

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO:

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

TBG HOLDINGS CORPORATION,
NEIL B. SWARTZ, and
TIMOTHY S. HART,

Defendant.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission (“Commission”) alleges:

I. INTRODUCTION

1. From 2018 through March 2020, TBG Holdings Corporation (“TBG”) and its principals, Neil B. Swartz (“Swartz”) and Timothy S. Hart (“Hart”), hired and directed a group of unregistered sales agents to solicit investors to purchase shares of the health management company MediXall Group, Inc. (“MediXall”), a microcap company. Some of the sales agents hired by Swartz and Hart had previously been suspended and/or permanently barred by financial industry self-regulatory organizations. During the relevant period, TBG and its sales agents advised investors about the merits of the investments, provided investors with offering materials, and raised approximately \$3 million by selling MediXall stock to more than 200 investors.

2. Swartz and Hart directed and tracked the sales agents’ investor solicitations and sales, and on behalf of TBG, collectively paid the sales agents more than \$500,000 in transaction-based compensation. They also assisted TBG and its sales agents in their solicitation efforts by

engaging with investors via telephone, email, and postal services, sending out press releases, and offering materials. At no point during the relevant period were TBG and any of the sales agents registered with the Commission as brokers or associated with a registered broker-dealer.

3. By engaging in this conduct, TBG and its sales agents violated Section 15(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78o(a)(1)] and Swartz and Hart, aided and abetted TBG’s and the sales agents’ Section 15(a)(1) violations. The Commission seeks an injunction against TBG, Swartz, and Hart from future violations of this provision, a penny stock bar, and a civil money penalty.

II. DEFENDANTS

4. TBG is a Florida corporation with its principal place of business in Fort Lauderdale, Florida. During the relevant period, TBG purported to be a venture capital firm. TBG claims to assist companies, including MediXall, with their capital raising efforts. TBG is not registered with the Commission as a broker-dealer or in any other capacity.

5. Swartz, 60, resides in Boca Raton, Florida. Swartz is the President of TBG and was Chief Executive Officer of MediXall during the relevant period. Swartz previously held a Series 7 license and was associated with a broker-dealer firm from 2003 to 2004. In December 2011, the Pennsylvania Department of Banking and Securities issued a cease and desist order against Swartz for offering unregistered securities to investors. During the relevant period, Swartz was not associated with any entity registered with the Commission.

6. Hart, 64, resides in Plantation, Florida. Hart is the Secretary and Treasurer of TBG and Chief Financial Officer of MediXall. Hart previously held multiple securities licenses, including the Series 7, 24, 55, and 63, licenses and was associated with a broker-dealer firm from 2001 to 2002. Hart is a Florida licensed CPA. In 1994, the Commission suspended Hart from

appearing or practicing before the Commission as an independent accountant for 11 months. During the relevant period, Hart was not associated with any entity registered with the Commission.

III. OTHER RELEVANT ENTITY

7. MediXall, is a Nevada corporation with its principal place of business in Fort Lauderdale, Florida. MediXall's common stock is quoted on the OTC Markets Group, Inc. under the ticker symbol MDXL. During the relevant period, MediXall's securities qualified as a "penny stock" because they did not meet any of the exceptions from the definition of a "penny stock," as defined by Section 3(a)(51) of the Exchange Act and Rule 3a51-1 thereunder.

IV. JURISDICTION

8. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e) and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa(a)].

9. This Court has personal jurisdiction over TBG, Swartz, and Hart and venue is proper in the Southern District of Florida because most of the acts, practices, transactions and courses of business alleged in this Complaint occurred within the Southern District of Florida. These transactions include TBG principals, Swartz and Hart, communicating with investors through telephone, email, and postal services to send offering materials, overseeing and tracking sales agents' activities, and paying sales agents transaction-based compensation for soliciting investors nationwide.

10. In connection with the conduct alleged in this Complaint, TBG, Swartz, and Hart directly or indirectly, singly or in concert with others, made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate commerce, and of the mails.

V. FACTUAL ALLEGATIONS

A. The MediXall Offering

11. During the relevant time period, TBG held itself out to the public as a “Venture Capital Firm for the Masses” that purportedly identified investment opportunities to accredited investors at a discount. TBG assisted MediXall with its capital raising efforts by selling its securities to investors.

12. From at least 2018 through 2020, Swartz and Hart hired and directed TBG’s sales agents to solicit investors nationwide to purchase shares of MediXall stock. Swartz and Hart provided sales agents with the information and support to solicit investors to purchase unregistered shares of MediXall stock. This included providing sales agents with sales materials, sales pitches, and sending press releases, subscription agreements, and other offering materials to investors.

13. TBG sales agents often worked in tandem as “fronters” and “closers.” Fronters used lead lists to contact investors to introduce TBG and MediXall, and to get investors to opt-in to receive MediXall press releases and marketing materials. Closers followed up with these investors to advise investors about the merits of MediXall securities, and to sell them shares of MediXall stock.

14. For example, the sales agents stated they were recommending the purchase of MediXall securities as good investments and the shares were being offered at a discount to the market price quoted on OTC Markets, and described the opportunity as a time-sensitive offer. The sales agents would also often talk to investors about MediXall’s share price and potential, including the potential to uplist to NASDAQ.

