

Gray. But in truth, he and Gray squandered the vast majority of those funds in gambling, personal expenses, payments to other businesses controlled by Gray, and payments to other investors, i.e., Ponzi payments. In addition, Dearman also stole roughly \$700,000 from some of his clients through various ruses in flagrant violation of his fiduciary duties owed as an investment adviser.

2. Dearman and Gray were able to lure these clients in part because many of them had known him and his family since childhood, thought of him as an active member of their church, and knew him as a popular local wedding singer.

3. By reason of these activities, Dearman violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)], Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5], and Sections 206(1) and (2) of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and (2)].

4. By reason of these activities, Gray violated, and unless enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Rule 10b-5 [17 C.F.R. § 240.10b-5] and, additionally or alternatively, aided and abetted Dearman’s violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5]. Gray further aided and abetted Dearman’s violations of Sections 206(1) and (2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)].

5. The Commission, in the interest of protecting investors and the securities markets brings this action against Defendants, seeking permanent injunctive relief, disgorgement plus prejudgment interest (jointly and severally), and civil monetary penalties. The Commission

further seeks disgorgement from Relief Defendants, to the extent they are in possession of funds derived from Defendants' fraud and have no legitimate claim to those assets.

JURISDICTION AND VENUE

6. The investments, which took the form of either promissory notes or equity shares that were offered and sold by Defendants are "securities" under Section 2(1) of the Securities Act [15 U.S.C. § 77b(1)] and Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c(a)(10)].

7. The Commission brings this action under Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)]. The Commission seeks the imposition of civil penalties pursuant to Sections 21(d) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u-1] and Section 217 of the Advisers Act [15 U.S.C. § 80b-17].

8. This Court has jurisdiction over this action under Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77u(a) and 77v(a)], Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u and 78aa], and Sections 209 and 214 of the Advisers Act [15 U.S.C. §§ 80b-9 and 80b-14].

9. Defendants have, directly or indirectly, used the means and instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged in this complaint. Venue is proper because certain acts, practices, transactions and courses of business alleged in this action occurred within the Northern District of Oklahoma.

PARTIES

A. Defendants

10. **Dearman**, 40, currently resides in Tulsa, Oklahoma. Before moving to Tulsa, Dearman resided in Bartlesville, Oklahoma. There, he was an investment-adviser representative, partner, and partial owner of Commission-registered investment adviser (“the SEC-registered adviser”) from November 1, 2003, until August 24, 2012, when the SEC-registered adviser terminated his employment and partnership in the firm. Dearman invoked his Fifth Amendment privilege against self-incrimination as to key areas of the Commission’s investigation.

11. **Gray**, 50, of Bartlesville, Oklahoma, is a licensed realtor with the State of Oklahoma. During the relevant period, she was the majority owner and President of Bartnet and sole owner and CEO and President of The Property Shoppe and Quench Buds. She alone had signatory authority and control over the bank accounts for these entities. Like Dearman, Gray ultimately asserted her Fifth Amendment privilege against self-incrimination and declined to testify under oath in the Commission’s investigation.

B. Relief Defendants

12. **Bartnet** is an Oklahoma corporation formed in August 2001 and headquartered in Bartlesville, Oklahoma. During the relevant period, Bartnet was a wireless internet service provider in northeast Oklahoma with Gray as its majority owner and President. During all times relevant to this action, Bartnet has never earned a profit.

13. **The Property Shoppe** is an Oklahoma corporation formed in March 2011 with its principal place of business in Bartlesville. Gray is the sole owner of The Property Shoppe and serves as its CEO and President. During the relevant period, The Property Shoppe was a shell company with no employees or operations.

14. **Quench Buds** is an Oklahoma limited-liability company owned by Gray, who is also its CEO and President. It operates four convenience stores in northeast Oklahoma.

FACTUAL ALLEGATIONS

A. Bartnet Fraud

15. Between December 2008 and August 2012, Dearman recommended Bartnet as an investment to approximately 17 clients, raising more than \$1.7 million through the sale of Bartnet promissory notes. The notes typically bore three to five year terms and up to 10% interest rates. The investors did not know, because Dearman failed to disclose it to them, that Gray paid Dearman a 3-5% fee on the face value of each note he obtained.

