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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

GEORGE GARCY A/K/A JORGE GARCIA, and
ANGELO CUOMO,

Defendants,

- and -

JUDITH GUIDO,
RALPH CUOMO,
VINCENT CUOMO, and
JOSEPH LIVELY,

Relief Defendants.

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E.D.N.Y.
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BROOKLYN OFFICE

CV 11-2282

COMPLAINT

WEXLER
JURY TRIAL DEMAND

WALL, M.J.

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against George Garcy a/k/a "Jorge Garcia" ("Garcy") and Angelo Cuomo ("Cuomo") (collectively, the "Defendants"), and Judith Guido ("J. Guido"), Ralph Cuomo ("R. Cuomo"), Vincent Cuomo ("V. Cuomo"), and Joseph Lively ("Lively") (collectively, the "Relief Defendants"), alleges as follows:

SUMMARY

1. From at least April 2003 and continuing through March 2009 (the "Relevant Period"), Defendants Garcy and Cuomo raised approximately \$8 million from at least 200 investors through fraudulent sales of unregistered securities of E-Z Media, Inc. ("E-Z Media"), a beverage and food carrier company based in New York.

2. As part of their unlawful scheme, Garcy and Cuomo made numerous material misrepresentations, and omitted material facts, while offering E-Z Media securities to investors. Defendant's misrepresentations and omissions concerned, among other things, E-Z Media's business prospects, assets, liabilities, plans to conduct an initial public offering ("IPO"), use of offering proceeds, and projected share price.

3. For example, Garcy and Cuomo falsely told investors that E-Z Media: (i) owned several patents for beverage and food carriers ("carriers"); (ii) had contracts to sell its carriers to major companies, such as Heineken USA, Inc. ("Heineken"), Anheuser Busch, Inc. ("Anheuser Busch"), and Aramark Corporation ("Aramark"); and (iii) would offer its shares to the public through an IPO within a short timeframe. In addition, Garcy falsely told at least one investor that after the IPO, E-Z Media's shares would trade at a range of \$7.00 to \$20.00. Similarly, Garcy and Cuomo falsely told another investor that after the IPO, E-Z Media's shares would double in value.

4. The Defendants knew, or were reckless in not knowing, that: (i) E-Z Media never had any contracts or other agreements to sell its carriers to any major company, including the brand-name companies (Heineken, Anheuser Busch, and Aramark) that the Defendants touted to investors; (ii) E-Z Media never took basic required steps during the Relevant Period to prepare for a purported IPO; (iii) E-Z Media's claimed ownership of its main asset – certain patents for

the carriers – was contingent on E-Z Media's payment of \$14.5 million to Cuomo, and E-Z Media's ownership of those patents may not have been valid in the first place; and (iv) E-Z Media had no reasonable basis for the post-IPO price projections that Defendants presented to investors.

5. Instead of using the millions of dollars they obtained from investors in E-Z Media to develop the company's business as they represented to E-Z Media investors, Garcy and Cuomo systematically looted substantial amounts of those funds for their personal benefit, or fraudulently transferred investor funds to the Relief Defendants, most of whom are Cuomo's relatives. During the Relevant Period, Garcy and Cuomo misappropriated at least \$2.2 million and \$1.8 million, respectively, of the money raised from E-Z Media investors. Of the approximately \$4 million that the Defendants obtained in ill-gotten gains, the Defendants transferred, or caused the transfer of, a total of approximately \$2 million to the Relief Defendants. The Relief Defendants have no lawful claim to these funds.

6. Defendants' offer and sale of E-Z Media securities to investors was also unlawful because E-Z Media had not filed a registration statement with the Commission, no registration statement was in effect at the time of sale, and no exemption from registration was available for the offering.

VIOLATIONS

7. By virtue of the conduct alleged herein, Garcy and Cuomo, directly or indirectly, singly or in concert, have engaged in transactions, acts, practices, or courses of business that constitute violations of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act"), [15 U.S.C. §§ 77e(a) and 77e(c)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), [15 U.S.C. § 78j(b)], and Rule 10b-5, [17 C.F.R. § 240.10b-5]. Unless they

are permanently enjoined, Garcy and Cuomo will continue to engage in the transactions, acts, practices, and courses of business set forth in this Complaint and in transactions, acts, practices, and courses of business of similar type and object.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

8. 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)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)], seeking to restrain and enjoin permanently the Defendants from engaging in the acts, practices, transactions, and courses of business alleged herein. The Commission also seeks a final judgment:

- a. ordering the Defendants to disgorge their ill-gotten gains, on a joint and several basis, plus prejudgment interest thereon;
- b. ordering the Defendants to pay civil penalties;
- c. ordering the Relief Defendants to each disgorge his or her ill-gotten gains plus prejudgment interest thereon;
- d. ordering the Defendants and the Relief Defendants to each provide an accounting; and
- e. permanently barring the Defendants from serving as officers or directors of a public company.

