

MAY 27 1999

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

GLEN EUGENE MILLER, LD&B MANAGEMENT,
INC., a Utah Corporation, RICH BARLOW, AND
ACQUIRE VENTURE FUND GROUP

Defendants,

and

LORI MILLER, REFLEX BODY AND
FITNESS, LLC, a Utah limited liability company,
and CANYON RIM, LLC, a Utah limited
liability company,

Relief Defendants

Civil No.

2 : 99CV 0383K

COMPLAINT FOR
TEMPORARY
ORDER, PRELIMINARY
AND PERMANENT
INJUNCTIONS AND
OTHER EQUITABLE

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against
Glen Eugene Miller, LD&B Management, Inc., Rich Barlow, Acquire Venture Fund Group,
Lori Miller, Reflex Body and Fitness, LLC, and Canyon Rim, LLC, alleges, as follows:

1. Defendants Glen Eugene Miller ("Glen Miller"), LD&B Management, Inc. ("LD&B"), Rich Barlow ("Barlow") and Acquire Venture Fund Group ("Acquire"), have engaged, are now engaged, and unless restrained and enjoined, will continue to engage, directly

or indirectly, in transactions, acts, practices, and courses of business which constitute violations of Sections 17(a) of the Securities Act and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act")[15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

2. Defendants Lori Miller, Reflex Body and Fitness, LLC ("Reflex") and Canyon Rim, LLC, ("Canyon Rim") have received proceeds from transactions identified in this Complaint which violated, and continue to violate the federal securities laws.

AUTHORITY TO BRING THIS ACTION

3. Plaintiff Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b) and 77t(d)] and Sections 21(d) and 21(e) of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78u(d) and 78u(e)], to restrain and enjoin the defendants from engaging in the transactions, acts, practices and courses of business described herein, and transactions, acts, practices and courses of business of similar purport and object and for other relief, including civil penalties, accountings and disgorgement.

4. Plaintiff Commission, pursuant to authority granted to it by Section 10(b) of the Exchange Act, has promulgated Rule 10b-5. This rule was in effect at all times relevant herein and is still in effect.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act ") [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)] and Sections 21(d)(3), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u(e) and 78aa].

6. The defendants, directly or indirectly, have made use of the mails, means or instruments of transportation or communication in interstate commerce, or means or instrumentalities of interstate commerce in connection with the transactions, acts, practices and courses of business described in this Complaint.

7. Venue over this action is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

8. The transactions, acts, practices and courses of business constituting the violations alleged herein have occurred and are occurring within the District of Utah, Central Division, and all defendants and relief defendants reside or may be found within the District of Utah.

THE DEFENDANTS

9. **Glen Eugene Miller** is a resident of Tooele, Utah. Miller is a stockbroker who has been licensed with the National Association of Securities Dealers since March 1986; during that time he has been associated with a number of insurance companies and brokerage firms. Until 1998, Miller was a director of LD&B.

10. **LD&B Management, Inc.** is a Utah corporation through which Miller operates. The president of LD&B is his wife, Lori Lee Miller ("Lori Miller"). The directors of the

corporation are Lori Miller and one of her daughters. Miller was a director of the company until 1998. Miller has acted as the designated agent for LD&B in signing agreements with Barlow.

11. **Rich Barlow** is a resident of Orem, Utah. Since at least 1996, he appears to have been operating a prime bank investment program under the name of Acquire Venture Fund Group. In 1998, Barlow was ordered to cease and desist soliciting unregistered securities in a prime bank scheme by the State of Utah.

12. **Acquire Venture Fund Group** is an undetermined type of entity through which Barlow is operating his prime bank investment program.

THE RELIEF DEFENDANTS

13. **Lori Lee Miller** is Glen Miller's wife and a resident of Tooele, Utah. She is the president of LD&B. The directors of the corporation are Lori Miller and one of her daughters. She is not alleged to have engaged in any federal securities laws violations, but holds or controls funds that may represent fruits of violations committed by the defendants which are the subject of this complaint.

14. **Reflex Body and Fitness, LLC** is a Utah limited liability company which operates a health club in Tooele, Utah. State records list Glen Miller as manager of the company. It is not alleged to have engaged in any violations of the federal securities laws, but holds funds or other property that represent fruits of the violations by the defendants which are the subject of this complaint.

15. **Canyon Rim, LLC** is a Utah limited liability company which is engaged in real estate development in the Tooele, Utah area. State records list Lori Miller as a member of the

company; no manager is listed. It is not alleged to have engaged in any violations of the federal securities laws, but holds funds or other property that represent fruits of the violations by the defendants which are the subject of this complaint.

THE NATURE OF THE OFFERING

16. Beginning in 1996, Miller, operating through LD&B began selling promissory notes to investors and insurance clients. As a registered representative affiliated with a broker-dealer, Miller held himself out as a financial advisor. Miller has sold approximately \$8.6 million in notes to at least 190 investors.

