

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

GREEN TREE INVESTMENT GROUP, INC.
and JEFFREY B. MALLETT,

Defendants.

C.A. No. 1:17-cv-1091

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) files this Complaint against Defendants Green Tree Investment Group, Inc. (“Green Tree”) and Jeffrey B. Mallett (“Mallet”) (collectively, “Defendants”), and alleges as follows:

SUMMARY OF THE ACTION

1. This action concerns the offer and sale of securities in violation of the broker-registration requirements of the federal securities laws. Section 15(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) requires brokers to be registered with the Commission or to be associated with a registered broker. This registration requirement and related rules of the Exchange Act and self-regulatory organizations provide important safeguards to investors. Collectively, these rules create a comprehensive regulatory scheme that ensures registered brokers satisfy professional standards, treat customers fairly, adequately disclose information to investors, and maintain adequate capital.

2. Neither Green Tree nor Mallet, who owns and controls Green Tree, has ever registered as a broker with the Commission or associated with a registered broker. Despite their failure to register, Green Tree and Mallet operated as brokers from approximately April 2010 through October 2014 (the “Relevant Period”) by purchasing fractional ownership interests in various wells and other oilfield facilities for the benefit of other investors. In total, Green Tree and Mallet solicited and received approximately \$3.7 million to purchase these interests on the investors’ behalf. Green Tree and Mallet received compensation for these brokerage services by marking up the prices that investors paid for the interests and charging a commission on each transaction.

3. Defendants’ conduct violated the broker-registration requirements of Section 15(a) of the Exchange Act. Defendants should be enjoined from further violations thereof, ordered to disgorge all compensation received from their unlawful activities during the preceding five years, plus prejudgment interest, and ordered to pay an appropriate civil penalty for violating the federal securities laws.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e), and 78aa]. Defendants made use of the mails or the means or instrumentality of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, the securities alleged in this Complaint.

5. Venue is proper in this district pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the transactions, acts, practices, and courses of conduct constituting

violations of the federal securities laws occurred within this district and Defendants can also be found in this district.

DEFENDANTS

6. Defendant Green Tree Investment Group, Inc., formerly known as Black Brush Energy Inc., is incorporated in Texas with its principal place of business in Mason, Texas.

7. Defendant Jeffrey B. Mallett is an individual residing in Mason, Texas.

FACTUAL ALLEGATIONS

8. Mallett incorporated Green Tree in Texas on April 26, 2010. At all times during the Relevant Period, Green Tree acted solely through Mallett, who owned and controlled Green Tree and was its sole officer and employee.

9. Beginning in approximately April 2010, Green Tree and Mallett acted as securities brokers by purchasing fractional ownership interests in various oilfield facilities — primarily saltwater disposal wells and oil wells (collectively, “wells”) — for the benefit of other investors. To purchase the ownership interests, Defendants solicited and received money from investors and then used the investors’ money to purchase ownership interests in each well for the benefit of the investors. In each transaction, Defendants received compensation by “marking up” (*i.e.*, increasing) the purchase prices of the interests and charging a commission by retaining 10% of the total ownership interest purchased for each investor.

10. When a well was profitable, the well’s controlling owner and operator distributed a percentage of the operating profits to Defendants in accordance with the total ownership interest purchased by Defendants. When Defendants received these profit distributions, they redistributed the proceeds, *pro rata*, to the other investors. Neither Defendants nor the other investors were involved in managing or operating any of the wells or other oilfield facilities.

11. For example, in November 2010, Defendants purchased fractional ownership interests in a saltwater disposal well in Simmons, Texas. In total, Defendants purchased a 9% interest in the Simmons well for six investors. To purchase the interests, Defendants solicited and received funds from the six investors and then used the investors' funds to purchase an ownership interest in the Simmons well for each investor. In each purchase transaction, Defendants marked up the investors' purchase prices for the interests and charged a commission by retaining 10% of the interest purchased for each investor. When the Simmons well was profitable, its controlling owner and operator distributed 9% of the well's operating profits to Defendants, and then Defendants redistributed these proceeds, *pro rata*, to the six investors. Neither Defendants nor the investors had any role in managing or operating the Simmons well.

