

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA

IN THE MATTER OF:)	
)	
Dublin Finance Associates, LLC;)	
Thomas W. Janes;)	ORDER TO CEASE AND DESIST
Commonwealth Botanicals, LLC; and)	Matter No. 20194002
Dean D. Porter;)	
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)	
Respondents.)	
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I. PRELIMINARY STATEMENT

Pursuant to the authority granted to the Securities Commissioner of South Carolina (the “Securities Commissioner”) under the South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101 et seq. and the regulations and rules promulgated thereunder (the “Act”), and delegated to the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”) by the Securities Commissioner, the Division conducted an investigation into the securities-related activities of Dublin Finance Associates, LLC (“Dublin”), Thomas W. Janes (“Janes”), Commonwealth Botanicals, LLC (“Commonwealth”), and Dean D. Porter (“Porter”) (collectively, the “Respondents”). In connection with its investigation, the Division has determined that evidence exists to support the Findings of Fact and Conclusions of Law set forth below, and the issuance of an Order to Cease and Desist.

II. JURISDICTION

1. The Securities Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

III. RELEVANT PERIOD

2. Except as otherwise expressly stated, the conduct described herein occurred between October 1, 2018, to the present (the "Relevant Period").

IV. RESPONDENTS

3. Dublin is a South Carolina limited liability company formed on October 31, 2018, with a last known address of 782 Johnnie Dodds Boulevard, Mount Pleasant, South Carolina 29464.

4. Janes is a Massachusetts resident. During the Relevant Period, Janes formed Dublin and served as the Chief Executive Officer and sole managing member.

5. Commonwealth is a South Carolina limited liability company formed on November 29, 2018, with a last known address of 1650 James Nelson Road, Mount Pleasant, South Carolina 29464.

6. Porter is a South Carolina resident. During the Relevant Period, Porter formed Commonwealth and served as the sole managing member.

V. FINDINGS OF FACT

i. The Investment Opportunity

7. Janes and Porter met approximately years ago through a mutual acquaintance during a business transaction.

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10. Beginning in or around October 2018, Janes began soliciting investors with a business opportunity regarding the purchase and manufacture of hemp into CBD products for resale.

11. In or around November 2018, Janes represented to investors that the investors would receive 10% returns on their investment on a monthly basis and that upon termination, the investors would receive a return of their initial investment.

12. In or around November 2018, Janes further represented to investors that the CBD products would command a premium price and all proceeds would go to a lock-box under Dublin's control. Janes also represented that payments received from the sales of the CBD products would be subject to the release of liens by Dublin to pay the money to Dublin's escrow account and for the investors' monthly interest payments.

13. Between November 13, 2018, and December 12, 2018, investors executed Loan and Security Agreements and Subscription Agreements with Dublin whereby Dublin granted investors a security interest in collateral that included: (i) the raw hemp; (ii) any work-in-progress; (iii) the finished CBD products; (iv) Dublin's cash on hand and in Dublin's bank account; and (v) Dublin's portfolio of loans receivable from borrowers to whom Dublin had advanced funds in commercial factoring transactions.

14. In exchange for investor funds, Dublin issued promissory notes (the "Dublin Notes") to each investor containing the following terms:

- a. Interest on the principal amount was to be paid at the close of each thirty (30) day period at the rate of ten percent (10%) per month (defined as a thirty (30) day period) for a total of eight (8) consecutive thirty (30) day periods;

- b. The maturity date was two hundred forty (240) days from the date the Dublin Note was issued;
 - c. Dublin was to pay the principal amount of the investment in one installment on or before the date of maturity, not exceeding two hundred forty (240) days from the date the Dublin Note was issued; and
 - d. In the event of a default on the Dublin Note, interest on the unpaid principal amount would accrue at a rate of fifteen percent (15%) per month.
15. Between November 13, 2018, and December 12, 2018, Dublin raised \$775,000.00 from 13 investors.
16. The investor funds were wired to Dublin's bank account where Janes and Porter were both authorized representatives and signatories.
- ii. Dublin and Commonwealth Business Venture
17. On November 29, 2018, within a month of Janes' forming Dublin, Porter formed Commonwealth.
18. On or around December 3, 2018, Commonwealth and Dublin entered into a Loan and Security Agreement (the "Commonwealth Agreement") whereby Dublin agreed to provide Commonwealth \$700,000.00 in order to fund Commonwealth's operations and contractual obligations related to purchasing and transporting raw hemp, and using the raw hemp to manufacture CBD products for sale. These funds were to be advanced directly to the third parties by Dublin on behalf of Commonwealth.
19. Pursuant to the Commonwealth Agreement, Commonwealth executed the Senior Secured Commercial Promissory Note (the "Commonwealth Note") evidencing

Commonwealth's indebtedness to Dublin and obligation to pay Dublin the principal amount and interest upon maturity.

