



# U.S. SECURITIES AND EXCHANGE COMMISSION

## U.S. Securities and Exchange Commission

Litigation Release No. 18619 / March 11, 2004

**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 PRELIMINARY INJUNCTION, ASSET FREEZE, AND A RECEIVER IN \$33.5 MILLION PONZI SCHEME IN SOUTHERN CALIFORNIA**

On March 8, 2004, the Securities and Exchange Commission ("Commission") obtained a preliminary injunction in a multi-million dollars securities fraud scheme perpetrated by seven Southern California defendants: Mx Factors, LLC of Riverside; BBH Resources, LLC of Palm Springs; JTL Financial Group, LLC of Corona; Richard M. Harkless, 59, of Riverside; Daniel J. Berardi, Jr., 40, of Palm Springs; Thomas Hawkesworth, 49, of Rancho Mirage; and Randall W. Harding, 43, of Corona. The defendants have raised at least \$33.5 million to date from the sale of Mx Factors' notes. Also today, U.S. District Judge Virginia A. Phillips of the U.S. District Court for the Central District of California granted additional relief that the Commission sought, including issuing orders freezing assets, appointing a permanent receiver over Mx Factors, BBH Resources, and JTL Financial, and requiring Mx Factors and Harkless to repatriate assets from abroad.

The Commission's complaint, filed on February 26, 2004 in federal court in Riverside, alleges that the defendants fraudulently induced at least 247 investors nationwide and in Mexico to invest in Mx Factors' notes, which purportedly pay a "guaranteed" return of 12% in 60 or 90 days. Mx Factors claims that it will 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 represent that investor funds are safe because at least 70% of the receivables are backed or funded by the government.

According to the complaint, these representations are false. Mx Factors has actually been operating a Ponzi scheme, and at least \$19.9 million in new investor funds has been used to pay existing investors. At least \$5.64 million has been misappropriated (1) to finance a crab fishing business, (2) to pay the personal expenses of Harkless, Berardi, and Hawkesworth, including mortgage payments and credit card bills, and (3) to fund overseas bank accounts. Additionally, the complaint alleges that BBH, Berardi, and Hawkesworth have skimmed \$1.3 million in investor funds by failing to turn them over to Mx Factors. The complaint further alleges that BBH Resources and JTL Financial have each received undisclosed sales commissions of at least 12%.

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. The Commission also seeks permanent injunctions, and other relief, including disgorgement and civil penalties against all defendants.

*<http://www.sec.gov/litigation/litreleases/lr18619.htm>*