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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

2007 APR 12 AM 11:29  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO, FLORIDA

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

MICHAEL R. BRETZEL,  
LAWRENCE FORD, II,  
REAL ESTATE FUND, LLC and  
HERITAGE FUNDING GROUP, INC.,

Defendants,

And

SEABREEZE REALTY GROUP, INC. d/b/a  
COASTAL PROPERTIES,  
ORMOND BEACH AUTO SALES, INC. d/b/a  
LIBERTY AUTOMOTIVE GROUP, and  
DEALER LOT MANAGEMENT, INC.,  
Relief Defendants.

CIVIL ACTION FILE NO.

6:07-cv-609-ORL-22 DAB

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The plaintiff, Securities and Exchange Commission ("Commission" or the "Plaintiff"), files this complaint (the "Complaint") and alleges the following:

SUMMARY

1. Plaintiff brings this action to enjoin violations of the federal securities laws by, and to obtain other relief from, Defendants Michael R. Bretzel ("Bretzel"), Lawrence

Ford, II ("Ford"), Real Estate Fund, LLC ("Real Estate Fund") and Heritage Funding Group, Inc. ("Heritage").

2. Defendants have fraudulently raised at least \$21 million from investors in violation of the securities laws.

3. This matter involves the fraudulent offer and sale of at least \$21 million in securities in a scheme orchestrated by Real Estate Fund, LLC ("Real Estate Fund") and Heritage Funding Group, ("Heritage") (collectively, the "Funds"), and their principles, Michael R. Bretzel and Lawrence Ford. From at least February 2003 through January 2007, the Funds raised approximately \$21 million from over 200 investors nationwide.

4. The defendants made several material misrepresentations and omissions in connection with these offerings.

5. The Real Estate Fund represented that substantially all investor funds would be used to acquire properties and Heritage represented that it would use investor funds to purchase secured car loans. In truth, the Funds transferred substantial proceeds to Bretzel and Ford individually, or to other companies that Bretzel owned or controlled. Moreover, substantially all of the car loans acquired by Heritage were not secured.

6. The Funds also significantly understated the commission rates that they paid to the broker dealer who solicited investors.

7. Finally, the Real Estate Fund and Heritage have operated as Ponzi schemes, at least during the latter part of their respective offerings.

8. Defendants Bretzel, Ford, Real Estate Fund and Heritage, by virtue of their conduct, directly or indirectly, have engaged and, unless enjoined, will engage in violations of

Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. The Commission seeks a temporary restraining order, preliminary and permanent injunctions, an accounting, disgorgement and pre-judgment interest, and civil penalties against Bretzel, Ford, Real Estate Fund and Heritage. The Commission also seeks an asset freeze as to Bretzel, Ford and Real Estate Fund, and seeks the appointment of a Receiver for Real Estate Fund, to include all assets held for the benefit of Real Estate Fund regardless of how those assets are titled.

9. Relief Defendants Seabreeze Realty Group, Inc. d/b/a Coastal Properties ("Coastal"), Ormand Beach Auto Sales, Inc. d/b/a Liberty Automotive Group ("Liberty") and Dealer Lot Management, Inc. ("Dealer Lot"), are entities owned by Bretzel, that have, by virtue of their conduct and/or Bretzel's conduct, directly or indirectly, received illegally-obtained assets for no consideration given, to which they have no legitimate claim.

#### **JURISDICTION AND VENUE**

10. The Commission brings this action pursuant to Sections 20(b), (c) and (d) of the Securities Act [15 U.S.C. §§ 77t(b)-(d)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d)-(e)], to enjoin the Defendants from engaging in the transactions, acts, practices and courses of business alleged in this Complaint, and transactions, acts, practices and courses of business of similar purport and object, for an accounting, disgorgement of illegally obtained funds and other equitable relief, and for civil money penalties.

11. This Court has jurisdiction over this action pursuant to Section 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].