16. Dearman told clients that Bartnet was a growing internet company that needed additional funds to purchase transmission towers and equipment. He assured them that the notes bore little or no risk. He provided clients virtually no other information about the investment.

17. Dearman knew or recklessly ignored that Bartnet was incapable of supporting the debt load represented by the promissory notes. By at least 2008, Dearman either knew or was severely reckless in not knowing that Bartnet was having financial problems. At that time, he and his wife acquired an ownership interest in Bartnet by loaning it more than \$100,000. Dearman routinely failed to disclose to his clients that he and his wife owned 10% of Bartnet.

18. Further, on numerous occasions, Dearman learned that Bartnet investors had not received scheduled interest payments, which prompted him and Gray to scramble to find funds to make the payments. In some cases, Gray used funds from new investors (including from investors in Quench Buds and The Property Shoppe) to pay earlier investors. In others, Dearman paid interest from his own accounts, just to mollify his clients. Indeed, things were going so badly that at one point in May 2011, Gray emailed Dearman to “make something up” to explain

why Bartnet had not paid interest to an investor. Dearman was the one obtaining the constant flow of investor monies into Bartnet, which he knew were used at least in part to pay prior investors.

19. Further, Dearman concedes that he never saw any Bartnet towers, which Gray was supposedly purchasing with investor funds. Also, Dearman and Gray together frequented local casinos throughout the relevant time period. Dearman therefore must have seen Gray's large gambling outlays (totaling over \$1.1 million over the course of the scheme).

20. Upon information and belief, Dearman, whom Gray described as her "best friend," knew about Bartnet's poor financial condition from conversations with Gray, and that he must at least have been suspicious of how Gray could afford to spend so much money gambling.

21. For all these reasons, Dearman knew or was reckless in not knowing that the investor funds he procured were not being used as he represented and, consequently, were at risk and anything but safe and secure, as represented.

22. For her part, Gray knew that Dearman was soliciting his clients for investments in Bartnet. She helped him do so by supplying false information about how the funds would be used. She also used new investor funds (including funds from investors in her other companies) to make interest payments owed on notes to prior investors.

23. While Gray's direct interaction with Dearman's clients was limited, she personally met with at least one client and told that client that Bartnet was expanding and needed money to buy additional transmission towers. Dearman, with Gray at his side, assured the investor that the investment was safe, and that the unprofitable Bartnet was a good company with a strong financial position that would make the investor more money than she could earn at the

SEC-registered advisers. Swayed by Dearman and Gray's claims, the investor purchased an \$80,000 promissory note, representing nearly half of the investor's retirement funds.

24. Also, Gray played a vital role in virtually every aspect of the Bartnet fraudulent scheme. All the money raised for Bartnet went into a bank account she controlled. Gray was the contact person for the self-directed IRA custodians used to house the Bartnet investments. She was also fully aware that Bartnet was operating at a loss and would be insolvent without the continuous infusion of new investor funds. Indeed, in October 2010 Gray obtained a \$250,000 credit line from a bank for Bartnet, supposedly for Bartnet's growth and the purchase of towers. These funds were spent in just over a month. The bank promptly suspended the credit line on November 19, 2010.

25. Most importantly, Gray knew that very little of investor money was being used to grow Bartnet or to buy equipment because she controlled the bank accounts. Specifically, \$1.7 million was raised ostensibly for Bartnet. Adding the \$795,000 of The Property Shoppe investments that Gray transferred to Bartnet, without those investors' knowledge or consent, and the \$275,000 she transferred from Quench Buds to Bartnet, the total investor monies in Bartnet was more than \$2.7 million. Of this, Gray took more than \$1,880,000 to pay her personal expenses and support her gambling habit. She also paid \$336,221 to Dearman. None of these uses of funds was disclosed to investors.

B. The Property-Shoppe Fraud

26. Between April 11, 2011, and August 2012, Dearman and Gray raised nearly \$2 million, mostly through sales of stock, in a second Gray-controlled company, The Property Shoppe.

27. Dearman asserted his Fifth Amendment rights on all The Property Shoppe issues. But, according to his clients, he was uniformly sunny in his descriptions of this investment. He represented to investors that the purpose of the investment was to purchase repossessed homes or other properties and then remodel and flip them for profit. For instance, Dearman told one investor to withdraw funds from his retirement accounts and invest them in The Property Shoppe equities, because his investment was sure to increase in value by at least 10% in one year. He told another investor that The Property Shoppe investment would double what he was making in the stock market. Both of these individuals invested large percentages of their retirement funds in The Property Shoppe stock and lost their funds.