12. As another example, in 2013 and 2014, Defendants purchased fractional ownership interests in three oil wells. Again, in each case Defendants used the investors' funds to purchase the interests in the wells for the investors' accounts, Defendants marked up the investors' purchase prices, and Defendants charged a commission by retaining 10% of the interest purchased for each investor. When the oil wells had operating profits, the controlling owner and operator of the wells distributed Defendants' share of these profits to Defendants, who then redistributed the proceeds, *pro rata*, to the investors. Like the other investments, neither Defendants nor the investors had any role in managing or operating the oil wells.

13. In total, during the Relevant Period, Defendants purchased fractional ownership interests (*i.e.*, securities) in 16 separate oilfield facilities in Texas for the benefit of other investors. To acquire the securities, Defendants solicited and received approximately \$3.7 million from the investors, and paid approximately \$2.7 million to purchase the securities for the investors' respective accounts. Defendants generally purchased the securities for Mallett's

family, friends, and friends of friends, but some of these investors resold or otherwise conveyed their interests to a larger group of other investors. As a result, Defendants brokered transactions in securities that were ultimately distributed to approximately 94 investors, including one or more investors located outside the State of Texas.

14. Neither Green Tree nor Mallett was ever registered as a broker with the Commission or associated with a registered broker, including during the Relevant Period when the securities were offered, purchased, sold, and/or conveyed.

15. The fractional ownership interests that Defendants purchased for other investors are considered investment contracts and thus securities within the meaning of the Securities Act of 1933 (the “Securities Act”) and the Exchange Act. The investors paid money to purchase their ownership interests, and the controlling well owners pooled the investors’ funds together to build, manage and operate the wells. Additionally, the investors expected to receive profits from their investments based solely upon the efforts and expertise of the controlling well owners that managed and operated the wells. Neither Defendants nor the investors had any role in managing or operating the wells.

16. Defendants also purchased fractional ownership interests in several oil wells for the benefit of other investors. These interests in oil wells are securities under Section 2(a)(1) of the Securities Act, which defines “security” to include “fractional undivided interests in oil, gas, or other mineral rights,” and Section 3(a)(10) of the Exchange Act, which defines “security” to include any “certificate of interest or participation in any . . . oil, gas, or other mineral royalty or lease[.]”

CLAIM FOR RELIEF

Violations of Section 15(a) of the Exchange Act

17. The Commission reallages and incorporates by reference each and every allegation contained in the paragraphs above.

18. Defendants Green Tree and Mallett each acted as brokers within the meaning of Section 3(a)(4) of the Exchange Act [15 U.S.C. § 78c(4)] because they “engaged in the business of effecting transactions in securities for the account of others.” While acting as brokers, Defendants made use of the mails or the means or instrumentality of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, the securities alleged above.

19. Additionally, while acting as brokers, Defendants Green Tree and Mallet were not registered with the Commission in accordance with Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)] or associated with a broker or dealer as required by Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

20. By reason of the foregoing, Defendants Green Tree and Mallet violated, and unless enjoined will continue to violate, Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

RELIEF REQUESTED

Therefore, 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, Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)];

- (b) Order Defendants to disgorge, jointly and severally, all 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 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and
- (d) Grant such further relief as this Court may deem just and proper.

Dated: November 17, 2017

Respectfully submitted,

/s/ Keefe M. Bernstein
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CERTIFICATE OF SERVICE

Defendants have waived service of summons and this Complaint. See signed Consent attached as Exhibit A to Plaintiff's Motion for Entry of Final Judgement filed contemporaneously herewith. I also certify that on November 17, 2017, I served the foregoing to Defendants' last known mailing address by U.S. Mail and also by email.

/s/ Keefe M. Bernstein
Keefe M. Bernstein