20. The Commonwealth Agreement also provided that Dublin was to receive an origination fee in the amount of 10% of the face value of the Commonwealth Note, equivalent to \$70,000.00, to be paid at the maturity of the Commonwealth Note.

21. Commonwealth and Dublin also entered into Consulting Services Agreement (the "Consulting Agreement") whereby Dublin would receive \$50,000.00 payable upon maturity of the Commonwealth Note.

22. The Commonwealth Agreement defined maturity as thirty (30) days from the date of the Commonwealth Note, or at such time as collateral securing the Commonwealth Note was sold, whichever occurred sooner.

23. On or around December 3, 2018, Commonwealth entered into a Supply Agreement, whereby a third-party farm agreed to sell Commonwealth 10,000 pounds of raw hemp for \$380,000.00. The Supply Agreement acknowledged that the cost of the purchase would be fulfilled on Commonwealth's behalf by Dublin.

24. On or around December 5, 2018, Commonwealth entered into a Manufacturing Agreement (the "Manufacturing Agreement") with LabCanna Biosciences, Inc. ("LabCanna") whereby LabCanna agreed to manufacture the hemp provided to it by Commonwealth into THC-removed CBD isolate.

25. The Manufacturing Agreement acknowledged that Dublin would advance funds due from Commonwealth to LabCanna on behalf of Commonwealth and that Dublin would have a first lien security interest in the raw hemp materials, the materials during the work in progress stages, and finished products.

26. The Manufacturing Agreement also acknow

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47. The Proposed Amendment provided that Dublin would pay the remainder of the principal amount of the Dublin Note in one installment on or before August 2, 2019, and would pay one interest payment of 40% of the principal amount on or before October 26, 2019.

48. The Dublin investors never agreed to the Proposed Amendment.

49. On June 26, 2019, seven investors provided Dublin with a notice of default and declared the unpaid principal, and accrued unpaid interest, owed pursuant to the terms of the Dublin Notes, due immediately.

50. On June 28, 2019, Dublin and Commonwealth entered into a "Settlement and Strict Foreclosure Agreement" and "General Assignment and Bill of Sale" (collectively, the "Dublin-Commonwealth Settlement Agreement").

51. Pursuant to the Dublin-Commonwealth Settlement Agreement, Dublin and Commonwealth agreed that Dublin's secured interest in the raw hemp and products derived therefrom, represented a substantial opportunity to protect Dublin's economic interests and constituted substantial valuable consideration.

52. Pursuant to the Dublin-Commonwealth Settlement Agreement and in exchange for the secured interest in the raw hemp and products derived therefrom, Dublin agreed not to pursue legal action against Commonwealth and thereby released and discharged Commonwealth from all claims and causes of action arising out of their prior agreements.

53. The Dublin-Commonwealth Settlement Agreement transferred, conveyed, assigned, and delivered to Dublin the secured interest in the raw hemp materials and any work in progress or finished products derived therefrom.

54. The Dublin-Commonwealth Settlement Agreement ensured that Dublin maintained the sole interest in the raw materials, work in progress, and completed products.

55. On January 29, 2020, despite the Dublin Commonwealth Settlement Agreement, Commonwealth and Porter entered into a settlement agreement with LabCanna (the "LabCanna Settlement Agreement") for purposes of settling LabCanna's breach of the Manufacturing Agreement.

56. The breach that Porter sought to settle related solely to LabCanna's nonpayment to Commonwealth that would have gone, in whole or in part, to making Commonwealth's payments to Dublin pursuant to the Commonwealth Agreement and Commonwealth Note and thus back to the investors.

57. The terms of the LabCanna Settlement Agreement required LabCanna to transfer 270 shares of LabCanna common stock to Commonwealth and appoint Porter to a non-assignable seat on LabCanna's advisory board for a term of 24 months from the formation of an advisory board. The LabCanna Settlement Agreement also provided that Commonwealth and Porter would fully indemnify LabCanna from all possible claims brought by Dublin pursuant to the Manufacturing Agreement.

58. The LabCanna Settlement Agreement included provisions preventing Commonwealth from transferring ownership of shares of common stock to any individual or entity other than Porter in his individual capacity.

59. The LabCanna Settlement Agreement also included the option for LabCanna to repurchase the shares of common stock for \$825,000.00 within the first year; \$1,000,000.00 within the second year; and \$1,350,000.00 within the third year.

iv. Misappropriation of Investor Funds

60. Starting on November 14, 2018, and prior to wiring investor funds pursuant to the Supply Agreement and Manufacturing Agreement, Janes began misappropriating investor funds by making payments, wire transfers, and withdrawals from Dublin's bank account.

