

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**JAMES M. RUDNICK,**

**Defendant.**

**Civil Action File No.**

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

Plaintiff, Securities and Exchange Commission (the “SEC” or “Commission”), files this Complaint for injunctive and other relief and alleges as follows:

**OVERVIEW**

1. This matter involves an offering fraud by Defendant James M. Rudnick (“Rudnick” or “Defendant”), perpetrated through two entities he largely owned and controlled, Mary A II, LLC (“Mary A”) and Southeast Lot Acquisitions, LLC (“Southeast Lot”).

2. As set forth in greater detail below, between 2013 and 2018 Rudnick raised approximately \$16.7 million for Mary A and Southeast Lot for real estate ventures. In connection with these offerings, Rudnick hired two individuals to (a) prepare the offering materials that were provided to investors and used to raise the investor funds and (b) oversee the offerings. Rudnick negligently failed to review or understand the offering materials. Specifically, Rudnick paid commissions as high as 10% to the individuals hired to oversee the offerings, or to companies those individuals controlled, even though the offering documents prohibited payment of commission to those parties.

3. As a result of the foregoing, Rudnick violated the anti-fraud provisions of the federal securities laws.

### **VIOLATIONS**

4. Defendant Rudnick has engaged in and, unless restrained and enjoined by this Court, will continue to engage in acts and practices that constitute and will constitute violations of Sections 17(a)(2) and (3) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77q(a)(2), (3)].

### **DEFENDANT AND OTHER RELEVANT PARTIES**

5. Defendant **James M. Rudnick**, is a resident of Tallahassee, Florida. Rudnick has been a real estate developer since approximately 1981 and operates

most of his real estate development projects through an entity he owns and controls, Rudnick Development, LLC.

6. Mary A II, LLC is a Florida limited liability company with its principal place of business in Tallahassee, Florida. Mary A purported to be a land mitigation bank that sold environmental credits to land developers in Florida to offset environmental damage caused by their real estate developments. For all relevant time periods herein, Rudnick, directly or indirectly, was the majority owner of and controlled Mary A.

7. Southeast Lot Acquisitions, LLC, is a Florida limited liability company with its principal place of business in Tallahassee, Florida. Southeast Lot purported to be an entity that would acquire distressed real estate assets in the Southeast United States and develop and sell the homes for a profit. For all relevant time periods herein, Rudnick, directly or indirectly, was the principal owner of and controlled Southeast Lot.

8. Dana J. Bradley (“Bradley”) is a resident of Cornelius, North Carolina who, along with entities he owned and/or controlled (“Bradley Entities”), assisted Rudnick in connection with the securities offerings of Mary A and Southeast Lot.

9. Marlin S. Hershey (“Hershey”) is a resident of Cornelius, North Carolina who, along with entities he owned and/or controlled (“Hershey Entitles”),

assisted Rudnick in connection with the securities offerings of Mary A and Southeast Lot.

10. On September 30, 2019, the Commission filed suit against Bradley, Hershey, the Bradley Entities, and the Hershey Entities in the U.S. District Court for the Western District of North Carolina in an action entitled, SEC v. Bradley, et al., Civ. Action No. 3:19-cv-00490 (“Bradley-Hershey Action”). The complaint in that matter alleges, among other things, that Bradley and Hershey violated the broker registration requirements of the federal securities laws in connection with the securities offerings by Rudnick, Mary A and Southeast Lot.

### **JURISDICTION AND VENUE**

11. The Commission brings this action pursuant to Sections 20 and 22 of the Securities Act [15 U.S.C. §§ 77t and 77b] to enjoin Defendant 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 civil penalties, and for other equitable relief.

12. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v].

13. Defendant, directly and indirectly, made use of the mails and the means and instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

14. Venue is proper in this Court because, *inter alia*, certain of the transactions, acts, practices, and courses of business constituting violations of the Securities Act occurred in this District, including but not limited to, the raising of investor monies within this District through Bradley, Hershey, and their entities.

### **THE MARY A OFFERINGS**

15. Mary A is an entity that purported to operate as a land mitigation bank selling environmental credits to land developers to allow them to offset environmental impacts caused by their developments.

16. Rudnick and Mary A engaged in two securities offerings, the first beginning in 2013 and the second beginning in 2016. Combined, the offerings raised approximately \$10 million from investors in return for notes issued by Mary A.

17. The 2013 Mary A offering raised approximately \$6.9 million from over 80 investors in 16 states, with the notes paying 6% or 10% annually and maturing in 60 months.

18. The 2016 Mary A offering raised approximately \$3.2 million from over 50 investors in 10 states, with the notes paying 10% per annum and maturing in 24 months.

19. Bradley and Hershey assisted and oversaw significant aspects of the Mary A offerings, including inquiring as to funding needs, helping draft the offering materials, and soliciting and raising funds from investors.

20. The Mary A offering materials provided to investors stated, among other things, that Bradley and Hershey were employees of Mary A, that employees would not receive commissions in connection with the sale of the securities, and that any commissions would be paid only to licensed securities broker dealers.

21. Bradley and Hershey were employees of Mary A and neither they nor any of the Bradley Entities or Hershey Entities were licensed securities broker dealers.

22. Accordingly, no commissions should have been paid to Bradley, Hershey, or their entities in connection with the Mary A offerings.

23. In fact, however, Rudnick caused Mary A to pay approximately \$1.2 million in commissions to Bradley, Hershey, and/or the Bradley Entities and Hershey Entities in connection with the two Mary A offerings.

24. Rudnick failed to properly review and understand the Mary A offering materials that were drafted by Bradley, Hershey, and/or others working at the direction of Bradley and Hershey. As a result, Rudnick and Mary A failed to understand that the offering materials prohibited the payment of commissions to Bradley, Hershey or their entities.

## THE SOUTHEAST LOT OFFERING

25. Southeast Lot is an entity that purported to act as a real estate entity that would acquire distressed, developed, or semi-developed home lot assets in the Southeast United States, and develop and sell the homes at a profit.

26. Beginning in 2014, Rudnick and Southeast Lot engaged in a securities offering, ultimately raising approximately \$5.7 million from over 50 investors through the sale of capital notes that paid out 12% per annum and maturing in 30 months.

27. Bradley and Hershey assisted and oversaw significant aspects of the Southeast Lot offering, including inquiring as to funding needs, helping draft the offering materials, and soliciting and raising funds from investors.

28. The Southeast Lot offering materials provided to investors stated, among other things, that the investor monies were to be used to invest to acquire distressed real estate assets.

29. The offering materials further provided that Southeast Lot employees would not receive commissions in connection with the sale of the securities, and that any commissions would be paid only to licensed securities broker dealers.

30. Bradley and Hershey were employees of Southeast Lot, and neither they nor any of their entities were licensed securities broker dealers. Thus, none of

them were entitled to any commissions in connection with the Southeast Lot offering.

31. In fact, however, Rudnick caused Southeast Lot to pay approximately \$942,000 in commissions to the Bradley, Hershey, and/or their entities in connection with the Southeast Lot offering.

32. Rudnick failed to properly review and understand the Southeast Lot offering materials that were drafted by Bradley and Hershey, and/or others working at their direction. As a result, Rudnick and Southeast Lot failed to understand that the offering materials prohibited payments of commissions to Bradley, Hershey or their entities.

### **COUNT I- 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)]**

33. Paragraphs 1 through 32 are hereby realleged and incorporated herein by reference.

34. Between 2013 and 2018, Defendant, 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 or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(b) engaged in transactions, practices, or courses of business which operates or would operate as a fraud or deceit upon the purchaser.

35. By reason of the foregoing, Defendant, directly and indirectly, has 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)].

### **PRAYER FOR RELIEF**

WHEREFORE, the 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 Defendant committed the violations alleged.

#### **II.**

An order permanently restraining and enjoining Defendant, and his officers, agents, servants, employees, and attorneys from the violations alleged herein.

**III.**

An order requiring Defendant to pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)].

**IV.**

Granting 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.

This 24<sup>th</sup> day of September, 2020.

Respectfully submitted,

/s/ M. Graham Loomis  
M. Graham Loomis  
Regional Trial Counsel  
Georgia Bar No. 457868  
[loomism@sec.gov](mailto:loomism@sec.gov)

Paul Kim  
Senior Trial Counsel  
Georgia Bar No. 418841  
[kimpau@sec.gov](mailto:kimpau@sec.gov)

Mark E. Harrison  
Senior Counsel  
Massachusetts Bar No. 640487  
[harrisonm@sec.gov](mailto:harrisonm@sec.gov)

Attorneys for Plaintiff  
Securities and Exchange Commission  
950 East Paces Ferry Road, NE, Suite 900  
Atlanta, GA 30326  
Tel: (404) 842-7600  
Facsimile: (404) 842-7679

*Local Rule 83.1 Counsel*