

UNITED STATES DISTRICT COURT
For The
EASTERN DISTRICT OF LOUISIANA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ALPHA DIVERSIFIED INDUSTRIES, INC.,
RALPH W. LEBLANC, and
ROBERT M. BINGHAM,

Defendants.

CIVIL ACTION NO.

97-2814

COMPLAINT FOR
INJUNCTIVE AND
OTHER EQUITABLE
RELIEF

SECT. E MAG. 3

Plaintiff Securities and Exchange Commission ("Commission"), by its undersigned attorneys, 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 ("Exchange Act") [15 U.S.C. 78u(d) and 78u(e)] and alleges that:

OVERVIEW

1. From in or about March 1991 through in or about February 1996, Alpha Diversified Industries, Inc. ("Alpha"), Ralph W. LeBlanc ("LeBlanc"), and Robert M. Bingham ("Bingham") offered and sold over 4 million shares of Alpha common stock to more than 85 investors in over a dozen states for approximately \$567,000. The shares have been offered at prices ranging from \$.02 to \$1.00 per share and sold at prices ranging from \$.02 to \$.50 per share. The defendants offered and sold these shares by making false and

misleading representations concerning, inter alia: (a) Alpha's business operations and its expected future revenues, (b) monies raised in Alpha stock offerings, federal and state approval of such offerings, and the price at which Alpha's stock would be trading in the future, and (c) the value of Alpha's patents and a study purportedly of Alpha's product. In addition, the defendants also omitted to disclose, inter alia: (a) their earlier failed efforts to promote the product, (b) the limited nature of the assignment of patents to Alpha, and (c) most of the money coming to Alpha came from investors and not from product sales.

2. Defendants Alpha, LeBlanc, and Bingham have engaged, and unless restrained and enjoined by this Court, will continue to engage in transactions, acts, practices, and courses of business which constitute and will constitute violations of Section 17(a) of the Securities Act [15 U.S.C. 77q(a)] and 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].

3. Defendants' violations described herein involved fraud, deceit and deliberate or reckless disregard of regulatory requirements, and such violations directly and indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

4. There is a reasonable likelihood that the defendants, unless restrained and enjoined, will continue to engage in the acts, transactions, practices and courses of business alleged in

this Complaint, or in acts, transactions, practices and courses of business of similar purpose and object.

5. Pursuant to the authority granted by Sections 10(b) and 23(a) of the Exchange Act [15 U.S.C. 78j(b) and 78w(a)], the Commission has promulgated Rule 10b-5 [17 C.F.R. 240.10b-5] and said Rule was in effect at all times mentioned herein and is now in effect.

6. The Commission brings this action to enjoin such acts and practices by the defendants, to obtain disgorgement from the defendants of their ill-gotten gains and unjust enrichment, to seek the imposition of civil money penalties, and to obtain other equitable relief as set forth below.

JURISDICTION AND VENUE

7. 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), 21(e), and 27 of the Exchange Act [15 U.S.C. 78u(d), 78u(e), and 78aa].

8. Certain of the acts and practices constituting violations of the Securities Act and the Exchange Act have occurred and are occurring within the Eastern District of Louisiana, and were perpetrated through the use of the mails and the means and instrumentalities of interstate commerce. Moreover, Alpha's principal place of business is in and LeBlanc resides in this District.

THE DEFENDANTS

9. Alpha Diversified Industries, Inc. ("Alpha") is a Colcrado corporation with its principal office located in Metairie, Louisiana.

10. Ralph W. LeBlanc ("LeBlanc"), age 55, is a resident of Metairie, Louisiana. He is the president, chairman of the Board of Directors, and controlling shareholder of Alpha.

11. Robert M. Bingham ("Bingham"), age 79, is a resident of Boise, Idaho. He was the vice-president and a director of Alpha during the relevant time period.

ACQUISITION OF ALPHA COMMON STOCK BY LEBLANC AND BINGHAM

12. In 1974, LeBlanc and Bingham acquired a patent for an engine oil purification refiner for internal combustion engines; in 1981, they filed for and obtained two patents to improve the refiner. LeBlanc and Bingham have been attempting to promote the refiner, which they claimed would extend the use of the oil and oil filter used in such engines, since the late 1970s.