28. Dearman, however, knew or recklessly ignored that Gray was not using The Property Shoppe funds as promised and that, if it was conducting any business at all, it was in grave financial condition.

29. Indeed, Dearman was instrumental in implementing the fraudulent scheme. At the inception of The Property Shoppe, Dearman himself instructed Gray's attorney to be "vague" about its business purpose. Specifically, on April 25, 2011, Gray's attorney, who was tasked with drafting the private placement memorandum for The Property Shoppe, e-mailed Gray about, among other things, what the company would do, using as an example "invest in the [B]artnet companies or whatever." Gray forwarded the e-mail to Dearman, asking that he answer the questions. Dearman replied:

[T]he more vague The Property Shoppe can be, the better. (If you know where I'm going with that). I would like to keep Barnet as far away from this company's documentation as possible. The bottom line do as little as possible to make the company legally bound to adhere to any set 'investment' policy . . .

30. Further, Dearman was keenly aware of the constant pressure from Gray to find new investors. In early May 2011, Gray emailed Dearman that she desperately needed more

money. She asked, “Have you looked at anymore money people,” warning that “we are gonna have to find some money before the 15th. Do you think that is possible?” Dearman replied,

I am scheduling a meeting with all my clients the next few weeks to go over their investments. I am looking to get at least 4 of them to do a \$50,000 investment in to the property shoppe. That would be another \$200,000 plus the \$100,000 I have already got commitments from. . . *I will start looking for someone to lend the property shoppe more money. I am running out of people to ask.* UGH.
[Emphasis added.]

31. Dearman knew that the money raised for The Property Shoppe was not to be used for The Property Shoppe. For example, he knew The Property Shoppe money was going toward Ponzi payments to Bartnet noteholders. On June 8, 2011, Dearman emailed Gray, listing investors, the vast majority of which were Bartnet investors, that “we will need to pay” and the amount of the payments to each, totaling \$194,600. He then identified prospective investors he would ask for money and the amount he anticipated they would invest, which totaled \$350,000. Some of the listed potential investors later purchased stock in The Property Shoppe.

32. Dearman did not tell any of his clients who invested in The Property Shoppe that their funds would be used for any other business. He also did not tell them that Gray was paying him 3-5% of each dollar invested in The Property Shoppe.

33. Gray is equally culpable. She concedes that The Property Shoppe never conducted any business. Yet, to aid in Dearman’s fundraising efforts, she knowingly participated in the creation of the its private placement memorandum – one version of which falsely represented that monies raised would be used to fund house purchases and to refurbish and re-sell them.

34. Moreover, Gray directly misrepresented facts to at least one investor who purchased \$100,000 worth of The Property Shoppe stock in two tranches. Before the first tranche, Gray and Dearman told this investor that his money was to be used to buy structurally

sound homes that needed superficial repair and flip them for profit. She further assured him that, as a local realtor, she knew the Bartlesville real estate market well. Before the second tranche, Gray told the investor that his funds would be used to buy commercial real estate. She later lied to him that she had flipped the properties for \$1.2 million.

35. Gray did not spend any of The Property Shoppe funds to buy real estate. Instead, knowing that the money was raised from investors for The Property Shoppe, Gray mostly spent it to cover her gambling costs and personal expenses. She also transferred Property Shoppe funds to Bartnet, some of which she used to make Ponzi payments to Bartnet noteholders.

36. Specifically, of the nearly \$2 million raised for The Property Shoppe, Gray transferred more than \$1 million to her personal account to defray her gambling and other personal expenses, sent \$795,000 to Bartnet, and sent \$230,000 to Quench Buds. She made sizable personal withdrawals from both Bartnet and Quench Bud accounts.

C. **Quench Buds Fraud**

37. Quench Buds, another Gray business, operates four convenience stores in the Bartlesville area.

38. In July 2012, Dearman recommended investing in Quench Buds to at least two investors, raising \$320,000 in total. He told one investor that Quench Buds was a successful business, that he knew and trusted the owner, and that the investment was safe. He told the other investor that Quench Buds was an opportunity to invest in a local business and that she would receive a good return.

