

DISTRICT COURT, CITY AND COUNTY OF
DENVER, COLORADO

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1437 Bannock Street
Denver, CO 80202

DAVID S. CHEVAL, Acting Securities
Commissioner for the State of Colorado,

Plaintiff,

v.

MARK RAY; REVA STACHNIW; CUSTOM
CONSULTING & PRODUCT SERVICES, LLC;
RM FARM & LIVESTOCK, LLC; MR CATTLE
PRODUCTION SERVICES, LLC; SUNSHINE
ENTERPRISES; UNIVERSAL HERBS, LLC; DBC
LIMITED, LLC,

Defendants.

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Case No.:

Courtroom:

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff David S. Cheval, Acting Securities Commissioner for the State of Colorado, by and through his counsel, the Colorado Attorney General and undersigned counsel, hereby submits his Complaint for Injunctive and Other Relief against the Defendants, and alleges as follows:

JURISDICTION

1. Plaintiff David S. Cheval is the Acting Securities Commissioner for the State of Colorado (the “Commissioner”). The Commissioner is authorized to administer all provisions of the Colorado Securities Act (the “Act”). § 11-51-703, C.R.S. He is also authorized to bring this action to seek temporary, preliminary, and permanent injunctive relief, along with other equitable relief against the Defendants upon sufficient evidence that the Defendants have engaged in or are about to engage in any act or practice constituting a violation of any provision of the Act. § 11-51-602, C.R.S.

2. Venue is proper in the district court for the City and County of Denver, Colorado. § 11-51-602(1), C.R.S.

DEFENDANTS

3. Mark D. Ray is a 59-year-old resident of Aurora, Colorado. Ray is the founder and owner of Custom Consulting, Universal Herbs and MR Cattle. In 2005, Ray was barred from selling securities in Illinois by the Illinois Secretary of State as a result of his offer and sale of securities purportedly backed by cattle trading.

4. Reva Stachniw is a 67-year-old resident of Galesburg, Illinois. Ms. Stachniw is a retired nurse. She was the owner and manager of RM Farm and Sunshine. Stachniw opened and controlled bank accounts in the names of RM Farm and Sunshine.

5. Custom Consulting and Product Services, LLC is a Colorado limited liability company with its principal place of business in Aurora, Colorado. Custom Consulting is controlled by Ray. Ray used Custom Consulting to solicit investments purportedly backed by cattle trading and by wholesale marijuana transactions. Ray controlled bank accounts in the name of Custom Consulting and used them to receive money from and send money to victims of the Ponzi scheme.

6. RM Farm and Livestock, LLC is an Illinois limited liability company with its principal place of business at Stachniw’s residence in Galesburg, Illinois. Ray and Stachniw used RM Farm to solicit investments purportedly backed by cattle trading and by Ray’s marijuana operations. Ray and Stachniw used a bank account in the name of RM Farm to receive money from and to send money to the victims of the Ponzi scheme.

7. MR Cattle Production Services, LLC is a Colorado limited liability company with its principal place of business in Denver, Colorado. MR Cattle is controlled by Ray. Ray used MR Cattle to solicit investments purportedly backed by

cattle trading. Ray controlled bank accounts in the name of MR Cattle and used them to receive money from and send money to victims of the Ponzi scheme.

8. Sunshine Enterprises is a business of unknown corporate status with its principal place of business at Stachniw's residence in Galesburg, Illinois. Ray and Stachniw used a bank account in the name of Sunshine to receive money from and send money to the victims of the Ponzi scheme. Sunshine's bank account was also used to fund the operations of Universal Herbs.

9. Universal Herbs, LLC is a Colorado limited liability company with its principal place of business in Denver, Colorado. Universal Herbs is a marijuana business with two licensed retail locations in Denver, along with a separate licensed marijuana production facility. Ray owns and controls Universal Herbs. Ray extensively commingled the assets of Universal Herbs and the other Ponzi Businesses.

10. DBC Limited, LLC is a Colorado limited liability company with its principal place of business in Aurora, Colorado. Ray owns and controls DBC Limited. Shortly before the Ponzi scheme collapsed, Ray solicited at least one investment through DBC Limited. That investment was purportedly to finance a wholesale transaction in CBD oil, a derivative of marijuana.

