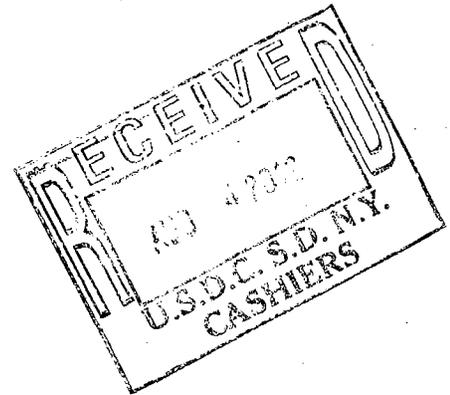


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PETRO-SUISSE LTD. and MARK GASARCH,

Defendants.

12 Civ. _____

COMPLAINT

PRELIMINARY STATEMENT

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against Defendants Petro-Suisse Ltd., a New York corporation ("Petro-Suisse") and Mark Gasarch ("Gasarch") (collectively, the "Defendants"), alleges as follows:

1. This case alleges fraud in connection with 21 limited partnership offerings that Defendants promoted as a means to finance the drilling of oil wells in Trinidad and generate investment returns for approximately 120 investors in the limited partnerships.

2. To finance the drilling of these oil wells, Gasarch formed Petro-Suisse, which Gasarch controlled at all times relevant to these allegations, to act as general partner and to raise funds through investments in limited partnership offerings.

3. From approximately May 2003 through August 2006, Petro-Suisse or an affiliate,

as general partner, solicited investments in 21 successive limited partnerships offerings (“Petro-Suisse Offerings”) using private placement memoranda (“Petro-Suisse PPMs”). Petro-Suisse or an affiliate raised approximately \$8,370,000 from the Petro-Suisse Offerings.

4. Each limited partnership was formed to finance particular wells. Under the terms of the Petro-Suisse PPM for each deal, the limited partnership was to obtain a contract with Petro-Suisse or an affiliated entity granting the limited partnership the right to receive a return measured by the net revenues of the wells drilled, which was to be payable out of those revenues.

5. According to the Petro-Suisse PPMs, the contractual rights to these returns provided the only source of revenue to the partnerships and their investors. Notwithstanding that this representation was contained in 21 successive Petro-Suisse PPMs over a three year period, neither Petro-Suisse nor its affiliates ever executed a single contract documenting the obligation to make payment to any of the 21 limited partnerships. Although investors received payments from Petro-Suisse for a period of time, those payments stopped in 2007.

6. The representations contained in each Petro-Suisse PPM that the partnership would obtain the contractual rights described above were false when made, and Defendants knew or were reckless in not knowing that they were false.

VIOLATIONS

7. By virtue of the foregoing conduct and as alleged further herein, Petro-Suisse, singly or in concert, directly or indirectly, violated Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. § 77q(a), 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. By virtue of his conduct and as alleged herein, Gasarch, pursuant to Section 20(e) of the Exchange

Act, 15 U.S.C. § 78t(e), aided and abetted Petro-Suisse's 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.

8. Unless the Defendants are permanently restrained and enjoined, they each will again engage in the acts, practices, and courses of business set forth in this Complaint, or in acts and transactions of similar type and object.

JURISDICTION AND VENUE

9. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act, 15 U.S.C. § 77t(b), and Section 21(d) of the Exchange Act, 15 U.S.C. §§ 78u(d), seeking permanently to enjoin the Defendants from engaging in the acts, practices and courses of business alleged in this Complaint. The Commission also seeks a final judgment ordering the Defendants to disgorge their ill-gotten gains, if any, with prejudgment interest thereon. The Commission seeks a judgment ordering the Defendants to pay civil money penalties 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).

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

11. Venue in this District is proper 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 the violations alleged herein occurred within this District. For example, investor funds were deposited into various

partnership bank accounts located in New York, New York. In addition, Petro-Suisse is located in this District.

12. The Defendants, directly or indirectly, have made use of the means or instruments of transportation or communication in interstate commerce, or of a means or instrumentality of interstate commerce, or of the mails, or of the facilities of a national securities exchange, in connection with the transactions, acts, practices and courses of business alleged in this Complaint.

