

Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78o(a)(1)], which forbids a broker or dealer from effecting transactions in, or inducing or attempting to induce the purchase or sale of, any security unless such broker or dealer is registered with the Commission.

5. The SEC seeks a permanent injunction against Lundervold to enjoin him from future violations of the federal securities laws. The SEC further seeks an order requiring Lundervold to disgorge all ill-gotten gains plus prejudgment interest thereon and to pay a civil money penalty.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)] and 28 U.S.C. § 1331.

7. Venue is proper in this Court pursuant to Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)] and 28 U.S.C. § 1391.

8. Acts, practices, and courses of business constituting violations alleged in this complaint have occurred within the jurisdiction of the United States District Court for the District of Minnesota and elsewhere. Lundervold solicited investors for ARPWave from offices in Oakdale, Minnesota and he offered and sold securities issued by ARPWave – a Minnesota LLC – to investors in Minnesota and elsewhere.

9. Lundervold, directly and indirectly, made use of the means and instrumentalities of interstate commerce and of the mails in connection with the acts, practices, and courses of business alleged in this complaint. Lundervold will, unless

enjoined, continue to engage in the acts, practices, and courses of business set forth in this complaint, and acts, practices, and courses of business of similar purport and object.

DEFENDANT

10. **Allan L. Lundervold** is currently a resident of Scottsdale, Arizona. At all times relevant to this action, Lundervold was the CEO of Lundervold & Company, Inc., a Minnesota corporation with offices in Minneapolis, Minnesota.

FACTUAL ALLEGATIONS

11. ARPWave is a privately held Minnesota medical device manufacturer that leases and licenses certain medical devices to physicians for use in the treatment of chronic pain.

12. From at least as early as 2011 through 2015, ARPWave raised more than \$8.8 million from approximately 115 investors through a private offering of unregistered securities. The overwhelming majority of these funds were raised by Defendant Allan L. Lundervold.

13. At all times relevant to this action, Lundervold was not registered as or associated with a registered broker-dealer.

14. ARPWave offered and sold to investors securities that were each styled as an “Assignment and Assumption of Contract Payment Rights and Repayment Agreement” (the “ARAs”). The ARAs assigned to each investor all of ARPWave’s right, title, and interest in payments due under one or more specified lease and license agreements

between ARPWave and a customer in exchange for the investor's capital, which the ARAs refer to as an "assignment fee."

15. Under the terms of the ARAs, ARPWave promised, among other things, to:

- (a) "be fully responsible for the performance of all the duties and obligations" under the lease and license agreements;
- (b) To collect all payments due under those agreements for the benefit of the investors and to transfer those payments to the investors on a monthly basis; and
- (c) To pay the assigned payments to the investor "whether or not such payments are actually received" by ARP.

16. Investors who purchased the ARAs executed Subscription Agreements with ARPWave that refer to the ARAs as a "guaranteed receivable" and as a "security."

17. The Subscription Agreements contain certain representations made by each investor including:

- (a) That the investor is acquiring the security for purposes of investment only;
- (b) That the investor qualifies as an accredited investor "within the meaning of Section 501(a) of Regulation D, as adopted pursuant to the Securities Act;"
- (c) That the investor understands that the securities cannot be sold unless they are first registered; and
- (d) That the investor understands that ARP "will have complete

discretion in using, managing, and investing the proceeds” received from the investor.

18. The signature page of each Subscription Agreement sets forth the amount of the initial investment, the amount and number of monthly payments that will be made to the investor, and the total amount of the payments that will be made to the investor.

19. ARPWave generally promised to repay each investor 150% of the amount originally invested. Over the five-year repayment term generally specified in the ARAs, this translates to an annualized return of approximately 17%.

20. Between January 2012 and December 2015, Lundervold sold approximately \$8.7 million of the ARPWave securities to more than 100 individual investors.

21. Lundervold identified potential investors, explained the investment to them, obtained signatures on subscription documents, and collected funds from investors, which he, in turn, passed on to ARPWave.

22. ARPWave paid Lundervold a 10% commission on the amount of funds he raised from investors.

23. Between 2012 and 2015, Lundervold received \$876,043.00 in commissions from ARPWave.

24. In January of 2017, ARPWave ceased making payments to investors that were required under the ARAs. The SEC has been told that ARPWave recently resumed making those payments.

COUNT I

**Violations of Section 15(a)(1) of the Exchange Act
15 U.S.C. § 78o(a)(1)]**

25. Paragraphs 1 through 24 are alleged and incorporated by reference as though fully set forth herein.

26. By engaging in the conduct described above, Defendant Lundervold engaged in the business of effecting transactions in, and induced and attempted to induce the purchase and sale of, securities for the accounts of others without being registered as or associated with a registered broker-dealer.

27. By reason of the foregoing, Defendant Lundervold violated Section 15(a) of the Exchange Act [15 U.S.C. §78o(a)(1)].

RELIEF REQUESTED

WHEREFORE, the SEC respectfully requests that this Court:

I.

Find that Defendant Lundervold committed the violations charged in this complaint.

II.

Enter an order of permanent injunction against Lundervold, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, enjoining Lundervold, and his agents, servants, employees, attorneys, and those persons in active concert or

participation with him who receive actual notice of the order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices, or courses of business described above, or in conduct of similar purport and object, that violate, or aid and abet violations of, Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)].

III.

Enter an order requiring Lundervold to disgorge any and all ill-gotten gains, plus prejudgment interest, that he obtained as a result of the violations of law charged in this complaint.

IV.

Enter an order imposing upon Lundervold an appropriate civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)].

V.

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 are entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VI.

Grant such other and further relief as this Court deems appropriate and necessary.

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JURY DEMAND

The SEC demands a trial by jury.

Dated: January 16, 2020

**UNITED STATES SECURITIES
AND EXCHANGE COMMISSION**

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