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

13. Venue lies in this Court pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa], because certain of the transactions, acts, practices and courses of business constituting violations of the Securities Act and Exchange Act have occurred within the Middle District of Florida. Among other things, Bretzel and Ford reside within the Middle District, defendant Real Estate Fund maintains its principal place of business within the Middle District, and defendant Heritage is a Florida corporation which maintains its principal place of business within the district.

#### **THE DEFENDANTS AND RELIEF DEFENDANTS**

14. Defendant Michael R. Bretzel, age 41, resides in Ormond Beach, Florida. Bretzel is the majority owner of Real Estate Fund and is the principal of its managing director. He was also an officer and director of Heritage until 2003.

15. Defendant Lawrence D. Ford, II age 48, resides in Daytona Beach, Florida and is president, chief financial officer, and secretary of Heritage. Ford is a "long time

friend” of Bretzel and, prior to forming Heritage, worked as the finance manager for a car dealership owned by Bretzel.

16. Defendant Real Estate Fund, LLC is a Nevada limited liability company, with its principal office in Daytona Beach, Florida. The firm was formed on May 4, 2004. Bretzel owns a controlling interest in both the Real Estate Fund and its managing member, Real Estate Management Services, Inc. The Real Estate Fund’s primary business is to acquire fee interests in income producing commercial, industrial, residential, and investment properties.

17. Defendant Heritage Funding Group, Inc., was incorporated by Bretzel in Florida in 1999 as Daytona Beach Finance Corporation, but changed its name to Heritage in 2003. Heritage’s principal office is located in Daytona Beach. Ford is President, Chief Financial Officer, and Secretary of Heritage, and Bretzel was an officer and director until April 2003. Heritage is a specialty finance company primarily engaged in purchasing and servicing installment contracts originated by dealers for financing the sale of pre-owned automobiles. Heritage filed for Chapter 11 bankruptcy protection in February of 2007 and currently operates as a debtor-in-possession.

18. Relief Defendant Seabreeze Realty Group, Inc. d/b/a Coastal Properties (“Coastal”), is a real estate development company formed in December 2004 and is owned and controlled by Bretzel. Coastal is a Florida corporation located in Daytona Beach, Florida. Coastal received at least \$470,000 of investor funds that were raised in connection with the Real Estate Fund’s offering, without consideration given, and to which it has no legitimate claim.

19. Relief Defendant Ormond Beach Auto Sales, Inc., d/b/a Liberty Automotive Group ("Liberty"), is a car dealership formed in or around 1997 that Bretzel owns or controls. Liberty is a Florida corporation located in Daytona Beach, Florida. Liberty received approximately \$2.7 million of the funds that Heritage raised from its note offering, without consideration given, and to which it has no legitimate claim.

20. Relief Defendant Dealer Lot Management, Inc. ("Dealer Lot") is a Florida corporation that Bretzel formed in April 2003 and located in Daytona Beach, Florida. Dealer received approximately \$686,000 of investor proceeds from the Heritage offering, without consideration given, and to which it has no legitimate claim.

#### **RELATED UNNAMED PARTY**

21. I.C.R. Financial Center, Inc. ("ICR") is headquartered in La Jolla, California. ICR became registered with the Commission as a broker-dealer on July 21, 1992, and has been a member of the NASD since March 9, 1993. ICR was retained by the defendants, and engaged in the offerings and sales of securities interests in Heritage and Real Estate Fund.

#### **FACTS**

##### **A. Background**

22. Bretzel and Ford are "long time friend(s)" and Ford has previously worked for Bretzel.

23. In 1999, Bretzel formed Daytona Beach Finance Corporation, and Bretzel and Ford served as officers and directors. Daytona Beach Finance was a specialty finance

company primarily engaged in purchasing and servicing installment contracts originated by dealers for financing the sale of pre-owned automobiles.