SUMMARY OF THE ACTION

11. This matter involves a cattle Ponzi scheme perpetrated by Mark Ray and various entities that he controls. Ray is a repeat offender; he was previously barred by the Illinois Secretary of State from offering securities in that state as the result of a previous cattle business that operated similar to the Ponzi scheme at issue in this case. Despite the bar, Ray solicited and accepted investments from residents of Illinois in connection with his current Ponzi scheme.

12. Defendants Custom Consulting & Product Services, LLC ("Custom Consulting"), RM Farm & Livestock, LLC ("RM Farm"), MR Cattle Production Services, LLC ("MR Cattle"), Sunshine Enterprises ("Sunshine"), Universal Herbs, LLC ("Universal Herbs"), and DBC Limited, LLC ("DBC Limited") (collectively the "Ponzi Businesses") are all involved in Ray's fraudulent scheme. Ray used bank accounts in the names of the majority of the Ponzi Businesses to facilitate the scheme and to deceive investors into believing that Ray was engaged in cattle trading, when, in fact, he was simply using money from new investors to repay prior investors.

13. Since at least 2014, the Ponzi Businesses raised tens of millions of dollars from investors. Certain of the investments were purportedly backed by

short-term cattle trading inventories or cattle-trading opportunities that Ray had identified. Some investors simply loaned Ray money to be used for the Ponzi Businesses without having the loans tied to particular cattle trades. Other investors thought they were financing Ray's various state-licensed marijuana endeavors. Ray promised all of these investors high rates of return, usually over short periods of times.

14. In fact, Ray and the Ponzi Businesses engaged in little cattle trading, and significant amounts of the investor money (regardless of which type of investment the investor thought he or she was making) was simply used in a Ponzi-like manner. In addition to making Ponzi payments to old investors, Ray misappropriated investor money and used it to pay for things like flights on private jets and his personal expenses.

15. The Ponzi scheme involved the offer and sale of unregistered securities in the form of investment contracts and promissory notes that Ray advertised to investors, some of whom were unsophisticated, primarily through word of mouth.

16. Reva Stachniw substantially assisted Ray and the Ponzi Businesses with the fraudulent scheme. Stachniw was the owner and manager of RM Farm and Sunshine Enterprises. She opened bank accounts in the names of those entities, but then she gave Ray permission to use them in whatever manner he wanted. Despite numerous red flags, Stachniw would sign stacks of blank checks and deliver them to Ray or his employees for use in the scheme. She was also the signatory of many of the promissory notes sold as part of the scheme. Without Stachniw's help, Ray would not have been able to run and grow the Ponzi scheme, because his bank accounts would have been shut down.

17. In March 2019, Ray and the Ponzi Businesses ran out of money and the Ponzi scheme appears to have collapsed. They do not currently own any cattle as far as the Commissioner has been able to discover, and investors have lost millions of dollars. As far as the Commissioner is aware, the only real assets that remain consist of Ray's marijuana production and distribution operation, which is licensed by the state of Colorado to Universal Herbs. And that business is substantially encumbered by debt to taxing authorities, vendors and contractors.

18. With Ray's history of misappropriating funds, millions of dollars' worth of investor losses, and the nature of the fraud, it is imperative that Ray's assets be frozen and a receiver be appointed over the Ponzi Businesses.

THE FRAUDULENT SCHEME

Ray Fraudulently Solicits Investments for the Ponzi Scheme

19. Beginning in at least 2014, Ray solicited investors for his purported cattle trading and state-licensed marijuana businesses.

20. Ray promised investors that he would provide them with returns in the range of 10-20% in very short periods of time, usually a few weeks. Ray told certain of these investors that they were investing in wholesale, commercial cattle trades or wholesale, licensed marijuana transactions. Other investors were simply asked to invest in promissory notes with a high rate of return. One investor was told he was financing a wholesale, CBD oil transaction.

21. Investors in cattle trades were often told specifics about the cattle that Ray would be purchasing with their investment money. For instance, Ray would tell an investor that he would be purchasing a specific number and type of commercial cattle from a specific ranch. Ray would also sometimes tell investors that he would send the cattle purchased with their money to a specific feed lot for fattening. Several of the ranches and feed lots at which Ray told investors he engaged in cattle trading have confirmed to the U.S. Securities and Exchange Commission ("SEC") that they did not engage in any cattle trading with Ray.

22. In other words, there were, in fact, no cattle to support the vast majority of purported investments in cattle trading.

23. Instead, Ray simply used new investor money to repay prior investors.

24. Similarly, Ray told some investors that they were financing wholesale marijuana transactions whereby he would purchase a large quantity of marijuana from a licensed producer and then sell it at a markup to licensed retailers.