JURISDICTION AND VENUE

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

10. Venue lies in this Court pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)], and Sections 21(d), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u-1 and 78aa]. Certain of the acts, practices, transactions, and courses of business alleged herein occurred within the Eastern District of New York. Many of the misrepresentations in furtherance of the fraudulent offering alleged herein were made from, to, or within the Eastern District of New York. In addition, Cuomo resides in the Eastern District of New York, and during part of the Relevant Period, E-Z Media maintained an office within the Eastern District of New York.

DEFENDANTS

11. Garcy, a/k/a Jorge Garcia, age 54, resides in Aventura, Florida. Garcy was a co-founder, officer, and a board member of E-Z Media during the Relevant Period.

12. Cuomo, age 62, resides in Staten Island, New York. Cuomo was a co-founder, officer, and a board member of E-Z Media during the Relevant Period.

RELIEF DEFENDANTS

13. J. Guido, age 55, resides in Brooklyn, New York. J. Guido is Cuomo's sister, and between in or around November 2004 and continuing through January 2009, J. Guido received at least \$1.7 million in payments from E-Z Media. J. Guido provided no consideration to E-Z Media for these payments and she has no legitimate claim to retain these ill-gotten proceeds.

14. R. Cuomo, age 37, resides in Staten Island, New York. R. Cuomo is Defendant Cuomo's son. Between in or around August 2005 and November 2007, R. Cuomo received at least \$132,500 in payments from E-Z Media. R. Cuomo provided no consideration to E-Z Media for these payments and he has no legitimate claim to retain these ill-gotten proceeds.

15. V. Cuomo, age 31, resides in Staten Island, New York. V. Cuomo is Defendant Cuomo's son. Between in or around September 2005 and July 2008, V. Cuomo received at least \$108,000 in payments from E-Z Media. V. Cuomo provided no consideration to E-Z Media for these payments and he has no legitimate claim to retain these ill-gotten proceeds.

16. Lively, age 55, resides in Farmingdale, New York. Lively is an attorney licensed to practice law in New York. Between in or around December 2004 and March 2009, Lively received at least \$120,000 in payments from E-Z Media for which he provided no consideration. Lively has no legitimate claim to retain these ill-gotten proceeds.

FACTS

17. E-Z Media, is a Nevada corporation that during the Relevant Period had offices in Manhattan and Brooklyn, New York. E-Z Media designs carriers for use at concession stands at stadiums, arenas, movie theaters, and similar venues. E-Z Media is not registered, nor does it file reports, with the Commission.

18. During the Relevant Period, Garcy and Cuomo raised approximately \$8 million from at least 200 investors through a fraudulent offering of unregistered E-Z Media securities. In exchange for their investment, many of the E-Z Media investors received E-Z Media stock certificates signed by Cuomo, or subscription agreements signed by Garcy.

19. Garcy and Cuomo offered and sold E-Z Media's securities while knowingly or recklessly misrepresenting material facts to investors. Defendants misappropriated and diverted a total of at least \$4 million of the funds obtained from investors for their personal benefit, or the benefit of relatives and associates, while concealing the true use of the offering proceeds from investors.

Misrepresentations Concerning Contracts with Major Companies

20. Garcy and Cuomo falsely told investors during the Relevant Period that E-Z Media had, or was negotiating, contracts to sell its products to several major companies. For example:

- a. In or around 2005, Garcy and Cuomo met with and falsely told "Investor A" that E-Z Media had contracts in place to sell its products to Budweiser and Aramark. Garcy and Cuomo also told "Investor A" that E-Z Media had pending contracts with International Paper, Inc. ("International Paper") and other companies. "Investor A" purchased E-Z Media securities in December 2005, investing \$20,000.
- b. In late 2004 and early 2005, Garcy and Cuomo met with and falsely told "Investor B" that E-Z Media had contracts in place to sell its products to Budweiser and Heineken. "Investor B" first purchased E-Z Media securities in November 2004, investing \$30,000.
- c. In or around 2006, Garcy and Cuomo met with and falsely told "Investor C" at an American Legion Hall in Hempstead, New York, that E-Z Media was negotiating contracts with Budweiser. "Investor C" purchased E-Z Media securities in July 2006, investing \$10,000.
- d. In or around 2004, Garcy met with and falsely told "Investor D" that E-Z Media had pending contracts in place to sell its products to Budweiser and Aramark. "Investor D" first purchased E-Z Media securities in July 2004, investing \$5,000.
- e. In or around 2009, Garcy and Cuomo met with and falsely told "Investor E" that E-Z Media was in contract talks with Anheuser Busch and The Coca Cola

Company. "Investor E" purchased E-Z Media securities in February 2009, investing \$50,000.