24. In February 2003, the company changed its name to Heritage and, in April 2003, after Heritage began the offering at issue, Bretzel withdrew as an officer and director. Ford is currently Heritage's sole owner, President, Chief Financial Officer, and Secretary.

25. On February 8, 2007, Heritage filed a voluntary petition under Chapter 11 of the Bankruptcy Code in Jacksonville, in the case of In re Heritage Funding Group, Inc., Chapter 11 Case No. 3:07-bk-00492-JAF (Bankr., M.D. Fla.). It operates as a debtor-in-possession.

26. The Commission's actions are excepted from the automatic stay imposed upon filing a petition for bankruptcy relief. Section 362(b)(4) of the Bankruptcy Code excepts the continuation of an investigation or action by the Commission from the automatic stay otherwise benefiting debtors in possession. Additionally, Section 523(a)(19) of the Bankruptcy Code excepts any judgment for violation of the Federal securities laws from discharge by the debtor.

**B. THE HERITAGE OFFERING**

27. From February 2003 until its bankruptcy filing on February 8, 2007, Heritage offered \$25 million of promissory notes to investors through a "private placement." Bretzel retained ICR to solicit investors for Heritage's offering, provided the Private Placement Memorandum ("PPM") to ICR, and was aware of the contents of the Heritage PPM. Ford as sole owner, President, Chief Financial Officer and Secretary of Heritage was aware of the

contents of the Heritage PPM. Bretzel and/or Ford directed ICR to sell the Heritage instruments.

28. Heritage's notes supposedly paid 15% interest per annum, payable monthly, quarterly, or annually at the election of the investor. The minimum investment was \$50,000 and the investor had the right to select a maturity date of one through 5 years from the date of issuance.

29. As of December 31, 2006, ICR had raised approximately \$13,159,423 for Heritage from approximately 146 investors, who are located throughout the U.S.

30. Heritage's PPM for this offering made at least three misrepresentations.

31. First, the PPM stated that "the net proceeds from the sale of the Notes will be used to purchase installment contracts originated by automobile dealers for financing the sale of pre-owned motor vehicles." In reality, Heritage "loaned" approximately \$3.6 million of investor proceeds (27% of the total proceeds raised) to entities owned by Bretzel, including to Liberty and Dealer.

32. Heritage also "loaned" money to Big Investment Group, an entity that has no formal existence, such as a corporation or an LLC. Bretzel and Big used these proceeds to pay certain operating costs for Liberty and/or the Real Estate Fund.

33. As a second misrepresentation, the PPM states that the installment contracts purchased by Heritage were "secured by the motor vehicles purchased." In reality, many of the installment contracts were unsecured.

34. As a third misrepresentation, the PPM states that Heritage will pay "commissions or finder's fees in an amount not to exceed 10% of the applicable sales . . . ."

In truth, Heritage has paid \$2.8 million in commissions, representing 21.7% of the total proceeds raised.

35. Heritage has also operated as a Ponzi scheme. During 2005, Heritage reported gross profits of \$1.6 million, but paid \$2.3 million to investors. In 2005 and 2006, Heritage did not generate sufficient income from its operations to pay the interest on the notes issued to investors. During that time, Heritage used new investor funds to pay the “preferred returns” or interest owed to other investors. Ford and Bretzel were aware of this practice but did not disclose it to investors or prospective investors.

### **C. THE REAL ESTATE FUND OFFERING**

36. From June 2004 through January 2007, the Real Estate Fund offered 6,000 membership “units,” with a purchase price of \$5,000 per unit (for a total of \$30 million). Bretzel retained ICR to solicit investors for Real Estate Fund’s offering, provided the Real Estate Fund Private Placement Memorandum (“PPM”) to ICR, and was aware of the contents of the Real Estate Fund PPM. Further, Real Estate Management Services, Inc., a company owned by and under the control of Bretzel, serves as the Managing Member of Real Estate Fund, and Bretzel, as the controlling person of the managing member, is aware of the terms and contents of Real Estate Fund’s PPM.