13. In May 1992, LeBlanc acquired 80% of the outstanding stock of Alpha, a "shell" corporation, for \$20,000. In October 1992, LeBlanc and Bingham then assigned the rights to use, in the United States, the patents for the refiner to Alpha in exchange for 4,600,000 shares of Alpha's common stock; LeBlanc received 4,400,000 shares, and Bingham received 200,000 shares. LeBlanc retained a 10% royalty on all sales of the refiner by Alpha. Also in October 1992, LeBlanc transferred 90% of the outstanding shares of four corporations to Alpha in exchange for an additional

1,800,000 shares of Alpha's common stock. LeBlanc retained the remaining 10% of the stock of the four corporations.

DEFENDANTS' OFFER AND SALE OF ALPHA COMMON STOCK

14. LeBlanc began raising funds for the acquisition and operation of Alpha and its subsidiaries from the sale of stock in or about March 1991. Between that time and September 1991, the initial five investors invested \$62,500 in Alpha. These investors were issued 1,300,000 shares of Alpha stock in 1992.

15. In 1992, Alpha, LeBlanc, and Bingham raised more than \$126,000 by selling over 1,200,000 shares to approximately 30 investors at \$.10 and \$.25 per share.

16. In 1993, Alpha, LeBlanc, and Bingham sold more than 500,000 shares of Alpha common stocks to approximately 30 investors for almost \$165,000. Most of these shares were sold at \$.25 per share, but some shares were sold at \$.50 a share and others were sold at less than \$.25 per share. Some of these sales occurred while the defendants were attempting to sell Alpha common stock at \$1.00 per share.

17. In 1994, Alpha, LeBlanc, and Bingham sold approximately 800,000 shares of Alpha common stock for more than \$63,000 to ten investors at prices of \$.10, \$.25, and \$.50 per share.

18. During 1995, Alpha, LeBlanc, and Bingham sold more than 300,000 shares of Alpha common stock for over \$150,000 to 11 investors at \$.50 per share.

19. In connection with all of the aforementioned offers and sales of Alpha common stock, LeBlanc and Bingham approved the sales

in their capacities as directors of Alpha. LeBlanc drafted and signed solicitation letters for these offerings, and Bingham approved the letters. Both LeBlanc and Bingham appeared in promotional video tapes sent to investors. Both LeBlanc and Bingham personally made sales.

THE OFFERING MATERIALS AND OTHER DOCUMENTS
USED BY THE DEFENDANTS TO SOLICIT INVESTORS

20. A private placement memorandum ("PPM"), prepared by Alpha and dated August 1, 1993, offered 1,500,000 shares at \$1.00 per share.

21. From in or about August 1993 through in or about September 1995, Alpha, LeBlanc, and Bingham used the August 1, 1993 PPM to offer and to sell Alpha common stock.

22. Although the PPM contained both audited financial statements for the period January 1, 1991 through February 28, 1993, and unaudited financial statements for periods ending May 31, 1993, no later financial information was or has been provided to persons who were offered and sold shares of Alpha common stock in 1994 and 1995.

23. The PPM represented that Alpha had been assigned the patents for the refiner for use in the United States in exchange for 4,600,000 shares of Alpha common stock issued to LeBlanc and Bingham. However, the PPM did not disclose that the rights to use the patents for the refiner would revert back to LeBlanc under certain conditions, such as Alpha filing for bankruptcy, the appointment of a receiver or a trustee, or an assignment of assets for the benefit of creditors, whether voluntary or involuntary.

24. In September 1993, LeBlanc and Bingham sent a copy of the PPM to numerous persons. They enclosed with the PPM a letter dated September 20, 1993, entitled "Shareholders Progress Report and Introduction of Private Placement Memorandum" and a four-page "Executive Summary" dated August 1, 1993, both prepared by LeBlanc. LeBlanc also signed the September 20, 1993 letter. The letter stated that the PPM was "presented in a relatively 'negative' format as required by the Securities and Exchange Commission." The Executive Summary falsely stated that "the solicitation and sale of 1,500,000 shares of the Company's common stock is now approved under federal and state law."

25. The September 20, 1993 letter asked shareholders to purchase additional shares and to "introduce the investment opportunity" to others, including "retirees" and "investment clubs."

26. The August 1, 1993 Executive Summary and the September 20, 1993 letter falsely represented that LeBlanc and his wife had personally contributed \$62,000 to Alpha. In fact, the \$62,000 had come from the initial five investors, as more fully described in paragraph 14 above.

27. The September 20, 1993 letter further falsely advised shareholders that they could sell their shares beginning in October 1994, provided that a public market developed for Alpha's stock. In addition, the letter stated that Alpha's goal was to have its stock publicly trading at \$5.00 to \$20.00 per share within two to three years.