21. Defendants knew, or were reckless in not knowing, that these statements concerning E-Z Media's actual or pending contracts with major companies were false. At no time during the Relevant Period did E-Z Media have any contracts with these companies, nor was E-Z Media ever engaged in contract negotiations with these companies.

22. In addition to the foregoing misrepresentations, Garcy and Cuomo also made material written misrepresentations in an E-Z Media "business plan," which Defendants created and provided to investors. In that "business plan," Defendants misrepresented to investors that E-Z Media had business relationships with Aramark, International Paper, and national "movie chains." Defendants also misrepresented in that "business plan" that E-Z Media's "objectives" included, among other things, "to continue their joint ventures work with companies such as Aramark and International Paper." The E-Z Media business plan also states that the company has "the backing of International Paper, and [sic] setting up ventures with Aramark, Inc., along with various movie chains around the country. . . ."

23. Garcy and Cuomo knew or were reckless in not knowing that these statements were false, and that at no time during the Relevant Period did E-Z Media have any contracts, joint ventures, or other business relationships with Aramark, International Paper, movie chains, or other large companies.

**Misrepresentations Concerning an E-Z Media IPO and
Subsequent Appreciation of E-Z Media's Share Price**

24. Garcy and Cuomo falsely told several investors during the Relevant Period that E-Z Media would "go public" within the short-term, variously representing that the IPO would occur within three months, one year, or other periods in the near future. In these same

communications, and to induce investors to purchase E-Z Media securities, Defendants made price projections that they knew, or were reckless in not knowing, were baseless. For example:

- a. In or around 2004, Garcy met with and told "Investor D" that E-Z Media's stock would trade at \$7.00 to \$20.00 per share when the company went public within 60 to 90 days.
- b. In or around 2005, Garcy and Cuomo met with and told "Investor A" that E-Z Media's shares would double in value in one year.
- c. In or around 2004, Garcy and Cuomo told "Investor B" that E-Z Media would go public in three months. When the purported IPO had not occurred within the three months, Garcy and Cuomo falsely told "Investor B" that the IPO would occur three months hence.
- d. In or around 2006, Garcy and Cuomo falsely told "Investor C" that E-Z Media was in the process of obtaining a stock symbol and that the company was going public in the not-too-distant future.

25. Defendants knew, or were reckless in not knowing, that their statements about E-Z Media's imminent IPO and the expected post-IPO price appreciation were baseless. Garcy and Cuomo knew, or were reckless in not knowing, that during the Relevant Period E-Z Media owned few significant assets, had no significant revenues, and had substantial liabilities, including a multi-million dollar payment owed to Cuomo purportedly for patents that Cuomo had transferred to E-Z Media.

26. Garcy and Cuomo never prepared audited financial statements for E-Z Media, never consulted with underwriters, auditors or other professionals, never filed a registration statement on E-Z Media's behalf with the Commission, or took any other steps to prepare for an

IPO of E-Z Media shares.

**Misrepresentations and Omitted Material Facts
Concerning E-Z Media's Ownership of the Patents**

27. Garcy and Cuomo falsely told at least two investors that E-Z Media owned beverage and carrier patents, purportedly the company's main assets. In or around 2004 and again in 2009, Garcy and Cuomo told at least two different E-Z Media investors that E-Z Media owned the carrier patents.

28. Garcy and Cuomo never disclosed to investors, however, that the company's claimed ownership of the patents was contingent on E-Z Media's payment of \$14.5 million to Cuomo, and that Cuomo's transfer of the patents to E-Z Media may not have been valid in the first place because Cuomo had previously transferred his ownership rights to Relief Defendant J. Guido. E-Z Media has never paid the \$14.5 million to Cuomo for the patents, and as a start-up company with no significant assets or income, the company was never in a position to do so.

Defendants Failed to Disclose Garcy's Prior Securities Law Violations

29. On September 18, 1997, the Commission found Garcy liable for violations of Sections 5(a) and 5(c) of the Securities Act, and Section 15(a) of the Exchange Act, for improperly offering and selling a company's stock to the public. The Commission ordered that Garcy "cease-and-desist from committing or causing any violations, or any future violations," of the federal securities laws. Cuomo knew, or was reckless in not knowing, of the Commission's order against Garcy.

30. During the Relevant Period, Garcy had key responsibilities at E-Z Media, including day-to-day operations, communications with potential investors, and marketing E-Z Media's products, among other responsibilities. Garcy touted his prior experience and success with deals such as E-Z Media when soliciting investors to invest in E-Z Media, telling

“Investor F,” for example, that he profited from prior deals, and of his involvement with other businesses.

31. Garcy and Cuomo failed to inform E-Z Media investors during the Relevant Period of the material fact that the Commission previously found that Garcy had violated the securities laws by improperly selling stock in violation of the registration provisions of the federal securities laws.

