

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-19940

<p>In the Matter of</p> <p>RISING BIOSCIENCES, INC.</p>

INFORMATION BEFORE THE COMMISSION
AT THE TIME OF THE TRADING SUSPENSION

Pursuant to the Commission’s Order Requesting Additional Written Submissions dated August 28, 2020 (“Order”), the Division of Enforcement has attached the Declaration of Amy Flaherty Hartman, dated September 8, 2020, setting forth the substantive facts before the Commission at the time it issued the order suspending trading in Rising Biosciences, Inc. securities on August 25, 2020. Pursuant to footnote 6 of the Order, the Declaration does not disclose privileged legal analysis or sensitive information about the staff’s investigative methods. The Division additionally is not filing information that, if disclosed, would violate applicable federal law or regulations. The Division also is not disclosing certain information that is subject to the law enforcement and/or common interest privileges.

Respectfully submitted,
DIVISION OF ENFORCEMENT
By its Attorneys:

/s/ Jonathan S. Polish
Jonathan S. Polish
John E. Birkenheier
Stephanie Reinhart
Securities and Exchange Commission
175 W. Jackson Blvd., Suite 1450
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Dated: September 8, 2020

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

RISING BIOSCIENCES, INC.

Administrative Proceeding
File No. 3-19940

DECLARATION OF AMY FLAHERTY HARTMAN

I, AMY FLAHERTY HARTMAN, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an Assistant Director with the United States Securities and Exchange Commission (“Commission”) and have been employed by the Commission in the Division of Enforcement (“Division”) since 2010.

2. I submit this Declaration in compliance with the Commission’s August 28, 2020 Order Requesting Additional Written Submissions (“Order”) ordering that the Division file all the information that was before the Commission as of August 25, 2020, the date the Commission ordered a suspension of trading in the securities of Rising Biosciences, Inc. (“RBII”). Paragraphs 4 through 37 below set forth the information that was before the Commission as of August 25, 2020, with respect to the suspension of trading in the securities of RBII.

3. Pursuant to footnote 6 of the Order, this submission does not include privileged legal analysis or sensitive information about Division staff’s investigative methods. It also does not include information the Division is prohibited from publicly disclosing pursuant to applicable federal law or regulations. This submission also does not include certain information that is subject to the law enforcement and/or common interest privileges.

BACKGROUND

4. RBII is a Delaware corporation located in Sandusky, Ohio.
5. RBII's CEO is Arthur Hall.
6. RBII's common stock is not registered with the Commission. The stock is quoted and traded on OTC Link (previously "Pink Sheets"), whose parent company is OTC Markets Group Inc. ("OTC Link"). The stock trades under the ticker symbol "RBII."
7. At the time the trading suspension was ordered, RBII had an OTC "Pink Current Information" designation on OTC Markets Group's website. As of July 29, 2020, RBII was not current with its financial disclosure obligations and was designated with "Stop Sign, Pink No Information" and "Dark or Defunct" badges on OTC Markets Group's website.
8. RBII's common stock does not have a CIK registration number. Its CUSIP number is 76761W108.
9. As of August 11, 2020, RBII's market capitalization was over \$14.5 million based on 1,009,725,348 shares outstanding.
10. As of August 13, 2020, RBII's common stock had seven market makers and was eligible for the "piggyback" exception of Rule 15c2-11(f)(3) of the Securities Exchange Act of 1934 ("Exchange Act").
11. On November 21, 2019, RBII posted on OTC Market Group's website unaudited financials for the quarter ending September 30, 2019. On August 9, 2020, RBII posted on OTC Markets Group's website its unaudited annual financials for the year ended December 31, 2019 and its unaudited quarterly financials for the quarter ending March 31, 2020. For the year ended December 31, 2019, RBII reported total revenues of \$163,734 and a net operating loss of \$179,411 for the preceding twelve months. For the quarter ending March 31, 2020, RBII

reported total revenues of \$47,286 and a net operating loss of \$16,500.

