

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10664 / July 24, 2019

SECURITIES EXCHANGE ACT OF 1934
Release No. 86461 / July 24, 2019

INVESTMENT COMPANY ACT OF 1940
Release No. 33574 / July 24, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-17716

In the Matter of

**ROBERT L. BAKER,
JACOB B. HERRERA,
MICHAEL D. BOWEN, and
TERRENCE A. BALLARD,**

Respondents.

**ORDER MAKING FINDINGS AND
IMPOSING DISGORGEMENT AND
PREJUDGMENT INTEREST
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS
15(b) AND 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, AND
SECTION 9(b) OF THE INVESTMENT
COMPANY ACT OF 1940 AS TO
JACOB B. HERRERA**

I.

On December 8, 2016, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative and Cease-and-Desist Proceedings pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934 and Section 9(b) of the Investment Company Act of 1940 and Notice of Hearing against Respondents Robert L. Baker, Jacob B. Herrera, Michael D. Bowen, and Terrence A. Ballard (the “OIP”). On March 22, 2018, the Commission issued an Order Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934 and Section 9(b) of the Investment Company Act of 1940 as to Robert L. Baker, Jacob B. Herrera, and Michael D. Bowen, and Ordering Additional Proceedings.

II.

In connection with these proceedings, Respondent Jacob B. Herrera (“Respondent” or “Herrera”) 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 him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section VI, the Respondent consents to the entry of this Order Making Findings and Imposing Disgorgement and Prejudgment Interest Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Section 9(b) of the Investment Company Act of 1940 as to Jacob B. Herrera (the "Order") as set forth below:¹

III.

On the basis of this Order and Respondent's Offer, the Commission finds² that:

A. SUMMARY

1. These proceedings arise out of allegations in the OIP that, between 2011 and 2015, Herrera and others willfully violated Sections 5(a) and 5(c) of the Securities Act and Section 15(a) of the Exchange Act by engaging in the unregistered offer and sale of securities in the form of fractional undivided oil-and-gas interests to investors as part of securities offerings.

2. Herrera worked at the entities described below and sold or participated in the sale of securities to investors, including cold-calling investors across the country to solicit investments in unregistered oil-and-gas securities offerings, and provided substantive details about the offerings to prospective investors. In connection with sales to investors, Herrera received transaction-based compensation. He was not registered with the Commission as a broker or associated with a registered broker-dealer during this time.

3. On March 22, 2018, the Commission entered an order by consent (the "Consent Order") in this proceeding as to Herrera and two other Respondents. The Consent Order imposed certain sanctions against Herrera and two other Respondents, but ordered additional proceedings to determine what, if any, disgorgement, and prejudgment interest, they should be ordered to pay. The instant Order resolves disgorgement and prejudgment interest as to Herrera.

B. RESPONDENT

4. Herrera, age 28, also known as Brandon Jacobs, is a resident of Cedar Hill, Texas. Herrera worked as a salesperson for Breitling Oil and Gas Corporation ("BOG"), Breitling Royalties Corporation ("BRC"), Crude Energy, LLC ("Crude"), Crude Royalties ("CR"), Patriot Energy, Inc. ("Patriot"), and Patriot Royalties ("PR"), selling oil-and-gas interests as part of

¹ The Securities Act of 1933 is herein referred to as the "Securities Act", and the Securities Exchange Act of 1934 is herein referred to as the "Exchange Act".

² The findings herein are made pursuant to Respondent's Offer of Settlement. These findings are 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. The findings herein are not binding on any other person or entity in this or any other proceeding.

unregistered offerings. Herrera is not registered with the Commission in any capacity.

C. OTHER RELEVANT ENTITIES

5. BOG is a company that was originally organized by Christopher A. Faulkner³ in the state of Oklahoma in 2004 under the name Southwest Energy Exploration, LLC (“Southwest Energy”). Faulkner controlled Southwest Energy and changed its name to BOG in July 2010 when he started the company with Parker Hallam (“Hallam”) and Dustin Michael Miller Rodriguez (“Miller”). BOG’s principal place of business was in Dallas, Texas, until December 9, 2013, when it was part of the transaction that created Breitling Energy Corporation (“BECC”). BOG is not registered with the Commission in any capacity. Faulkner served as BOG’s President until December 2013.