THE DEFENDANTS

13. **Petro-Suisse** is a New York corporation headquartered in New York, New York. Petro-Suisse, through the use of the Petro-Suisse Offerings, raised capital to finance the drilling of oil wells in Trinidad. The Petro-Suisse Offerings consisted of Forest Sands Development Drilling Project 1, L.P. through Forest Sands Development Drilling Project 18, L.P., and Trinidad Oil Income Partners 1, L.P. through Trinidad Oil Income Partners 3, L.P. Petro-Suisse solicited investments in the Petro-Suisse Offerings using Petro-Suisse PPMs that contain false and misleading statements.

14. **Gasarch**, age 70, is a resident of New York, New York. Gasarch is Petro-Suisse's Director, Treasurer, and legal counsel. Gasarch drafted the Petro-Suisse PPMs.

RELEVANT ENTITIES

15. **Trincan Oil Company** ("Trincan") is a Republic of Trinidad and Tobago company headquartered in Siparia, Trinidad. During the relevant time period, Gasarch was a principal of Trincan. Since 2000, the Republic of Trinidad and Tobago has leased the Morne Diablo oil fields in Trinidad to Trincan, which allows Trincan to drill for oil in that area. During

the relevant time period, Trincan held the rights to the proceeds generated by oil obtained from the Morne Diablo oil fields.

16. **Los Bajos Oil Ltd.** (“Los Bajos”) is a Republic of Trinidad and Tobago company headquartered in Siparia, Trinidad. During the relevant time period, Gasarch was a principal of Los Bajos. Since 2002, the Republic of Trinidad and Tobago has leased the South Quarry oil fields in Trinidad to Los Bajos, which allows Los Bajos to drill for oil in that area. During the relevant time period, Los Bajos held the rights to the proceeds generated by oil obtained from the South Quarry oil fields.

17. **West Indies Exploration Company Ltd.** (“West Indies”) is a Republic of Trinidad and Tobago company headquartered in Trinidad. West Indies owns Trincan and Los Bajos. During the relevant time period, Gasarch was a principal of West Indies.

FACTS

18. In May 2003, West Indies acquired Trincan and Los Bajos. Trincan and Los Bajos held the rights to drill for oil in the Morne Diablo and South Quarry oil fields, respectively. Trincan and Los Bajos also held the rights to the proceeds generated by oil obtained from those oil fields.

19. To finance the drilling of oil wells on the Morne Diablo and South Quarry oil fields, Gasarch formed Petro Suisse to act as the general partner and to raise funds through investments in limited partnership offerings.

20. Between May 2003 and August 2006, Petro-Suisse or an affiliate, acting as the general partner, offered limited partnership investments in the Petro-Suisse Offerings to finance the drilling of oil wells in the Morne Diablo and South Quarry oil fields.

21. Petro-Suisse or an affiliate solicited investments from prospective investors by distributing Petro-Suisse PPMs, which described the Petro-Suisse Offerings.

22. Gasarch was Petro-Suisse's Director, Treasurer, and legal counsel, and he drafted the Petro-Suisse PPMs.

23. According to the Petro-Suisse PPMs, in exchange for their investments, investors in the Petro-Suisse Offerings were promised that the partnerships would obtain contractual rights to receive returns measured by the net revenues of the relevant oil wells and payable out of those revenues.

24. According to the Petro-Suisse PPMs, there was no guarantee that the oil wells drilled would produce any oil or oil in sufficient quantities to allow investors to recoup their principal investments. However, if the wells did prove successful, investors would, depending on the offering, receive amounts equal to between 80% to 99% of the oil revenues up to the point that they received a 100% return of their principal investment, and thereafter, would receive an amount equal to 50% of the net oil revenues, while a Petro-Suisse affiliate would receive the difference. Thus, investors bore significant financial risks associated with the drilling of the wells while a Petro-Suisse affiliate benefitted, at a minimum, by receiving risk-free financing to drill the wells, with the potential windfall of oil revenues should the wells prove successful.

25. Specifically, the Petro-Suisse PPMs stated: "Immediately following the commencement of business of the Partnership, the Partnership will enter into a non-interest bearing promissory note and turnkey drilling agreement" and that the "Partnership will be financing the drilling and completion of the Wells by use of an interest free promissory note, combined with a turnkey drilling agreement, for which it will receive an interest in the revenues

generated by the Wells whose drilling and completion it has financed.”

26. In all 21 Petro-Suisse Offerings over a three year period, the Petro-Suisse PPMs expressly stated that the partnerships would enter into the promissory notes and turnkey drilling agreements on the same or substantially similar terms. However, the partnerships never entered into any such agreements or obtained the contractual rights described in the Petro-Suisse PPMs. As a result, the partnerships had no written contractual rights with respect to the net revenues generated by the oil wells they financed on the Morne Diablo or South Quarry oil fields.