12. RBII posted those financials along with an attorney letter authored by its securities counsel opining, among other things, that the recent RBII financial disclosures posted to OTC Markets Group's website included all information a broker-dealer would be required to obtain in order to publish a quotation under Rule 15c2-11 of the Exchange Act.

RBII'S PUBLIC STATEMENTS ABOUT ITS PRODUCTS

13. On April 16, 2020, RBII published a press release entitled "[RBII] Launches Production of Oxithymol (TM) Disinfectant in Response to Ohio Governor's Appeal for Help Battling the COVID-19 Pandemic" (the "April Press Release"). In the April Press Release, RBII announced the "production launch of Oxithymol™[,] a proprietary, non-toxic, blended formula of CDC approved hydrogen peroxide, thymol and other natural, environmentally safe ingredients."

14. In its April Press Release, RBII further stated that "Oxithymol™ disinfectant solution is applied via the Oxi Thyme™ atomizing ULV/HPLV fogging system," a "'no touch' system [that] is effective in killing disease-causing microbial pathogens on hard surfaces, and is suitable for residential, commercial and automotive settings."

15. The April Press Release quoted RBII's CEO, Arthur Hall, as stating: "We are proud to join the voluntary mobilization of private industry across our region to combat the COVID-19 pandemic. . . . In this time of great need, we are pivoting away from our normal sector and repurposing our lab to produce over 10,000 gallons of much needed disinfectant a month. We feel this is the right thing to do. **The Oxi Thyme™** system combines **Oxithymol™** with an innovative, easy-application fogging system. It means essential industries and businesses can keep running while minimizing the threat to employees from highly infectious

pathogens.”

16. In the April Press Release, RBII referenced its website, www.oxi-thyme.com, which as of late April, 2020, described the Oxi Thyme system as “[u]tilizing a non toxic proprietary blend of CDC approved Hydrogen Peroxide along with Thyme oil.”

17. On July 17, 2020, RBII published another press release, entitled “Rising Biosciences, Inc. Propels Q2 Revenues to Nearly \$350,000 Due to Exceptional Growth of Oxi Thyme Division” (the “July Press Release”).

18. In its July Press Release, RBII stated: “Oxi Thyme has introduced a proprietary system designed to sanitize and disinfect varying facilities in the current challenging environment, quickly and cost effectively. Utilizing a proprietary formulated EPA registered Hydrogen Peroxide disinfectant, developed with a surfactant, or surface active agent, Oxi Thyme improves efficiency by lowering surface tension. The addition of a surfactant and the use of an atomizing ULV (ultra low volume) or HVLP (high volume, low pressure) fogging system allows the droplets of disinfectant to disperse more evenly and cover larger surface areas, creating a no touch solution to sanitizing large areas quickly and efficiently leaving no toxic residue.”

19. The July Press Release also quoted RBII’s CEO, Arthur Hall, as stating: “We are living in challenging times [] and experiencing a dramatic climate of change with this Covid-19 pandemic. People are struggling to establish what our new normal will be with respect to safety standards. Oxi Thyme has heard the call and we are here to help!”

20. Since April 2020, RBII has marketed the Oxi Thyme system on its website and in YouTube videos for use in schools, daycare facilities, retail stores, fitness centers, hotels, restaurants, and other public places. On its YouTube channel, RBII featured such videos as “Sanitizing a Daycare Facility with OXI-THYME,” “Sanitizing Residential areas with OXI-

THYME,” “Sanitizing Retail stores/Thrift shops with OXI-THYME,” “Sanitizing a Fitness Center with OXI-THYME,” and others. Several of these videos contain references to CDC approval or EPA registration.

21. For example, in a video posted on May 15, 2020, a narrator describes “a proprietary formulated EPA registered Hydrogen Peroxide disinfectant developed with a surfactant.” While the narrator says “[o]ur proprietary blend ... will allow you to rest assured that you are being proactive against viral threats,” a person wearing gloves holds a “COVID-19” sign.

22. Another video, posted on June 28, 2020, shows a school bus from a school district located near Sandusky, Ohio, purportedly being sprayed with the Oxi Thyme system with a text overlay that states “EPA CERTIFIED” and “CDC APPROVED.”

