



U.S. SECURITIES AND EXCHANGE COMMISSION

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Litigation Release No. 19726 / June 13, 2006

SECURITIES AND EXCHANGE COMMISSION v. MX FACTORS LLC, BBH RESOURCES LLC, JTL FINANCIAL GROUP LLC, RICHARD M. HARKLESS, DANIEL J. BERARDI, JR., THOMAS HAWKESWORTH, AND RANDALL W. HARDING, Civil Action No. EDCV-04-223-VAP (SGLx) (C.D. Cal.)

SEC OBTAINS JUDGMENTS AGAINST ISSUER, ITS OFFICER AND SALES AGENTS IN MULTI-MILLION DOLLAR PONZI SCHEME IN SOUTHERN CALIFORNIA

On June 2, United States District Judge Virginia A. Phillips issued a final judgment against Daniel Berardi, Jr., Thomas Hawkesworth and Randall W. Harding ordering disgorgement, prejudgment interest, and civil penalties for their roles in perpetrating a Ponzi scheme based in Southern California. The judgment orders Berardi and Hawkesworth, managing members of BBH Resources, LLC, to pay over \$11 million in disgorgement, prejudgment interest, and civil penalties. The judgment orders Harding, managing member of JTL Financial Group, LLC, to pay over \$17 million in disgorgement, prejudgment interest, and civil penalties.

On February 6, 2006, Judge Phillips issued a final judgment against Richard M. Harkless, the managing member of Mx Factors, LLC, and granted the Securities and Exchange Commission's motion for judgment by default against issuer Mx Factors and its sales agents BBH Resources and JTL Financial. The judgment against Harkless permanently enjoins him from future securities law violations and orders him to pay over \$42 million in disgorgement, prejudgment interest, and civil penalties. Mx Factors, BBH Resources, and JTL Financial have been under the control of a court-appointed receiver since the Commission's action was filed on February 26, 2004 in federal district court in Riverside, California. The Commission's complaint alleged that the defendants fraudulently induced investors nationwide and in Mexico to invest in Mx Factors' notes, which purportedly paid a "guaranteed" return of 12% in 60 or 90 days. Mx Factors claimed that it would use the investor funds to provide its clients – construction contractors, wholesalers, and manufacturers – with accounts receivable financing, secured by the client's assignment of its accounts receivable. The defendants also represented that investor funds were safe because at least 70% of the receivables were backed or funded by the government. Instead, the Commission alleged, the defendants operated a Ponzi scheme and skimmed investor funds to finance a Mexican crab fishing business, pay personal expenses, and fund overseas bank accounts.

In its lawsuit, the Commission obtained an order freezing each of the defendants' assets, an order appointing a permanent receiver over Mx Factors, BBH Resources, and JTL Financial, an order requiring Mx Factors and Harkless to repatriate assets from abroad, and preliminarily enjoining all of the defendants from future violations of the securities registration and antifraud provisions – and preliminarily enjoining defendants BBH Resources, JTL Financial, Berardi, Hawkesworth, and Harding from future violations of the broker-dealer registration provisions – of the federal securities laws, Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 and Sections 10(b) and 15(a) of Securities Exchange Act of 1934 and Rule 10b-5 thereunder. In June 2004, Berardi, Hawkesworth and Harding consented to permanent injunctions against future violations of the securities laws as well as permanent bars from associating with any broker dealer. In July 2004, the court issued an order of civil contempt against and bench warrant for the arrest of Harkless for failure to comply with the court's orders in the case.

For information about earlier developments in this matter, see Litigation Release No. 18559 (Feb. 27, 2004) (complaint and temporary restraining order), Litigation Release No. 18619 (Mar. 11, 2004) (preliminary injunction), and Litigation Release No. 18779 (Jul. 12, 2004) (civil contempt).

<http://www.sec.gov/litigation/litreleases/2006/lr19726.htm>