17. The promissory notes bear interest rates which, on their face, appear to be reasonable, from 4 percent to 6.4 percent per year. Miller, however, attached payout schedules to the notes which provide a fixed annual rate of return of up to 77 percent per year. Investors have been promised that they will receive regular monthly returns of a fixed amount pursuant to the terms of the promissory notes.

18. Miller does not tell most investors how their funds will be invested. Most investors simply delivered their funds to Miller with the understanding that he will invest the funds and the investors will receive returns on their investments.

19. Some investors have been told that their funds will be invested through the Acquire Venture Fund Group. These investors are told that their funds will be invested in a program known as the International Monetary Fund, a program which would involve trading instruments of the world's twenty largest banks.

20. Investors received promissory notes signed by LD&B for the trading instrument program, and those notes were then assigned to Acquire Venture Fund Group, operated by Rich Barlow.

21. The program operated by Rich Barlow, operating under the auspices of Acquire Venture Fund Group, purported to be a High Yield Asset Management Program. The funds would be used to buy and sell mid-term bank notes of the world's twenty largest banks, or "prime banks."

22. The promissory notes carry maturity dates of between six months and four years. Investors often roll over their principal upon maturity of the notes into new notes and to add new funds for investments in Miller's program.

23. Investors had been receiving the promised returns until early 1999. Miller informed some investors that their returns would be reduced because the investments in which he had reinvested their funds were no longer yielding high returns.

USE OF INVESTOR PROCEEDS

24. Miller is not investing the majority of the funds in any legitimate investment security. Instead, Miller is diverting the investor funds for other businesses in which he has an ownership interest and is using investor funds from later investors to pay earlier investors. Miller may be investing up to 12% of the funds in loans, mortgages and real estate.

25. Miller has an ownership interest in a fitness center located in Tooele, Utah, known as Reflex Body and Fitness, LLC. Funds from investors were transferred from LD&B to Reflex.

26 Miller has an ownership interest in a property development company located in Tooele, Utah known as Canyon Rim, LLC. Funds from investors were transferred from LD&B to Canyon Rim.

27. Miller has used a substantial portion of the investor funds to repay earlier investors.

28. Miller has used a portion of the investor funds to pay his personal expenses.

**MISREPRESENTATIONS AND OMISSIONS MADE TO INVESTORS
AND POTENTIAL INVESTORS**

29. Miller has misrepresented that investors money would be reinvested in either (a) an unidentified manner which would yield the returns specified in the promissory notes issued by LD&B or in the schedules attached to those notes; or (b) in a program involving the purchase and sale of prime bank instruments.

30. Miller has not informed investors that their funds would be used to pay for his personal expenses or for the operation of business in which he has an ownership interest.

31. Miller has not informed investors that the returns on their investments would be paid from funds raised from subsequent investors. Later investors were not told that their investment would be used to pay earlier investors.

32. Investors who invested in the High Yield Asset Management Program were not told that there is no market for the international trading of medium term notes among the world's top twenty banks. These trading programs are fictional.

33. The misrepresentations are material to the investors' decision to invest with Miller. The international bank trading programs described by Miller and Barlow are non-existent, and funds could not be invested in these programs because they do not exist.

34. Further, it is likely that investors would not invest with Miller if they knew that the source of return would be investments from future investors. Further, no investor would invest with Miller if he knew that his funds were to be used to pay earlier investors.

35. The defendants acted with scienter in this matter, and knew, or were reckless in not knowing, that investor funds were not being invested as promised, but instead were being used for Miller's personal and business expenses, and to repay earlier investors.

FIRST CAUSE OF ACTION

EMPLOYMENT OF DEVICE, SCHEME OR ARTIFICE TO DEFRAUD

Violations of Sections 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)]

36. Paragraphs 1 through 35 are realleged and incorporated herein by reference.

37. Defendants Miller, Barlow, LD&B and Acquire, and each of them, by engaging in the conduct described in paragraphs 1 through 35 above, directly or indirectly, in the offer or sale of securities in the form of investment contracts, by the use of means or instruments of transportation or communication in interstate commerce or of the mails, with scienter, employed devices schemes or artifices to defraud.

38. By reason of the foregoing, defendants Miller, Barlow, LD&B and Acquire, directly or indirectly, violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CAUSE OF ACTION

FRAUD IN THE OFFER OR SALE OF SECURITIES

**Violations of Sections 17(a)(2) and (3) of the
Securities Act [15 U.S.C. § 77q(a)]**

39. Paragraphs 1 through 35 are realleged and incorporated herein by reference.

40. Defendants Miller, Barlow, LD&B and Acquire, and each of them, by engaging in the conduct described in paragraphs 1 through 35 above, directly or indirectly, in the offer or sale of securities in the form of investment contracts, by the use of means or instruments of transportation or communication in interstate commerce or of the mails: (1) obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (2) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of such securities.