23. In addition, the www.oxi-thyme.com website described a “proprietary formulated EPA registered Hydrogen Peroxide disinfectant” as of early August, 2020.

24. The CDC does not approve hydrogen peroxide or disinfectants containing hydrogen peroxide, but rather defers to the EPA or FDA. Additionally, the Disinfection section of the CDC’s website explains that “[m]any disinfectants are used alone or in combinations (e.g., hydrogen peroxide and peracetic acid) in the health-care setting. . . . Commercial formulations based on these chemicals are considered unique products and must be registered with EPA or cleared by FDA.”

25. Neither the EPA nor FDA has approved RBII’s Oxi Thyme system or Oxithymol product.

26. Neither Oxithymol nor Oxi Thyme has ever been registered with the EPA, and neither appears among the products on the EPA’s “List N,” which consists of products that meet

EPA criteria for use against SARS-CoV-2, the virus that causes COVID-19.

27. RBII CEO Arthur Hall told FINRA staff that RBII developed but does not use Oxithymol in its Oxi Thyme system. Hall also told FINRA that Oxithymol was not registered with the EPA and that testing had not confirmed that Oxithymol could kill the virus that causes COVID-19. Hall further told FINRA that instead of Oxithymol, RBII had been purchasing, rebottling, and selling Oxy Blast 50 for use in its Oxi Thyme system. Oxy Blast 50 is a pesticide manufactured by another company, Essential Water Systems. Oxy Blast 50 is a hydrogen peroxide solution that was registered with the EPA in 2013 for use in commercial agricultural or industrial water systems to suppress odors, as a preventative treatment for horticultural diseases, and as a preventative treatment for plant pathogenic diseases on surfaces, equipment, and structures used in processing post-harvest commodities.

28. Oxy Blast 50 is not registered with the EPA as a disinfectant that kills viruses and does not appear on the EPA's "List N" of products that meet EPA criteria for use against the virus that causes COVID-19.

29. According to its public disclosures, RBII operates three business units in addition to Oxi Thyme: (1) "a physicians' [sic] practice management company focused on the proper use of cannabis for treatment of chronic pain, opioid addiction, and terminal patients"; (2) a research and development unit "focusing on oral and topical pharmaceuticals within the strict standards set forward by the pharmaceutical compounding industry and the FDA"; and (3) a unit that offers substance abuse treatment.

30. RBII CEO Arthur Hall has been the subject of several civil judgments and criminal charges, according to public records and FINRA. In November 2001, Hall was charged with grand theft auto in the third degree and a scheme to defraud in Florida; he later pled guilty

to the grand theft auto charges in 2004.¹ Between 2002 and 2004, Hall was also charged with conspiracy to traffic drugs. In 2005, Hall was incarcerated.

THE PURCHASE AND SALE OF RBII STOCK IN 2020

31. The trading of RBII's stock in 2020 reflects the following:

32. From January 2, 2020, to July 16, 2020, the day preceding RBII's July Press Release, RBII shares fluctuated between \$0.0004 and \$0.0019, with an average adjusted close of \$0.0005 per share and an average daily trading volume of approximately 8 million shares.

33. On April 16, 2020, the date of RBII's April Press Release announcing the launch of Oxithymol, RBII shares reached an intraday high of \$0.0010, a 100% increase over the \$0.0005 closing price the day prior, while daily average trading volume was approximately 174 million shares, compared to average daily trading volume of approximately 13 million for the prior month.

34. On July 20, 2020, the trading date immediately following the issuance of the July Press Release announcing increased revenues from sales of Oxi Thyme, RBII shares reached an intraday high of \$0.0068, a 1,260% increase over the \$0.0005 closing price from July 13, a week prior. Average daily trading volume for the period of July 17 through July 20, 2020, was approximately 163 million shares, compared to average daily trading volume of 18 million shares for the prior month.