28. The September 20, 1993 letter stated that copies of either the PPM or the "Business Plan," a 34 page brochure akin to an offering memorandum, would be sent to interested potential investors. The Business Plan, dated April 1, 1993, contained no financial statements but gave information about the structure, product, management, and marketing plan of Alpha. It was sent to some of the individuals to whom stock was offered.

29. The Business Plan falsely represented that the Society of Automotive Engineers ("SAE") had conducted a study of Alpha's refiner; in fact, the SAE had conducted no such study.

30. The value given Alpha's patents in The Business Plan was more than double the value shown in Alpha's audited financial statements contained in the PPM.

31. In an attempt to spur sales, Alpha, LeBlanc, and Bingham sent two misleading letters to shareholders each dated January 5, 1994. One letter discussed a stock option; the other letter purported to be a status report on the operations of Alpha. Both letters were signed by LeBlanc.

32. The January 5, 1994 status report letter falsely represented that Alpha had complied with all state and federal law "associated with the consummation and regulation of the [PPM]." It also stated that one of the purposes of the PPM was "to raise a minimum of \$250,000 in capital necessary to commence operations." Immediately following this statement, the letter "announc[e]d that effective November 1, 1993 [Alpha] commenced operations," thereby falsely implying that Alpha had raised the \$250,000 necessary to

commence the operations. The letter also stated that the refiner was being delivered to commercial and industrial users and that orders were being secured from "state and federal agencies, cab companies, major construction companies, concrete companies, school buses [sic], transit authorities, independent bus companies, and the marine and offshore industries." However, the defendants did not disclose in the letter or any accompanying offering material, that Alpha's total sales for the months of September 1993 through December 1993 were under \$1,000.

33. The stock option letter, also dated January 5, 1994, advised potential investors that 452,000 shares of Alpha common stock were available at \$.25 per share, ostensibly because consultants and employees had not exercised options given to them. The letter falsely stated that "there [is] a very high demand for 452,000 shares since the [PPM] of [Alpha] has been issued and stock is now available at a minimum \$1.00 per share." In fact, LeBlanc and Bingham had failed to sell any shares of Alpha stock at a price of \$1.00 per share. The letter also stated that not all current Alpha shareholders could purchase Alpha stock pursuant to the PPM because the rules of "Regulation D of the Securities Act prohibit this sale only to 35 unaccredited shareholders."

35. As a result of the defendants' efforts and the emphasis on the limited availability and desirability of Alpha stock, 28,400 shares were sold to approximately seven buyers from in or about January 1994 through in or about May 1994.

35. On January 28, 1994, Alpha, LeBlanc, and Bingham sent another letter to potential investors; this letter was signed by LeBlanc. The ostensible purpose of this letter was to clarify the relationship between Alpha and PetroSavers International, Inc. ("PSI"), another corporation owned by LeBlanc which was to have use of LeBlanc's patents to manufacture and sell the refiner outside the United States. The letter represented that Alpha was currently delivering products to "state and federal agencies, cab companies, construction companies, concrete companies, school buses [sic], transit authorities and to the marine and offshore industries." The letter also represented that PSI was making sales to four foreign countries. In fact, there were no sales by Alpha in December 1993 and sales of only \$4,000 in January 1994. These facts were not disclosed. The letter also stated that Alpha shareholders would be given an opportunity to invest in PSI, but that their level of participation would be based on their percentage of ownership in Alpha.

36. On October 21, 1994, Alpha, LeBlanc, and Bingham sent a letter, which was signed by LeBlanc, to shareholders and others and enclosed a video tape entitled "The PetroGram Quarterly - Fall 1994." The video implied that Alpha was doing well, and the letter represented that Alpha would open a Houston office by early 1995. The letter also offered 200,000 shares of Alpha's stock at \$.50 per share. The letter represented that "because of the growth [of Alpha] and the resulting demand [for the stock], the stock price per share, effective March 1, 1995 [would] be no less than \$1.00

with a minimum investment of \$10,000.00." In fact, Alpha was doing poorly and there was little or no demand for its common stock. The letter further suggested that shareholders share the video with friends and associates who might want to invest; the minimum purchase for such persons was to be \$2,000 plus the purchase of a refiner.

37. On or about August 21, 1995, Alpha, in yet another effort to raise funds from investors, sent a letter signed by LeBlanc enclosing, among other things, the PPM, an Executive Summary dated March 31, 1995, the Business Plan, a reprint of a study of mobile oil refiners presented at an SAE meeting in 1983, and a video tape.