25. In fact, Ray used most of that investor money to repay prior investors and keep the Ponzi scheme afloat.

26. Ray also used the proceeds of his promissory note sales to repay prior investors.

27. Ray instructed some investors to wire money or send checks directly to other victims of his scheme. When doing so, he would lie to both victims about the purpose of the transfers.

28. For instance, Ray would instruct Victim A to wire funds to Victim B, telling Victim A that the funds were for the purchase of cattle from Victim B. Ray would tell Victim B, however, that the funds received from Victim A were payment for another cattle trade in which Victim B had previously invested.

29. Ray had one investor who purchased a promissory note from DBC Limited, which was supposed to finance a wholesale CBD oil transaction, wire the investment money to an attorney in Denver, purportedly to be held in an escrow account. At this point, the SEC does not know what happened to those funds, and both Ray and the attorney have refused to return the funds to the investor.

30. Investors would not have invested with Ray had they known that he was using their money to repay earlier investors.

***Ray, Stachniw and the Ponzi Businesses Offered
and Sold Unregistered Promissory Notes***

31. Since at least 2016, Ray offered and sold promissory notes to investors through several of the Ponzi Businesses and individually. The promissory notes are not regulated by any other financial regulatory authority.

32. Some of the notes were issued in the name of RM Farm and signed by Stachniw.

33. Other notes were issued in the name of Mark Ray personally or in the name of Custom Consulting, MR Cattle or DBC Limited and signed by Ray.

34. Some of the notes were convertible into a specific percentage of equity in Universal Herbs.

35. Most, if not all, of the notes were personally guaranteed by Ray.

36. The promissory notes that Ray, Stachniw and the Ponzi Businesses offered and sold were not registered with the SEC.

***Ray and the Ponzi Businesses Offered
and Sold Unregistered Investment Contracts***

37. Some investors were given formal written contracts or agreements documenting their investments. Others had oral agreements with Ray and the Ponzi Businesses that were either undocumented or that were documented in text messages and emails.

38. All of the agreements called for the investor to make an investment of money with the expectation of profit.

39. Sometimes the profit was fixed in advance and other times Ray told the investors that the profit would be determined by the final sales price of the cattle or marijuana transaction.

40. At various times, investors provided funds directly to each of the Ponzi Businesses, except for Universal Herbs and DBC Limited, which did not have bank accounts in their own name so far as the Commission is aware.

41. At various times, investors received funds directly from each of the Ponzi Businesses, except for Universal Herbs and DBC Limited.

42. Some investors were told that their investments would be pooled with the funds of other investors for a particular trade. Others were told that Ray would personally invest his own funds along with theirs.

43. The investors relied on Ray's skill and knowledge of either the cattle industry or the state-licensed marijuana industry to generate their returns.

44. Many of the investors knew very little about the cattle industry or the state-licensed marijuana industry.

The Ponzi Businesses Commingled Funds

45. With the exception of Universal Herbs and DBC Limited, the Ponzi Businesses routinely transferred large amounts of money back and forth among their bank accounts using checks and wire transfers.

46. The vast majority of these transfers did not serve any legitimate business purpose or reflect any underlying economic realities.

47. Rather, Ray used the various entities and bank accounts to hide his activities and to give the illusion that he was engaged in actual cattle trading or profitably selling state-licensed marijuana.

48. In general, Ray would have investors send money to accounts controlled by him, with those investors' "returns" coming from accounts controlled by Stachniw, or the opposite. Ray usually did not both receive and return a particular investor's funds from the same account.

49. By using accounts in the name of (and nominally controlled by) Stachniw and other accounts controlled by himself, Ray was able to evade detection by the fraud departments of the banks. In other words, it would have been obvious to the banks that he was running a Ponzi scheme if all of his activities had run through one account or through accounts only in his own name.

50. Stachniw facilitated this deception by, among other things, signing stacks of blank checks drawn on the accounts of Sunshine and RM Farm and giving

them to Ray, his investors and his employees. She further facilitated the deception by making wire transfers from the accounts at Ray's directions.

51. Stachniw knew or was reckless in not knowing that significant portions of the funds deposited into the account of RM Farm came from investors. It should have been obvious to her given that she signed the promissory notes issued by RM Farm and had access to the bank account.

52. Some of the blank checks Stachniw signed were used to pay operating expenses of Universal Herbs. Those funds mainly came from investors, however, not from any operating profits of Universal Herbs.