6. BRC is a corporation organized in Texas. Faulkner started the company with Hallam and Miller in 2010, served as its President, and controlled its operations. BRC’s principal place of business was in Dallas, Texas, until December 9, 2013, when it was part of the transaction that created BECC. BRC is not registered with the Commission in any capacity.

7. BECC is a corporation organized in Nevada with its principal place of business in Dallas, Texas. BECC is the result of an asset-for-stock sale transaction between Bering Exploration (OTC: BERX), BOG, and BRC. BECC’s common stock was registered with the Commission under Section 12(g) of the Exchange Act and quoted on OTC Link operated by OTC Markets Group, Inc. The Commission revoked the registration of BECC’s securities on November 1, 2016. Faulkner was BECC’s President, CEO, and Chairman of the Board.

8. Crude is a limited liability company currently organized in Nevada with its principal place of business in Dallas, Texas. Crude, which was controlled by Faulkner, served as BECC’s working-interest sales arm from late 2013 through April 2015. Crude has since ceased operations.

9. CR is a limited liability corporation organized in Texas with its principal place of business in Dallas, Texas. CR, which was controlled by Faulkner, served as BECC’s royalty-interest sales arm from late 2013 through April 2015. CR has since ceased operations. CR is not registered with the Commission in any capacity.

10. Patriot is a corporation organized in North Dakota with its principal place of business in Dallas, Texas. Patriot, which was controlled by Faulkner, served as BECC’s working-interest sales arm until June 2016. Patriot also sold royalties under the name of PR. Patriot and PR have since ceased operations. Neither Patriot nor PR is registered with the Commission in any capacity.

³ The Commission filed an action in United States District Court for the Northern District of Texas against Faulkner, seven additional individuals and four entities, alleging, among other things, violations of the antifraud provisions of the federal securities laws. (*SEC v. Faulkner, et al.*, Civil Action No. 3:16-cv-01735-D)(N. D. Tex. June 24, 2016)). The Respondent is not named in *SEC v. Faulkner, et al.*

D. PREVIOUS FINDINGS IN THESE PROCEEDINGS

11. On March 22, 2018, the Commission entered an order by consent (the “Consent Order”) in this proceeding as to Herrera and two other Respondents. In the Consent Order, the Commission accepted offers of settlement by these three Respondents. The Consent Order, which referred to the three Respondents collectively as “the Settling Respondents,” contained findings in Section III at paragraphs 13-20 as follows:

- a. Between 2011 and 2015, the Settling Respondents sold fractional undivided working interests in oil-and-gas prospects for BOG, Crude, and Patriot (collectively the “Working Interest Entities”) and fractional undivided royalty interests in oil-and-gas prospects for BRC, CR, and PR (collectively the “Royalty Interest Entities”). The Settling Respondents were involved at key points in the chain of distribution for both the Working Interest Entities and Royalty Interest Entities until the investment process was complete.
- b. The Settling Respondents served as the first line of the securities sales process, cold-calling prospective investors across the country using lead-list information purchased from a third party. After making contact, the Settling Respondents continued the sales process by providing substantive details on the relevant securities offerings, including the size of the offering, the location of the proposed wells, and projected performance of the wells and the investment. The Settling Respondents regularly answered questions about the offerings, either on the telephone or by email, and were instrumental in convincing prospective investors to invest in the oil-and-gas interests.
- c. In exchange for performing these sales-related duties, the Settling Respondents received a fixed salary of \$800 payable every two weeks, equivalent to \$ 20,800 per year. The Respondents also received transaction-based compensation from the Working Interest Entities and Royalty Interest Entities for selling oil-and-gas interests to investors.
- d. In connection with sales of working interests and royalty interests, the Settling Respondents received transaction-based compensation. Instead of receiving this transaction-based compensation personally, however, each of the Settling Respondents received it through a company he owned or controlled.
- e. None of the Settling Respondents was registered with the Commission as a broker or associated with a registered broker-dealer during this time.