41. By reason of the foregoing, defendants Miller, Barlow, LD&B and Acquire, directly or indirectly, violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

THIRD CAUSE OF ACTION

**FRAUD IN CONNECTION WITH THE
PURCHASE OR SALE OF SECURITIES**

**Violations of Section 10(b) of the Exchange Act
[15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder
[17 C.F.R. § 240.10b-5]**

42. Paragraphs 1 through 35 are realleged and incorporated herein by reference.

43. Defendants Miller, Barlow, LD&B and Acquire, by engaging in the conduct described in paragraphs 1 through 35 above, directly or indirectly, in connection with the purchase and sale of securities in the form of investment contracts, by use of means or instrumentalities of interstate commerce, or of the mails, with scienter: (1) employed devices, schemes or artifices to defraud; (2) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (3) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon other persons.

44. By reason of the foregoing, defendants Miller, Barlow, LD&B, and Acquire, directly or indirectly, violated, and unless restrained and enjoined, will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

FOURTH CAUSE OF ACTION

UNJUST ENRICHMENT

45. Paragraphs 1 through 35 are realleged and incorporated herein by reference.

46. As a result of the unlawful conduct of Miller, Barlow, LD&B, and Acquire, Lori Miller, Reflex and Canyon Rim received property from Miller, Barlow, LD&B and/ or Acquire. Lori Miller, Reflex and Canyon Rim have thus been unjustly enriched, and it would be unjust and inequitable for them to retain those funds and/or property.

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully requests that the Court:

I.

Issue findings of fact and conclusions of law that the defendants committed the violations charged and alleged herein.

II.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders temporarily restraining and preliminarily and permanently enjoining defendants Miller and LD&B, and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar

purport and object in violation of Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

III.

Issue in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, orders permanently enjoining defendants Barlow and Acquire, and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the order by personal service or otherwise, and each of them, from engaging in the transactions, acts, practices and courses of business described herein, and from engaging in conduct of similar purport and object in violation of Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

IV.

Issue in a form consistent with Rule 65(e) of the Federal Rules of Civil Procedure, orders temporarily restraining and preliminarily and permanently enjoining defendants Miller, Barlow, LD&B, and Acquire, and their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the orders by personal service or otherwise, and each of them, from:

A. transferring, changing, wasting, dissipating, converting, concealing or otherwise disposing of, in any manner, any funds, assets, claims, or other property or assets owned or controlled by, or in the possession or custody of defendants;

B. destroying, mutilating, concealing, transferring, altering, or otherwise disposing of, in any manner, any books, records, computer programs, computer files, computer printouts,

correspondence, memoranda, brochures, or any other documents of any kind, pertaining in any manner to the business of Miller, Barlow, LD&B and/or Acquire, including, without limitation, the sale of securities;

C. transferring, assigning, selling, hypothecating, or otherwise disposing of any notes, investment contracts, partnership agreements, or other securities of the defendants; and

D. transferring, assigning, selling, hypothecating, or otherwise disposing of any assets of Miller, Barlow, LD&B and/or Acquire, existing and in the custody or control of Miller, Barlow, LD&B and/or Acquire, as of the date of the Order.

V.

Grant such other and further relief as this Court may determine to be just, equitable and necessary, including, but not limited to, a freeze of assets, the acceleration of discovery, including the forthwith production of books and records, an accounting and disgorgement.

VI.

Enter an Order directing defendants Miller, Barlow, LD&B and/or Acquire to pay civil fines and/or penalties under the Securities Enforcement Remedies and Penny Stock Reform Act of 1990.

VII.

Declare and impose a constructive trust on all property received by the relief defendants Lori Miller, Reflex and Canyon Rim, and require them to disgorge the property they obtained from Miller, Barlow, LD&B and/or Acquire as a result of the illegal conduct alleged herein.

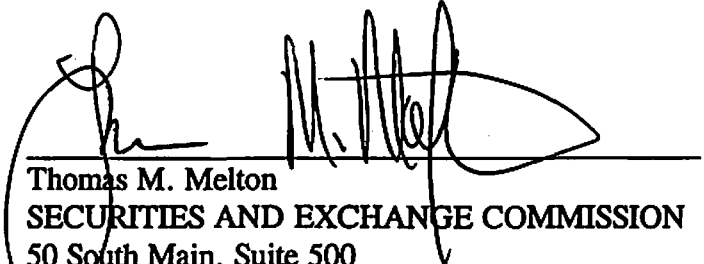
VIII.

Issue an Order directing all of the defendants, jointly and severally, to prepare and present to the Court and the Commission, within thirty (30) days from the entry of said order, a sworn accounting of all of the proceeds collected by the defendants from the activities described in the Commission's Complaint.

IX.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Dated this 27th day of May, 1999.


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