37. Although the Real Estate Fund offered membership units, the private PPM specified that all decisions would be made by the managing member and that investors “will have no say in or management.” The minimum investment was 20 units or \$100,000.

38. As of December 2006, the Real Estate Fund had raised approximately \$7.6 million from approximately 70 investors throughout the United States.

39. The Real Estate Fund's PPM made at least three misrepresentations or omissions. First, the PPM states that the Real Estate Fund would use approximately 92% of investor proceeds to acquire interests in real estate. In truth, the Real Estate Fund has "loaned" approximately \$1.38 million of investor proceeds (18% of the total funds raised) to Bretzel, to other companies that Bretzel owns, or to Lawrence Ford.

40. Bretzel used the loans to his companies and him to pay mortgages on or renovate various properties that Bretzel or his companies owned. These properties were not purchased with investor funds and Bretzel knew that the Real Estate Fund had no interest in these properties. Bretzel could provide no promissory notes evidencing these loans, nor could he identify the repayment terms or interest rates on these loans.

41. As a second misrepresentation, the PPM states that the Real Estate Fund would hold title to the property that it acquired with investor funds. However, substantially all of the properties acquired with investor funds are titled in Bretzel's individual name.

42. As a third misrepresentation, the PPM used between June 2004 and July 2006 represented that the Real Estate Fund would pay an 8% commission to broker dealers who sold Real Estate Fund units. In truth, however, the Real Estate Fund paid a commission rate of 16%.

43. The Real Estate Fund revised its PPM on or around July 1, 2006 in an attempt to correct this misrepresentation. The revised PPM disclosed that the Real Estate Fund would pay a 16% commission rate.

44. The Real Estate Fund operated as a Ponzi scheme. Since the revenue from the real estate investments did not generate sufficient income, as early as June 2006, Bretzel

began using new investor funds to pay returns to other investors. Real Estate Fund investors were never told that the venture operated as a Ponzi scheme.

45. The Real Estate Fund's offering apparently ceased in January 2007, when ICR, the broker dealer hired to solicit investors, stopped its solicitation efforts. The lack of new investor funds has caused a financial crisis for Real Estate Fund, as it does not have sufficient cash to pay the mortgages on its real estate. Indeed, lenders have instituted foreclosure proceedings on at least five (5) of the Real Estate Fund's properties, and Real Estate Fund is actively trying to sell and or dispose of all of its real estate holdings.

**D. THE SOLICITATION OF INVESTORS**

46. Neither Heritage nor the Real Estate Fund filed a registration statement with the Commission in connection with its respective offering. Instead, the PPMs for each offering claimed that the offerings were exempt from registration under § 4(2) of the Securities Act and Rule 506 of Regulation D.

47. Bretzel retained ICR, a broker dealer, to solicit investors for both offerings. ICR purchased lead lists of accredited individuals from various third parties. Using these lead lists, ICR's registered representatives cold-called prospective investors to market Real Estate Fund and Heritage Funding securities.

48. ICR had investors complete new account forms and subscription agreements indicating that they were accredited investors that met the minimum suitability requirements of the offering.

49. Relief Defendants Coastal, Liberty and Dealer Lot are entities owned by Bretzel, that have, by virtue of their conduct and or Bretzel's conduct directly or indirectly

received illegally-obtained assets for no consideration given, and to which they have no legitimate claim. The relief defendants have been unjustly enriched by loans from Real Estate Fund and/or Heritage made to them through Bretzel, or directly to them. Coastal has been unjustly enriched by these loans in the amount of, at least, \$456,003. Liberty has been unjustly enriched by these loans in the amount of, at least, \$2,696,678. Dealer Lot has been unjustly enriched by these loans in the amount of, at least, \$678,111.