39. Without notice to investors, Gray transferred \$275,000 of the \$320,000 raised from investors for Quench Buds to Bartnet, paid \$20,000 to Dearman, paid \$10,000 to partially

repay a Bartnet investor, and took some for herself. The small remainder went into Quench Buds' operations.

D. Dearman also took money from advisory clients

40. During the same three-year period that Gray and Dearman perpetrated their fraudulent schemes, Dearman stole substantial money from his clients through various ruses.

41. Dearman falsely told some that he needed a loan to buy out another adviser's practice and others that they were not paying him enough in advisory fees. He also told several that he had a good investment in a company that wanted to remain anonymous, so it would be best to write checks directly to him. Similarly, he told some of his clients whom he had induced to invest in Bartnet, The Property Shoppe, or Quench Buds to write a check directly to him.

42. Dearman's trusting clients again were quick to follow his advice, writing him checks personally that totaled more than \$700,000. Of this, Dearman spent over \$460,000 on gambling and personal expenses and transferred \$140,000 to Gray. Dearman paid the remaining \$107,000 to make interest payments to various investors.

E. The Schemes Collapse

43. In August, 2012, a trustee for one of Dearman's clients emailed Dearman, questioning the suitability of two of Dearman's recommended investments and copying the SEC-registered adviser Dearman worked for. The SEC-registered adviser subsequently fired Dearman and reported his misconduct to the Commission.

44. The Defendants' Ponzi payments and other misuses of investor funds were not disclosed to investors; nor did investors have any reason to believe their funds would be used as they were.

CLAIMS FOR RELIEF

FIRST CLAIM

Violations of Section 17(a) of the Securities Act
[Against Both Defendants]

45. The Commission repeats and re-alleges Paragraphs 1 through 44 of the Complaint as if fully set forth herein.

46. Dearman and Gray, directly or indirectly, singly or in concert, in the offer or sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce or of the mails, knowingly or with reckless disregard for the truth: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities.

47. As part of and in furtherance of their fraudulent schemes, Defendants Dearman and Gray, directly and indirectly, prepared, disseminated, or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral representations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. In addition, they engaged in a scheme which operated as a fraud by creating and using a sham corporation, The Property Shoppe, and engaged in a practice and course of business generally of misusing investor proceeds to pay returns to earlier investors and by misappropriating investor funds for their own use.

48. With respect to violations of Sections 17(a) of the Securities Act, Defendants Dearman and Gray acted knowingly or with severe recklessness regarding the truth. As to Sections 17(a)(2) and (3), Defendants, alternatively, were negligent.

49. By engaging in the foregoing conduct, Dearman and Gray violated, and unless enjoined will continue to violate, Securities Act Section 17(a) [15 U.S.C. §§ 77q(a)].

SECOND CLAIM
Violations of Exchange Act 10(b) and Rule 10b-5 thereunder
[Against Both Defendants]

50. The Commission repeats and re-alleges Paragraphs 1 through 44 of the Complaint as if fully set forth herein.

51. Dearman and Gray, directly or indirectly, singly or in concert, by the use of the means or instrumentalities of interstate commerce, of the mails or of the facilities of a national securities exchange, in connection with the purchase or sale of securities, knowingly or with reckless disregard for the truth: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact or 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; or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities and upon other persons.

52. As part of and in furtherance of their fraudulent schemes, Defendants Dearman and Gray, directly and indirectly, prepared, disseminated, or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral representations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. In addition, they engaged in a

scheme to defraud or course of business which operated as a fraud by creating and using a sham corporation, The Property Shoppe, and engaged in a practice and course of business generally of misusing investor proceeds to pay returns to earlier investors and by misappropriating investor funds for their own use.

53. Defendants Dearman and Gray acted knowingly or with severe recklessness regarding the truth.

54. By engaging in the foregoing conduct, Defendants violated, and unless enjoined will continue to violate, Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

THIRD CLAIM
Aiding and Abetting Violations of Securities Act Section 17 (a) and
Exchange Act Section 10(b) and Rule 10b-5
[Against Gray]

55. The Commission repeats and re-alleges Paragraphs 1 through 44 of the Complaint as if fully set forth herein.

56. As asserted above, the Commission alleges that Gray is a primary violator of Securities Act Section 17(a) [15 U.S.C. §§ 77q(a)] and Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5]. Additionally or alternatively, the Commission alleges that Gray aided and abetted and caused Dearman's primary violations of these provisions. Gray knowingly or recklessly provided substantial assistance to Dearman's violations thereof, and unless enjoined and restrained, will continue to aid and abet and cause violations of these provisions.