27. The representations contained in each Petro-Suisse PPM that the respective partnership would obtain such contractual rights were false. At the time of the Petro-Suisse Offerings, Gasarch and Petro-Suisse knew or recklessly disregarded that Petro-Suisse would not enter into any of the written promissory notes or turnkey drilling agreements for any of the Petro-Suisse Offerings.

28. The Petro-Suisse Offerings raised approximately \$8,370,000 from approximately 120 investors. Between 2003 and October 2007, notwithstanding that the partnerships had no written contractual rights with respect to the oil revenues generated by the respective oil wells, almost all investors received a return of their investments, and some investors received additional amounts.

29. However, in approximately October 2007, most investors in the Petro-Suisse Offerings stopped receiving any additional return on their investments. As a result of the failure to obtain written contracts, the partnerships’ ability to enforce their rights were significantly restricted.

FIRST CAUSE OF ACTION

Violations of Section 17(a) of the Securities Act (Defendant Petro-Suisse)

30. The Commission realleges and incorporates paragraphs 1 through 29 by reference as if fully set forth herein.

31. Defendant Petro-Suisse, directly or indirectly, singly or in concert, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails, have: (a) employed devices, schemes, or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices, or courses of business which operated, or would operate as a fraud or deceit upon the purchasers of securities.

32. Defendant Petro-Suisse knowingly or recklessly made false and material misleading statements in the Petro-Suisse PPMs to solicit investments in the Petro-Suisse Offerings.

33. By reason of the foregoing, Defendant Petro-Suisse, directly or indirectly, singly or in concert, has violated, and unless enjoined will again violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

SECOND CAUSE OF ACTION

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder (Defendant Petro-Suisse)

34. Paragraphs 1 through 29 are hereby realleged and incorporated by reference.

35. Defendant Petro-Suisse, directly and indirectly, singly or in concert, in connection with the purchase or sale of securities, by use of the means and instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange, have: (a) employed devices, schemes, or artifices to defraud; (b) made, untrue statements of material fact or omissions of material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

36. Defendant Petro-Suisse knowingly or recklessly made false and material misleading statements in the Petro-Suisse PPMs to solicit investments in the Petro-Suisse Offerings.

37. By reason of the foregoing, Defendant Petro-Suisse, directly or indirectly, singly or in concert, has violated, and unless enjoined will again violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5.

THIRD CAUSE OF ACTION

Aiding and Abetting Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder (Defendant Gasarch)

38. Paragraphs 1 through 29 are hereby realleged and incorporated by reference.

39. Defendant Petro-Suisse violated 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 when, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, directly or indirectly, singly or in concert, in connection with the purchase or sale of limited partnership interests, they knowingly or recklessly: (a) employed devices, schemes, or

artifices to defraud; (b) made untrue statements of a material fact or omitted 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) engaged in acts, practices, or course of business which operated or would operate as a fraud or deceit upon any person.

40. Defendant Gasarch, pursuant to Section 20(e) of the Exchange Act, 15 U.S.C. § 78t(e), aided and abetted Petro-Suisse's 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. Specifically, Defendant Gasarch knowingly or with the requisite scienter, provided substantial assistance to Petro-Suisse in: (a) employing devices, schemes, or artifices to defraud; (b) making untrue statements 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 acts, practices, or course of business which operated or would operate as a fraud or deceit upon any person.

41. By reason of the foregoing, Defendant Gasarch aided and abetted Petro-Suisse's violations of, and unless enjoined will again aid and abet 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.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court enter a final judgment:

I.

Permanently enjoining and restraining Petro-Suisse, its agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receives actual notice

of the injunction by personal service or otherwise, and each of them, 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, thereunder.

II.

Permanently enjoining and restraining Gasarch, his agents, servants, employees, and attorneys, and all persons in active concert or participation with them who receives actual notice of the injunction by personal service or otherwise, and each of them, from directly or indirectly, aiding and abetting violations of Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §§ 240.10b-5, thereunder.

III.

Ordering each of the Defendants to disgorge their ill-gotten gains, if any, plus prejudgment interest.

IV.

Ordering each of the Defendants to pay civil money penalties 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).

V.

Granting such other and further relief as the Court may deem just and proper.

Dated: August 14, 2012
New York, New York



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