**B. TBG and its Sales Agents Acted as Unregistered Brokers or Dealers in
Violation of Section 15(a) of the Exchange Act**

15. During the relevant period, TBG and its sales agents violated Section 15(a) by acting as unregistered brokers when they held themselves out as financial professionals, actively solicited investments in MediXall through telephone calls and emails, provided investors with private placement memoranda and other offering materials, advised investors on the merits of the investments, and received transaction-based compensation in the form of commissions for their efforts.

**C. Swartz and Hart Aided and Abetted TBG's and Sales Agents'
Violations of Section 15(a) of the Exchange Act**

16. Swartz and Hart directed and assisted unregistered sales agents in their efforts to solicit investors to purchase MediXall securities. During the relevant period, Swartz and Hart purchased and provided sales agents with lead lists to contact prospective investors. Moreover, Swartz directed and approved sales materials and pitches used by sales agents to recommend MediXall securities to investors.

17. For the relevant time period, the sales agents and other TBG employees maintained spreadsheets that tracked the sales agents' solicitations and sales activity, investor proceeds, and included their "bonuses" for certain months. The "bonus" amounts showed the sale agent(s) responsible for the investment, splitting between 10% and 14% of investor proceeds. Swartz and Hart used sales activity to determine transaction-based compensation they paid to TBG sales agents.

18. In total, Swartz and Hart, on behalf of TBG, paid sales agents \$500,000 in transaction-based compensation, in the form of bonuses, earned as a result of raising approximately \$3 million from more than 200 investors nationwide. Both Swartz and Hart knew or were reckless in not knowing the sales agents they hired to sell MediXall securities to investors were neither registered broker-dealers nor associated with a registered broker-dealer, and that some of these sales agents had previously been suspended and/or permanently barred by financial industry self-regulatory organizations.

CLAIMS FOR RELIEF

COUNT I

**Violations of Section 15(a)(1) of the Exchange Act
(Against TBG)**

19. The Commission repeats and re-alleges Paragraphs 1 through 18 of this Complaint as if fully set forth herein.

20. From 2018 through March 2020, TBG and its sales agents, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of securities, while not registered with the Commission as a broker or dealer or not associated with an entity registered with the Commission as a broker or dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

21. By reason of the foregoing, TBG violated, and unless enjoined is reasonably likely to continue to violate, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

COUNT II

**Aiding and Abetting TBG's and Sales Agents' Violations of
Section 15(a)(1) of the Exchange Act
(Against Swartz and Hart)**

22. The Commission repeats and re-alleges Paragraphs 1 through 18 of this Complaint as if fully set forth herein.

23. TBG and its sales agents directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of securities, while they were not registered with the Commission as a broker or dealer or not associated with an entity registered with the Commission as a broker-dealer.

24. Swartz and Hart knowingly or recklessly provided substantial assistance to TBG and its sales agents in their violations of Section 15(a)(1) of the Exchange Act.

25. By engaging in the conduct alleged herein, Swartz and Hart aided and abetted, and unless enjoined, are reasonably likely to continue to aid and abet, violations of Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests the Court find TBG, Swartz, and Hart committed the violations alleged, and:

A.

Permanent Injunctive Relief

Issue a permanent injunction enjoining TBG, Swartz, and Hart from violating Section 15(a)(1) of the Exchange Act.

B.

Penny Stock Bar

Issue an Order barring TBG, Swartz, and Hart from participating in any offering of a penny stock, pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

C.

Civil Money Penalties

Issue an Order directing TBG, Swartz, and Hart to pay a civil money penalty pursuant to Section 21(d) of the Exchange Act.

D.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

E.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

September 9, 2022

Respectfully submitted,

By: **s/ Christine Nestor**
Christine Nestor, Esq.
Senior Trial Counsel
Florida Bar No. 597211
Direct Dial: (305) 982-6367
Email: nestorc@sec.gov

s/ Michael J. Gonzalez

Michael J. Gonzalez, Esq.

Senior Counsel

Florida Bar No. 110598

Direct Dial: (305) 982-6318

Email: gonzalezmi@sec.gov

s/ Hughens Dolisca

Hughens Dolisca, Esq.

Counsel

Florida Bar No. 99744

Direct Dial: (305) 982-6344

Email: doliscah@sec.gov

**ATTORNEYS FOR PLAINTIFF
SECURITIES AND EXCHANGE
COMMISSION**

801 Brickell Avenue, Suite 1950

Miami, Florida 33131

Telephone: (305) 982-6300

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

Securities and Exchange Commission

DEFENDANTS

TBG Holdings Corporation, Neil B. Swartz and Timothy S. Hart

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Broward (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Christine Nestor, Esq., (305) 982-6367 Securities and Exchange Commission

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF 1 DEF 1
Citizen of Another State PTF 2 DEF 2
Citizen or Subject of a Foreign Country PTF 3 DEF 3
Incorporated or Principal Place of Business In This State PTF 4 DEF 4
Incorporated and Principal Place of Business In Another State PTF 5 DEF 5
Foreign Nation PTF 6 DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Grid of categories for nature of suit: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN

- 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge or Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. § 78o(a)(1). Violation of the federal securities laws. LENGTH OF TRIAL via N/A days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ Permanent Injunction, Penny Stock Bar & Civ. Penalty CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE SIGNATURE OF ATTORNEY OF RECORD

September 9, 2022 s/Christine Nestor

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment)”.

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an “X” in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge’s decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an “X” in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.