38. The PPM contained the misleading statement and omissions as set forth in paragraph 23 above.

39. The Executive Summary dated March 31, 1995 falsely represented: (a) that LeBlanc and his wife had "personally contributed \$85,000" to Alpha, (b) that "insiders" had contributed almost \$430,000, (c) that Alpha's solicitation and sale of 1.5 million shares of Alpha common stock referred to in the August 1993 PPM had been approved under federal and state law, and (d) that Alpha withheld the marketing and sale of all of the 1.5 million shares until Alpha was in need of the capitalization.

40. A summary describing the SAE reprint falsely represented that the study was conducted by the SAE. It also falsely represented that the refiner tested during the study was the one obtained by LeBlanc in 1974.

41. Alpha, LeBlanc, and Bingham similarly misrepresented the SAE reprint in an earlier November 30, 1992 letter sent to investors. The letter falsely stated that the mobile oil refiner which was the subject of the study was covered by Alpha's patent and that the study was conducted by the SAE.

42. The above described letters and video tape sent by Alpha, LeBlanc, and Bingham to potential investors in 1994 and 1995 indicated that Alpha had successfully commenced operations, was expanding, and was rapidly securing orders from several sources. Indeed, the March 31, 1995 Executive Summary projected that Alpha's combined total gross revenue over the next five years could exceed \$100 million. There was no reasonable basis for such a projection. In fact Alpha's total receipts for the years 1993 through 1995 were approximately \$197,000, \$173,000, and \$237,000, respectively. Moreover, most of the receipts were monies from investors, loans, or intercompany transfers.

MISREPRESENTATIONS AND OMISSIONS

43. The defendants, as part of and in furtherance of their scheme and fraudulent conduct, made false and misleading statements of material fact as set forth above in paragraphs 20 through 42, including, but not limited to, the following:

- (a) That the solicitation and sale of Alpha's common stock was approved under federal and state law;
- (b) That the Society of Automotive Engineers had conducted a study of Alpha's refiner;

- (c) That the value of Alpha's patents was more than double the amount shown in Alpha's audited financial statements;
- (d) That LeBlanc and his wife had personally invested \$62,000 in Alpha;
- (e) That Alpha had raised \$250,000 from the sales of its common stock at \$1.00 per share pursuant to its PPM;
- (f) That there was a very high demand for Alpha's common stock;
- (g) That Alpha had commenced operations and had a thriving business which would, over the next five years, produce gross revenues in excess of \$100 million and that its stock could be trading at \$5 to \$20 per share, within two to three years; and
- (h) That persons who were shareholders of Alpha in September 1993 could sell their stock in October 1994.

44. The defendants, as part of and in furtherance of their scheme and fraudulent conduct, omitted 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, as set forth above in paragraphs 20 through 42, including, but not limited to, the following:

- (a) That prior to the Alpha venture, LeBlanc and Bingham had been involved with other ventures,

including the PetroSavers limited partnership, to promote and sell the refiner, all of which had failed;

- (b) Financial information about Alpha after the period ended May 31, 1993;
- (c) That the patent rights for the refiner would revert back to LeBlanc if certain events occurred, such as Alpha filing for bankruptcy or the appointment of a trustee or receiver for Alpha;
- (d) That Alpha's sales of its refiner were minimal;
- (e) That most of Alpha's gross receipts were derived from sales of its common stock, intercompany transfers or loans rather than from sales of Alpha's refiner; and
- (f) That Alpha was not selling its stock at \$1.00 per share.

FIRST CLAIM FOR RELIEF

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

45. Paragraphs 1 through 44 are hereby realleged and are incorporated herein by reference.

46. From in or about March 1991 through in or about February 1996, defendants Alpha, LeBlanc, and Bingham, singly and in concert, in the offer and sale of the common stock of Alpha, by use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly:

- (a) obtained money and property by means of untrue statements of material facts and omissions 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
- (b) engaged in transactions, practices, and courses of business which operated and would operate as a fraud and deceit upon the purchasers of such securities,

all as more particularly described in paragraphs 12 through 44 above.

47. By reason of the foregoing, defendants Alpha, LeBlanc, and Bingham, directly and indirectly, have violated, are violating, and, unless restrained and enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. 77q(a)(2) and 77q(a)(3)].