- f. Moreover, for each of the working interests sold by the Settling Respondents for the Working Interest Entities, no registration statement was in effect or filed with the Commission.
- g. As a result of the conduct described above, the Settling Respondents willfully violated Section 15(a) of the Exchange Act, which makes it unlawful for any broker or dealer to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security, unless such broker or dealer is registered or associated with a registered broker-dealer.
- h. As a result of the conduct described above, the Settling Respondents also willfully violated Sections 5(a) and 5(c) of the Securities Act, which makes it unlawful for any person, directly or indirectly, to sell or to offer to sell a security for which a registration statement is not filed or is not in effect, and for which there is not an applicable exemption from registration.

12. The Consent Order contained findings that the Settling Respondents willfully violated Section 15(a) of the Exchange Act and Sections 5(a) and 5(c) of the Securities Act. The Consent Order further imposed industry and associational bars against the Settling Respondents, imposed certain prohibitions on them concerning investment companies, and ordered them each to pay a civil monetary penalty of \$50,000 to Thomas L. Taylor, the court-appointed receiver for the estates of defendants Christopher A. Faulkner, BOG, and BECC in *SEC v. Christopher A. Faulkner, et al.*, Civ. Act. No. 3:16-1735- D (N.D. Tex.) (the “Receiver”). The Consent Order created a Fair Fund Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, for the penalties referenced above to be distributed by the Receiver in accordance with a plan to be approved by the court in *SEC v. Christopher A. Faulkner, et al.*, Civ. Act. No. 3:16-1735-D (N.D. Tex.) The Consent Order also ordered additional proceedings to determine, pursuant to Section 8A(e) of the Securities Act and Sections 21B(e) and 21C(e) of the Exchange Act, what, if any, disgorgement, and prejudgment interest, the Settling Respondents should be ordered to pay.

E. HERRERA’S TRANSACTION-BASED COMPENSATION

13. Between December 8, 2011, and December 8, 2016, Herrera received transaction-based compensation, referred to in the findings of the Consent Order, totaling \$2,378,378.68.

IV.

In view of the foregoing, the Commission deems it appropriate and, in the public interest to impose an order requiring disgorgement and prejudgment interest pursuant to Section 8A(e) of the Securities Act and Sections 21B(e) and 21C(e) of the Exchange Act as agreed to in Herrera’s Offer, and it is hereby **ORDERED** that:

A. Respondent shall pay disgorgement of \$2,378,378.68 and prejudgment interest of \$361,430.56 as directed below. Payment shall be made in the following installments: (1)

\$684,952.31 within 90 days of the entry of this Order; (2) \$684,952.31 within 180 days of the entry of this Order; (3) \$684,952.31 within 270 days of the entry of this Order; and (4) \$684,952.31 within 360 days of the entry of this Order. Payments shall be applied first to post-order interest, which accrues pursuant to SEC Rule of Practice 600. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

B. Each of the foregoing payments shall be made to the Receiver in accordance with the following instructions:

Payment must be: (A) made by United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to "Receiver's Account, Estate of C. Faulkner, et al."; (C) hand-delivered or mailed to Thomas L. Taylor, The Taylor Law Offices, P.C., 245 West 18th Street, Houston, TX 77008; and (D) submitted under cover letter that identifies the Respondent submitting the payment, the file number of these proceedings, and *SEC v. Christopher A. Faulkner, et al.*, Civ. Act. No. 3:16-1735-D (N.D. Tex.), a copy of which cover letter and money order or check must be sent to Eric R. Werner, Division of Enforcement, Securities and Exchange Commission, 801 Cherry Street, Suite 1900, Fort Worth, TX 76102.

V.

All payments identified in Section IV, above, shall become part of, and distributed under, the Fair Fund created in the previously entered Consent Order pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002.

In the event the Court discharges the Receiver before Respondent fully pays the amounts identified in this Order, then Respondent shall pay the outstanding balance, plus any accrued interest under law, to the Commission. 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 Jacob B. Herrera 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 Eric R. Werner, Division of Enforcement, Securities and Exchange Commission, 801 Cherry Street, Suite 1900, Fort Worth, TX 76102.

VI.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary