

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79011 / September 30, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17608

In the Matter of

ELRAY RESOURCES, INC.,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Elray Resources, Inc. (“Elray” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-And-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-And-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Company Background

1. Elray, is a Nevada corporation headquartered in Las Vegas, Nevada. Elray is a smaller reporting company under Rule 12b-2 of the Exchange Act and is registered with the Commission under Section 12(g). Elray's last-filed periodic report was the Form 10-Q for the period ended March 31, 2016. Its shares are quoted on OTC Link (formerly "pink sheets") operated by OTC Markets Group, Inc. under the symbol ELRA.

Applicable Reporting Requirements Concerning the Sale of Unregistered Equity Securities

2. Under Section 13(a) of the Exchange Act and the rules promulgated by the Commission, every issuer of a security registered pursuant to Section 12 of the Exchange Act must file with the Commission such information, documents, and reports as the Commission shall require, including Forms 8-K, 10-Q, and 10-K. Furthermore, such reports shall contain such further material information as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

3. Under Item 1.01 of Form 8-K, a registrant must disclose its entry into a material definitive agreement, not made in the ordinary course of business of the registrant, that provides for obligations that are material to and enforceable against the registrant. Under Item 3.02 of Form 8-K, a smaller reporting company must disclose unregistered sales of equity securities unless such sales, in the aggregate since its last report filed under this Item 3.02 or its last periodic report, whichever is more recent, constitute less than five percent of the number of shares outstanding of the class of equity securities sold. For both items, the registrant must file within four business days of the date of the occurrence or when such agreement becomes enforceable against the registrant.

4. Under Item 2 of Form 10-Q, a registrant must furnish the information required by Item 701 of Regulation S-K as to all equity securities of the registrant sold by the registrant during the period covered by the report that were not registered under the Securities Act unless it was previously included in a Current Report on Form 8-K. The information reported in a Form 10-Q is required to be true, correct, and complete. *See SEC v. Dauplaise*, No. 6:05CV1391, 2006 WL 449175 at *7 (M.D. Fla. Feb. 22, 2006).

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

**Elray Failed to Disclose the Sale of Unregistered Equity Securities
and the Existence of the Related Agreements**

5. On January 17, 2014, Elray entered into an agreement with a financing company (“financing agreement”) pursuant to which Elray sold shares of its common stock to the financing company in an unregistered transaction. The financing agreement provided for obligations that were material to and enforceable against Elray.

6. As calculated on the date of the financing agreement, Elray was required to issue an amount of common stock in excess of 180 percent of the last reported number of common stock issued and outstanding, and, in fact, did issue an amount of common stock in excess of 30 percent of the last reported number of common stock issued and outstanding.

7. Elray failed to file a Form 8-K with the Commission within four business days of the financing agreement becoming enforceable against it.

8. Between August 21, 2014 and October 13, 2014, Elray sold convertible notes that, in aggregate, constituted an amount of common stock in excess of 160 percent of the last reported number of common stock issued and outstanding as of the date of sale.

9. Elray failed to file a Form 8-K with the Commission within four business days of the sale of any of the convertible notes.

10. Between January 20, 2015 and February 23, 2015, Elray sold convertible notes that, in aggregate, constituted an amount of common stock in excess of 750 percent of the last reported number of common stock issued and outstanding as of the date of sale.

11. Elray failed to file a Form 8-K with the Commission within four business days of the sale of any of the convertible notes.

12. In its Form 10-Q covering the period ended March 31, 2015, Elray failed to disclose all sales of unregistered equity securities.

13. As a result of the conduct described above, Elray violated Section 13(a) of the Exchange Act and Rules 13a-11, 13a-13, and 12b-20 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act file with the Commission information, documents, and current and quarterly reports as the Commission may require, and mandate that such statements or reports contain such further material information as may be necessary to make the required statements not misleading.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Elray's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Elray cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Rules 13a-11, 13a-13, and 12b-20 thereunder.

B. Respondent shall pay civil penalties of \$50,000.00, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: \$7,500.00 by October 1, 2016; \$5,000.00 by November 1, 2016; \$5,000.00 by December 1, 2016; \$5,000.00 by January 1, 2017; \$5,000.00 by February 1, 2017; \$5,000.00 by March 1, 2017; \$5,000.00 by April 1, 2017; \$5,000.00 by May 1, 2017; and \$7,500.00 by June 1, 2017. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Elray as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to William P. Hicks, Division of Enforcement,

Securities and Exchange Commission, 950 E. Paces Ferry Road NE, Suite 900, Atlanta, GA 30326.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields
Secretary