57. Among other things, Gray initiated Dearman's solicitations of the fraudulent investments and paid him a fee for each one he got. She falsely held herself out as the owner of three legitimate businesses, one of which was a shell that she created solely to receive investor

funds. She controlled all the bank accounts in which investor money was deposited. And she made Ponzi payments to investors and received and squandered the bulk of the money on herself.

FOURTH CLAIM
Primary Violations and Aiding and Abetting Violations of
Sections 206(1) and 206(2) of the Advisers Act
[Against Dearman and Gray, respectively]

58. The Commission repeats and re-alleges Paragraphs 1 through 44 of the Complaint as if fully set forth herein.

59. At all relevant times, Dearman operated as an investment adviser as defined by Section 202(a)(11) of the Advisers Act [15 U.S.C. § 80b2(a)(11)], and served in that capacity with respect to his clients and investors.

60. As alleged herein, Dearman, while acting as an investment adviser, directly or indirectly, by use of the mails or means and instrumentalities of interstate commerce, (a) with requisite scienter employed devices, schemes, and artifices to defraud clients; and (b) engaged in transactions, practices, and courses of business which operated as a fraud or deceit upon clients and prospective clients.

61. By reason of the foregoing, Dearman violated, and unless enjoined will continue to violate, Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§80b-6(1) and (2)].

62. Among other things, Dearman represented to clients and prospective clients that Gray's businesses would yield good returns when he knew that Gray lacked the funds to make the basic interest payments on the notes and that the money raised was not being used by Gray in the manner in which it was described to investors. He generally failed to disclose his conflict of interest to his clients that he owned a portion of Bartnet.

63. Gray aided and abetted and caused Dearman's violations of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§80b-6(1) and (2)] by knowingly or recklessly providing

substantial assistance to Dearman's violations thereof, and unless enjoined and restrained, will continue to aid and abet and cause violations of these provisions.

64. Among other things, Gray induced Dearman's solicitations of investments and paid him a fee for doing so. She also directly made material misrepresentations to at least two of Dearman's clients, to one in person with Dearman by her side. And, she spent a significant amount of the money raised on herself.

FIFTH CLAIM
Claims Against Relief Defendants as Custodian of Investor Funds

65. The Commission repeats and re-alleges Paragraphs 1 through 44 of the Complaint as if fully set forth herein.

66. Relief Defendants received, directly or indirectly, funds and/or other benefits from the Defendants, which either are the proceeds of, or are traceable to the proceeds of, the unlawful activities alleged herein and to which they have no legitimate claim to these funds and property.

67. Relief Defendants obtained the funds and property as part of and in furtherance of the securities violations alleged and under circumstances in which it is not just, equitable or conscionable for them to retain the funds and property. Accordingly, they have been unjustly enriched.

68. The Commission is entitled to an order requiring that Relief Defendants disgorge these funds and property plus prejudgment interest thereon.

RELIEF REQUESTED

For these reasons, the Commission respectfully requests that the Court:

(a) Permanently enjoin Defendants and their agents, servants, employees, attorneys and all persons in active concert or participation with them who receive actual notice of the

injunction by personal service or otherwise, from violating, directly or indirectly Securities Act Section 17(a) [15 U.S.C. §§ 77q(a)], Exchange Act Section 10(b) [15 U.S.C. § 78j(b)], Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5], and Sections 206(1) and (2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and (2)];

(b) Order Defendants to disgorge, jointly and severally, any ill-gotten gains and/or unjust enrichment realized by each of them, plus prejudgment interest;

(c) Order each Defendant to pay an appropriate civil monetary penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)];

(d) Order Relief Defendants to disgorge an amount equal to the funds and benefits they obtained directly or indirectly, from the Defendants, which either are the proceeds of, or are traceable to the proceeds of, the unlawful activities alleged herein, plus prejudgment interest; and

(e) Grant all other relief to which the Commission may be entitled.

August 27, 2013.

Respectfully submitted,

/s/ Janie Frank

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