**COUNT I--FRAUD**  
**Violations of Section 17(a)(1) of the Securities Act**  
**[15 U.S.C. § 77q(a)(1)]**

50. Paragraphs 1 through 49 are hereby realleged and are incorporated herein by reference.

51. At various times from at least February 2003 through at least January 2007, Defendants Bretzel, Ford, Real Estate Fund and Heritage, in the offer and sale of the securities described herein, 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 above.

52. The Defendants knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud.

53. In engaging in such conduct, the Defendants acted with scienter, that is, with intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

54. By reason of the foregoing, the Defendants, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

**COUNT II—FRAUD**

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

55. Paragraphs 1 through 49 are hereby realleged and are incorporated herein by reference.

56. At various times from at least February 2003 through at least January 2007 Defendants Bretzel, Ford, Real Estate Fund and Heritage, in the offer and sale of the securities described herein, 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 fact and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

b) engaged in transactions, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

57. By reason of the foregoing, the Defendants, directly and indirectly, have violated and, unless 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)].

**COUNT III--FRAUD**  
**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]**

58. Paragraphs 1 through 49 are hereby realleged and are incorporated herein by reference.

59. At various times from at least February 2003 through at least January 2007, Defendants Bretzel, Ford, Real Estate Fund and Heritage, in connection with the purchase and sale of securities described herein, by the use of the means and instrumentalities 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 light of the circumstances under which they were made, not misleading; and
- c) engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

60. The Defendants knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, made untrue statements of material facts and omitted to state material facts, and engaged in fraudulent acts, practices and courses of business. In engaging in such conduct, the Defendants acted with scienter, that is, with intent to deceive, manipulate or defraud or with a severe reckless disregard for the truth.

61. By reason of the foregoing, the Defendants, directly and indirectly, have violated and, unless 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 Commission respectfully prays for:

I.

Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, finding that the Defendants named herein committed the violations alleged herein.

II.

Permanent injunctions enjoining the Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order of injunction, by personal service or otherwise, and each of them, whether as principals or as aiders and abettors, from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder.

III.

An order requiring an accounting by the Defendants of the use of proceeds of the sales of the securities described in this Complaint, as well as the disgorgement of all ill-gotten gains or unjust enrichment by defendants or relief defendants. Although the Commission seeks to establish the amount of disgorgement, prejudgment interest and civil penalties in this civil enforcement action, any enforcement of this Court's orders requiring payment by defendant

Heritage will be in accordance with the Bankruptcy Code and Rules, and the Commission will seek to enforce any judgment of disgorgement against Heritage in the bankruptcy proceeding for so long as that proceeding continues, and will seek to enforce the disgorgement order against Heritage in this Court, if and when the bankruptcy is no longer pending.

IV.

An amendment to the Bankruptcy Code created by the Sarbanes Oxley Act of 2002 makes judgments for violations of the federal securities laws non-dischargeable pursuant to Section 523(a)(19), and the SEC requests that this Court make a finding to the effect that disgorgement and prejudgment interest ordered against Heritage is a judgment for the violation of the federal securities laws within the meaning of Section 523(a)(19) of the Bankruptcy Code. The SEC respectfully requests that the finding of this Court include that this is a nondischargeable debt, pursuant to Section 523(a)(19) of the Bankruptcy Code.

V.

An order appointing a Receiver for Real Estate Fund and for any assets held for the benefit of Real Estate Fund regardless of how those assets are titled, for the purpose of preserving assets of the investors from further dissipation.

VI.

An order directing the Defendants to pay prejudgment interest on the amount ordered to be disgorged, to effect the remedial purposes of the federal securities laws.

VII.

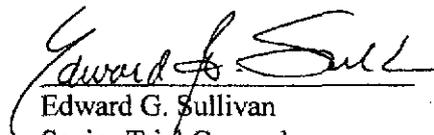
The Commission seeks an order pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] imposing civil penalties against the Defendants.

VIII.

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.

Dated: April 12, 2007.

Respectfully submitted,

  
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