Defendants Misrepresented Their Use of E-Z Media Offering Proceeds

32. During the Relevant Period, Garcy and Cuomo falsely told E-Z Media investors that they would use the offering proceeds to develop and market the carriers to various companies, and for general business expenses on behalf of E-Z Media. Garcy and Cuomo failed to disclose to E-Z Media investors that Garcy and Cuomo would divert significant portions of the E-Z Media offering proceeds for their own personal benefit, or the benefit of their relatives and associates, and not for E-Z Media’s business.

33. Rather than using the funds they obtained from investors in the manner they represented they would, Garcy and Cuomo used money in E-Z Media’s bank account to pay rent on various personal residences, mortgage payments, dry cleaning, private school tuition, clothing, and other living expenses. For example:

- a. On or around April 1, 2005, Garcy transferred \$10,000 from an E-Z Media bank account to his brother, supposedly in repayment of a personal loan owed by Garcy.
- b. On or around July 12 and 15, 2006, Garcy made two transfers totaling \$7,000 from an E-Z Media bank account to his brother and sister. Both of these transfers were purportedly for the repayment of personal loans owed by Garcy. On or

around July 12, 2006, Garcy and Cuomo transferred another \$4,000 from that same E-Z Media bank account to Cuomo's sister, Relief Defendant J. Guido.

c. On or around June 5, 2006, Garcy and Cuomo made two transfers totaling \$5,459 from an E-Z Media bank account to a private school to pay the tuition of Cuomo's children.

d. On or around February 1, 2007, Garcy transferred \$5,000 from an E-Z Media bank account to a landlord to pay Garcy's personal rent obligation.

34. In all, Garcy misappropriated at least \$2.2 million of the E-Z Media offering proceeds and Cuomo misappropriated at least \$1.8 million of those funds.

Improper Transfers to the Relief Defendants

35. Defendants diverted approximately \$2 million of the total E-Z Media offering proceeds to the Relief Defendants. Specifically, Defendants transferred at least \$1.7 million to J. Guido between in or around June 2003 and January 2009; at least \$132,500 to R. Cuomo between in or around August 2005 and November 2007; at least \$108,000 to V. Cuomo between in or around September 2005 and July 2008; and at least \$120,000 to Lively between in or around December 2004 and March 2009. None of the Relief Defendants provided any consideration for the monies they received and they have no legitimate claim to any of these funds.

FIRST CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5

(Anti-fraud violations)

Garcy and Cuomo

36. The Commission re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 35.

37. Garcy and Cuomo, in connection with the purchase and sale of

securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce or of the mails, employed devices, schemes or artifices to defraud; made untrue statements of material fact and/or have omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and engaged in acts, practices, transactions or courses of business which operate or would operate as a fraud or deceit upon investors.

38. The misstatements and omissions of fact alleged in this Complaint were material.

39. Defendants knew, or were reckless in not knowing, that their statements were false and misleading.

40. By reason of the activities described herein, the Defendants have violated and unless restrained and 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], promulgated thereunder.

SECOND CLAIM FOR RELIEF
Violations of Section 5(a) and 5(c) of the Securities Act
(Registration violations)
Garcy and Cuomo

41. The Commission re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 35.

42. The investments in E-Z Media as alleged herein constitute "securities" as defined in the Securities Act and the Exchange Act.

43. The Defendants singly or in concert, directly or indirectly, have made use of the means or instruments of transportation or communication in interstate commerce, or of the mails, to offer and sell securities through the use or medium of a prospectus or otherwise when no registration statement has been filed or was in effect as to such securities and when no exemption from registration was available.

44. By reason of the foregoing, the Defendants, singly or in concert, directly or indirectly, violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

THIRD CLAIM FOR RELIEF
(Disgorgement from Relief Defendants)

45. The Commission re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1 through 35.

46. In the manner described above, the Relief Defendants each received ill-gotten gains for which each gave no consideration, and to which each has no legitimate claim.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a Final Judgment:

I.

Permanently restraining and enjoining the Defendants, and their agents, servants, employees and attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)], 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].

II.

Ordering the Defendants, jointly and severally, to disgorge, with prejudgment interest, all ill-gotten gains derived directly or indirectly from the violations alleged in this Complaint.

III.

Ordering the Defendants to each pay civil monetary 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)].

IV.

Ordering the Relief Defendants to disgorge, with prejudgment interest thereon, all ill-gotten gains derived directly or indirectly from the violations alleged in this Complaint.

V.

Ordering each of the Defendants and each Relief Defendant to file with this Court and serve upon the Commission verified written accountings, signed by each of them under penalty of perjury.


VI.

Barring the Defendants pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] from acting as officers or directors of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 781] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 780(d)] and for such other relief as the Court may deem appropriate.

VII.

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

Dated: May 11, 2011
New York, New York

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