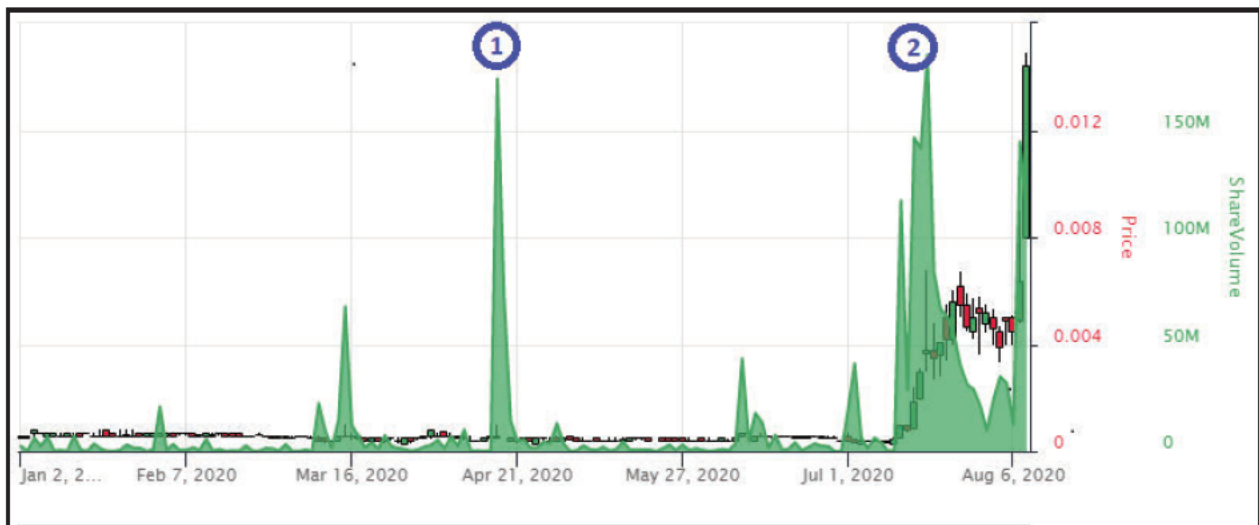
35. Subsequently, RBII's share price and trading volume experienced additional surges, including after a press release RBII issued August 5, 2020, in which RBII claimed it was not experiencing supply chain issues, unlike large disinfectant manufacturers.

¹ It has subsequently come to the Division's attention that Hall was charged with and pled guilty to grand theft, not grand theft auto.

36. On August 10, 2020, RBII shares closed at \$0.0145, a 2,800% increase over the closing price on July 13, a month prior, while average daily trading volume was over 110 million.

37. The following chart shows the RBII share price and average daily trading volume for the period January 1, 2020, through August 10, 2020:

**RBII's Share Price and Average Daily Trading Volume
Between January 1, 2020, and August 10, 2020**



Key:

- (1) April 16, 2020, the date of RBII's press release announcing the launch of Oxithymol and the Oxi Thyme system
- (2) July 17, 2020, the date of RBII's second press release about the Oxi Thyme system

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 8th day of September, 2020, in Cook County, Illinois.

Amy Flaherty Hartman

AMY FLAHERTY HARTMAN

STATEMENT OF FILING BY ELECTRONIC MAIL

I hereby certify that, on this 8th day of September, 2020, with respect to In the Matter of Rising Biosciences, Inc., Administrative Proceeding File No. 3-19940, I caused a true and correct copy of the foregoing Information Before the Commission at the Time of the Trading Suspension and Declaration of Amy Flaherty Hartman to be filed via electronic mail with the Office of the Secretary of the Securities and Exchange Commission pursuant to the Commission's March 18, 2020 Order in In re Pending Administrative Proceedings. The filing was sent to the email address: apfilings@sec.gov.

/s/ Jonathan S. Polish _____

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Counsel for the Division of Enforcement

CERTIFICATE OF SERVICE

Pursuant to SEC Rule of Practice 151, 17 C.F.R. § 201.151, I certify that true copies of the foregoing Information Before the Commission at the Time of the Trading Suspension and Declaration of Amy Flaherty Hartman (together with the accompanying Statement of Filing by Electronic Mail) were served on the following on this 8th day of September, 2020, in the manner indicated below:

By Electronic Mail:

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Dated: September 8, 2020

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