



# U.S. SECURITIES AND EXCHANGE COMMISSION

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Litigation Release No. 18779 / July 12, 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 SEEKS CIVIL CONTEMPT ORDER AGAINST RICHARD HARKLESS, ARCHITECT OF MX FACTORS OFFERING FRAUD**

On June 24, the Securities and Exchange Commission ("Commission") filed in United States District Court for the Central District of California an Application for an Order to Show Cause why Richard M. Harkless of Riverside, California should not be held in civil contempt for failing to comply with the Court's Preliminary Injunction and Orders of March 8, 2004. According to the SEC's court papers, Harkless has not complied with the court's orders to provide accountings to the SEC and repatriate assets to the United States. According to the SEC, Harkless also has dissipated assets and taken action on behalf of Mx Factors without the consent of the court or the court-appointed receiver, in direct contravention of the March 8th orders. Should the Court hold Harkless in civil contempt, the SEC asked that the Court impose a sanction sufficiently coercive to compel his compliance with the orders. Specifically, the SEC asked the Court to incarcerate Harkless, levy a daily fine, and confiscate his passport until Harkless complies with the orders. The Court set a hearing for July 15 at 10:00 a.m. on the Commission's contempt application.

According to the SEC's contempt application, since March 8, at least \$264,290 has been transferred from Mx Factors-related bank accounts in Belize to Olocun, S.A. de C.V., a crab fishing operation run by Harkless in Ensenada, Mexico. Harkless also has failed to provide the receiver with access to any of Mx's records still in his possession or under his control and has failed to provide the SEC with accountings, even though he was to have delivered them to the SEC by March 18, 2004. In addition, Harkless has not repatriated any assets or other property held in foreign locations, even though he was required to repatriate those assets over three months ago. The SEC also presented the Court with evidence that Harkless traveled outside the United States recently.

The SEC filed a complaint against Harkless and his co-defendants on February 26, 2004, in federal court in Riverside, alleging that the defendants fraudulently induced at least 247 investors nationwide and in Mexico to invest over \$35 million in the notes of Mx Factors, LLC, which purportedly paid a "guaranteed" return of 12% in 60 or 90 days. Mx Factors actually was operating a Ponzi scheme and used at least \$19.9 million in new investor funds to pay existing investors. The SEC obtained orders freezing each of the defendants' assets, appointing a permanent receiver over Mx Factors, BBH Resources, LLC and JTL Financial, LLC, 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 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 orders also preliminarily enjoined defendants BBH Resources, JTL Financial, Daniel J. Berardi, Jr., Thomas Hawkesworth, and Randall W. Harding from future violations of the broker-dealer registration provisions. The SEC also seeks other relief, including disgorgement and civil penalties, against all defendants. In June, 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 or dealer. [SEC v. Mx Factors, LLC, et al., Case No. EDCV-04-223-VAP (SGLx) (C.D. Cal.)] (LR-18599, LR-18619, Rel. No. 34-49944, Rel. No. 34-49945).

*<http://www.sec.gov/litigation/litreleases/lr18779.htm>*