53. Stachniw knew or was reckless in not knowing that she was assisting Ray in a Ponzi scheme.

Ray and Stachniw Misappropriated and Misused Investor Funds

54. Ray used investor funds to pay for personal expenses, such as medical bills, flights on private jets and to support his business of raising show cattle. These payments were made directly from the Ponzi Businesses.

55. Stachniw paid some of her personal expenses from the accounts of RM Farm and Sunshine.

56. Ray and Stachniw also simply transferred investor money to their own personal bank accounts (and the accounts of close family members) from the accounts of the Ponzi businesses.

57. Tens of millions of dollars' worth of investor money is missing and unaccounted for.

58. Ray has no records of the various cattle transactions he purportedly engaged in, and he does not have sufficient records from which to reconstruct the investors' flow of funds, particularly given that a significant amount of investor funds went directly from one victim to another.

59. Ray continued to solicit investments after the majority of the Ponzi Businesses' bank accounts were closed.

**FIRST CLAIM FOR RELIEF
(Securities Fraud)**

60. Paragraphs 1 through 59 are incorporated herein by reference.

61. In connection with offer, sale, or purchase of securities in Colorado, Defendants, directly or indirectly:

- a. employed a device, scheme or artifice to defraud;
- b. made written and oral untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in acts, practices or courses of business which operated and would operate as a fraud and deceit on investors;

all in violation of § 11-51-501(1), C.R.S.

62. Defendants offered or sold securities by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements, in light of the circumstances under which they were made, not misleading (the buyers not knowing of the untruths or omissions), or engaged in acts, practices, or courses of business that operated as a fraud on the investors, and therefore the Defendants are liable to the Commissioner for damages under § 11-51-604(4), C.R.S., by operation of § 11-51-602(2), C.R.S., based on violations of § 11-51-501(1)(b), C.R.S.

63. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of the Defendants pursuant to §§ 11-51-602(2) and 604(4), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against the Defendants, his officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Defendants; and all those in active concert or participation with the Defendants, enjoining violation of § 11-51-501, C.R.S., by virtue of § 11-51-602, C.R.S.

**SECOND CLAIM FOR RELIEF
(Unlicensed Activity)**

64. Paragraphs 1 through 63 are incorporated herein by reference.

65. At no time relevant to this Complaint was Ray or Stachniw licensed, or exempt from licensure, as a “broker-dealer” or registered in any capacity with the Commissioner, as required by §§ 11-51-401 and 402, C.R.S.

66. At no time relevant to this Complaint was Ray or Stachniw licensed, or exempt from licensure, as a “sales representative” or registered in any capacity with the Commissioner, as required by §§ 11-51-401 and 402, C.R.S.

67. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendants pursuant to §§ 11-51-602(2), 604(2)(a) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against Defendants, their officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Defendants; and all those in active concert or participation with Defendants, enjoining violation of §§ 11-51-401 and 402, C.R.S., by virtue of § 11-51-602, C.R.S.

**THIRD CLAIM FOR RELIEF
(Unregistered Securities)**

68. Paragraphs 1 through 67 are incorporated herein by reference.

69. At no relevant time to this Complaint did Defendants register, or file notices of exemption from registration for the securities that they offered and sold to investors, as required by § 11-51-301, C.R.S.

70. The Commissioner is entitled to an award of damages, interest, costs, and attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendants pursuant to §§ 11-51-602(2), 604(1) and (5)(a), C.R.S. The Commissioner is also entitled to a preliminary and permanent injunction against Defendants, their officers, directors, agents, servants, employees, successors and attorneys-in-fact, as may be; any person, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Defendants; and all those in active concert or participation with Defendants, enjoining violation of § 11-51-301, C.R.S., by virtue of § 11-51-602, C.R.S.

WHEREFORE, the Commissioner requests relief as follows:

1. For preliminary and permanent injunctive relief against all the Defendants, their agents, servants, employees, and successors; any person who, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with; and all those in active concert or participation with the Defendants, enjoining the violations of all the Defendants of the Colorado Securities Act or successor statute.

2. For an Order appointing a receiver as agreed to by Defendants and set out in the Stipulations for Permanent Injunction and Other Relief and the Stipulated Motion for Appointment of Receiver filed contemporaneously with this Complaint.

3. For such other and further relief as the court deems proper.

Respectfully submitted this 30th day of September, 2019.

PHILIP J. WEISER
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