Activity (+ or -)	Balance Before NEW Charges (-)	NEW Charges (+)	NEW Charges Past Due	Total Now Due (=)
61.70	0.00	0.00	61.70	73.00	OCT 22 2004	\$134.70

Meter Reading - Meter 5C83513

Estimated Reading 72742
 Previous Reading - 72070
 KWH Used 672

Energy Usage

	Last Year	This Year
KWH This Month	672	672
Service Days	29	30
KWH/Day	23	22

***Amt includes the following charges:**

Customer Charge: \$8.37 per Month
 Non-Fuel Energy Charge:

Fuel Charge:

Account Activity

Previous Statement Balance 61.70
BALANCE BEFORE NEW CHARGES 61.70
 Billing for Electric Use on Rate: GS-1 GENERAL SVC NON-DEMAND
 Electric Service Amount 64.68**
 Gross Receipts Tax Increase 0.66
 Franchise Charge 2.01
 Florida Sales Tax 4.72
 Late Payment Charge 0.93
Current Electric Charges 73.00
TOTAL NEW CHARGES: 73.00

ESTIMATED BILL

TOTAL NOW DUE: \$134.70

Messages

- Did you forget? \$61.70 of this bill is past due. If payment has been made, we thank you and apologize for this reminder.
- A late payment charge of 1.5% will apply if not paid by **OCT 22, 2004**, and your account may be subject to being billed an additional deposit.
- Transactions involving connects, disconnects, name changes and payment extensions may require positive identification.
- This bill is estimated because temporary conditions prevented FPL from reading your meter. Differences between estimated and actual use will be adjusted when we read your meter next month. We apologize for any inconvenience.

Please have your account number ready when calling FPL.



Florida Power & Light Company
 PO Box 025576
 Miami, FL 33102



USEFUL TELEPHONE NUMBERS

Customer Service: 1-800-375-2434
 Outside Florida: 1-800-228-3545
 To Report Power Outages: 1-800-4OUTAGE (468-8243)
 Hearing/Speech Impaired: 1-800-432-8554 (TTY/TDD)
 Visit FPL's Web Site at <http://www.fpl.com>

Statement Date: OCT 01 2004
 Customer Name: GISTRO INC
 Service Address: 26650 SOUTHERN PINES DR # LIFT

Account Number: 45389-72151
 Service Dates: SEP 01 04 to OCT 01 04
 Service Days: 30
 Next Scheduled Read Date: NOV 01 2004

Previous Statement Balance	Payments (+)	Additional Activity (+ or -)	Balance Before NEW Charges (=)	NEW Charges (-)	NEW Charges Past Due	Total Now Due (=)
35.85	0.00	0.00	35.85	37.98	OCT 22 2004	\$73.83

Meter Reading-Meter 5C83510
 Current Reading **12391**
 Previous Reading **- 12090**
 KWH Used **301**

Energy Usage

	Last Year	This Year
KWH This Month	330	301
Service Days	29	30
KWH/Day	11	10

Account Activity

Previous Statement Balance 35.85
BALANCE BEFORE NEW CHARGES 35.85

Billing for Electric Use on Rate: GS-1 GENERAL SVC NON-DEMAND

Electric Service Amount **33.60****
 Gross Receipts Tax Increase 0.34
 Franchise Charge 1.05
 Florida Sales Tax 2.45
 Late Payment Charge 0.54

Current Electric Charges 37.98

TOTAL NEW CHARGES: 37.98

***Amt includes the following charges:**

Customer Charge: \$8.37 per Month
 Non-Fuel Energy Charge:
 \$0.046290 per KWH
 Fuel Charge: \$0.037500 per KWH

TOTAL NOW DUE: \$73.83

Messages

- Did you forget? **\$35.85** of this bill is past due. If payment has been made, we thank you and apologize for this reminder.
- A late payment charge of 1.5% will apply if not paid by **OCT 22, 2004**, and your account may be subject to being billed an additional deposit.
- Transactions involving connects, disconnects, name changes and payment extensions may require positive identification.

208.93
 # 662, 10, 13, 04

Please have your account number ready when calling FPL.



Florida Power & Light Company
 PO Box 025576
 Miami, FL 33102



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 Visit FPL's Web Site at <http://www.fpl.com>



1681 Benchmark Avenue
Suite F
Fort Myers FL 33905
Ph: 239-226-9477
Fax: 239-226-2478
Certified Underground CU-CO54914
Registered Electrical Contractor ER0015348

CERTIFIED RAVEN LINING APPLICATOR

INVOICE

M132

October 5, 2003

Mr. Fritz Helzberg
Gistro, Inc.
P.O. Box 110131
Naples FL 34108

Pump Station Monthly Maintenance agreement due by the 20th of this month

TOTAL \$200.00

We look forward to continuing business with you

12.12.03
#603

REDACTED

J. Fritz & Elsie Holzberg

POBOX 366 762
BONITA SPRINGS
FLORIDA 34136
(239) 495 8089 Voice
(239) 495 8089 Fax

November 15, 2004

FINANCIAL STATEMENT

Expected income on 103 more connections	x \$ 5.000	\$ 515.000
2 townhomes		240.000
12 Townhome lots		300.000
Credit M.		25.000
FPL		35.000
First National Bank		60.000
Sewer collection system in Forest Mere for 277 connections		<u>\$ 1.500.000</u>
Total		\$ 2.368.000

Income from sewer system service not included	\$ 187.500
Annual income Elfy Holzberg 2003	. 35.798
Annual income J. Fritz Holzberg 524.60 x 12 =	6.295.
Austria 10 X 1.180 =	: 11.800
2 X 2.354 =	<u>4.708</u>
Total 2004 income	\$ 246.101

S. C. # J.Fritz Holzberg

S.C # Elfriede Holzberg



J.Fritz Holzberg

E. lfriede M. Holzberg

REDACTED