SECOND CLAIM FOR RELIEF

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

48. Paragraphs 1 through 44 are hereby realleged and are incorporated herein by reference.

49. From in or about March 1991 through in or about February 1996, defendants Alpha, LeBlanc, and Bingham, singly and in concert, in the offer and sale of the common stock of Alpha, by the use of means and instruments of transportation and communication in interstate commerce and by use of the mails, directly and indirectly, employed devices, schemes, and artifices to defraud

purchasers of such securities, all as more particularly described in paragraphs 12 through 44 above.

50. Defendants Alpha, LeBlanc, and Bingham knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes, and artifices to defraud. In engaging in such conduct, the defendants acted with scienter, that is with an intent to deceive, manipulate or defraud or with severe reckless disregard for the truth.

51. By reason of the foregoing, defendants Alpha, LeBlanc, and Bingham, directly and indirectly, have violated, are violating, and, unless restrained and enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. 77q(a)(1)].

THIRD CLAIM FOR RELIEF

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]

52. Paragraphs 1 through 44 are hereby realleged and are incorporated herein by reference.

53. From in or about March 1991 through in or about February 1996, defendants Alpha, LeBlanc, and Bingham, singly and in concert, in connection with the purchase and sale of the common stock of Alpha, by the use of means and instruments of interstate commerce and by use of the mails, directly and indirectly:

- (a) employed devices, schemes, and artifices to defraud;
- (b) made untrue statements of material facts and omitted 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

(c) engaged in acts, practices, and courses of business which operated as a fraud and deceit upon persons, all as more particularly described in paragraphs 12 through 44 above.

54. Defendants Alpha, LeBlanc, and Bingham knowingly, intentionally, and/or recklessly engaged in the above-described conduct. In engaging in such conduct, the defendants acted with scienter, that is with an intent to deceive, manipulate or defraud or with severe reckless disregard for the truth.

55. By reason of the foregoing, defendants Alpha, LeBlanc, and Bingham, directly and indirectly, have violated, are violating, 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].

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully prays that the Court:

I.

Declare, determine and find that each of the defendants named herein committed the violations alleged herein.

II.

Issue permanent injunctions enjoining defendants Alpha, LeBlanc, and Bingham, their officers, agents, servants, employees,

attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, and each of them, whether as principals or as aiders and abettors, in the offer or sale of the common stock of Alpha or any other security, from violating Section 17(a) of the Securities Act [15 U.S.C. 77q(a)], by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, by, directly or indirectly:

- (a) employing any device, scheme, or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon any purchaser of such securities.

III.

Issue permanent injunctions enjoining defendants Alpha, LeBlanc, and Bingham, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, and each of them, whether as principals or as aiders and abettors, in connection with the purchase or sale of the common stock of Alpha

or any other security, from violating 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], by the use of any means or instrumentality of interstate commerce or of the mails, by, directly or indirectly:

- (a) employing any device, scheme, or artifice to defraud;
- (b) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person.

IV.

Issue orders pursuant to Section 20(d) of the Securities Act [15 U.S.C. 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. 78u(d)(3)] imposing civil money penalties against defendants LeBlanc and Bingham.

V.

Issue orders directing that defendants Alpha, LeBlanc and Bingham disgorge all ill-gotten gains and unjust enrichment with prejudgment interest.

VI.

Issue an order directing that defendant Alpha provide a sworn accounting of the receipt, use and disbursement of all funds obtained by Alpha from the sale of Alpha securities.

VII.

Issue orders directing that defendants LeBlanc and Bingham each provide a sworn accounting of all monies, properties (real, personal or mixed), and other benefits received, directly or indirectly, from or in connection with (a) the sale of Alpha securities, or (b) the operations of Alpha or any entity affiliated with Alpha or which was operated in conjunction therewith, for the period January 1, 1991 to the date this Complaint is filed.

VIII.

Retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that may have been entered or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of the Court.

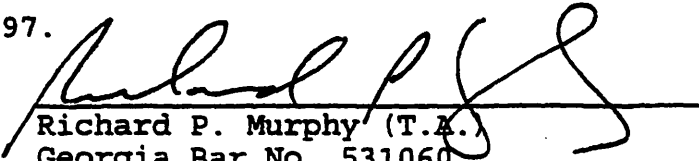
IX.

Grant such other and further relief as this Court may deem just, equitable, and appropriate in connection with the enforcement

of the federal securities laws and for the protection of investors.

Respectfully submitted,

Dated: September 8th, 1997.


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