61. On November 14, 2018, Janes wired \$18,200.00 from Dublin's bank account to his child's private school for tuition.

62. On November 15, 2018, Janes purchased a certified check for \$9,000.00 payable to his ex-spouse.

63. On November 16, 2018, Janes withdrew \$22,808.00 from Dublin's bank account.

64. On November 23, 2018, Janes withdrew \$10,000.00 from Dublin's bank account.

65. On December 17, 2018, Janes withdrew \$15,000.00 from Dublin's bank account.

66. Beginning on November 13, 2018, Janes misappropriated approximately \$80,000.00 of the investors' funds initially by (On Nov 20.10 (tely))TJA-.7(nk is))TJJ

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71. On January 2, 2019, Janes withdrew a total of \$59,000.00 from Dublin's bank account.
72. On January 14, 2019, Janes purchased a certified check for \$5,000.00 for his child's private school tuition.
73. On January 22, 2019, Janes withdrew \$5,000.00 from Dublin's bank account.
74. On February 13, 2019, Janes withdrew \$3,500.00 from Dublin's bank account.
75. On March 28, 2019, Janes withdrew \$5,900.00 from Dublin's bank account.
76. On April 5, 2019, Janes withdrew \$10,008.00 from Dublin's bank account for his child's private school tuition.
77. On May 16, 2019, Janes withdrew \$1,000.00 from Dublin's bank account.
78. On May 17, 2019, Janes purchased a certified check for \$4,500.00 for his expense.
79. On May 30, 2019, Janes withdrew \$2,500.00 from Dublin's bank account.
80. Overall, of the distributions received from LabCanna pursuant to the Manufacturing Agreement, Janes misappropriated approximately \$130,000.00 that should have been returned to investors in the form of principal and interest payments pursuant to the Dublin Notes.
81. During the Relevant Period, Janes received at least approximately \$160,000.00 in funds from the Dublin bank account.

v. Misrepresentations and Omissions

82. Dublin and Janes failed to disclose to investors Dublin's and Janes' relationship with Commonwealth and Porter. Specifically, Dublin and Janes failed to disclose to investors that Dublin entered into the Commonwealth Agreement, the Commonwealth Note, and the

Consulting Agreement whereby Dublin was the contractually obligated to provide the investors' funds to Commonwealth to pursue the business venture and would be compensated

Dublin's secured interest in the raw hemp and products derived therefrom and discharging Commonwealth's claims and cause of action arising out of their contractual agreements.

88. Commonwealth and Porter failed to disclose to investors that on January 29, 2020, Commonwealth and Porter entered into the LabCanna Settlement Agreement despite assigning the secured interest in the raw hemp and products derived therefrom to Dublin pursuant to the Dublin-Commonwealth Settlement Agreement.

89. Commonwealth and Porter did not disclose, and took steps to conceal, the LabCanna Settlement Agreement and the preferred shares of LabCanna common stock.

V. CONCLUSIONS OF LAW

90. Paragraphs 1 through 90 are incorporated by reference as though fully set forth herein.

91. The Dublin Notes are securities as defined in S.C. Code Ann. § 35-1-102(29).

92. Pursuant to S.C. Code Ann. § 35-1-301, it is unlawful for a person to offer or sell a security in this State unless: (1) the security is a federal covered security; (2) the security, transaction, or offer is exempted from registration under Sections 35-2-201 through 35-1-203; or (3) the security is registered under this chapter.

93. The Dublin Notes were and are required to be registered with the Division pursuant to S.C. Code Ann. § 35-1-301.

94. The Dublin Notes are not federally covered securities, are not exempt from registration, and have not been registered with the Division.

95. Respondents Dublin and Janes offered and sold unregistered securities in violation of S.C. Code Ann. § 35-1-301.

96. Pursuant to S.C. Code Ann. § 35-1-501, it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly: (1) to employ a device, scheme, or artifice to defraud; (2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were

VI. ORDER

NOW THEREFORE, pursuant to S.C. Code Ann. ~~§~~ 35-1-604(a)(1), it is hereby ORDERED that:

- a. Each Respondent and every successor, ~~affili~~ control person, ~~agt~~, servant, and employee of each of the Respondents, and ~~every~~ owned, operated, or indirectly or directly controlled by or on behalf of each ~~of~~ the Respondents shall ~~CEASE AND DESIST~~ from transacting business in this State in violation of the Act;
- b. The Respondents shall jointly and severally ~~pay~~ a civil penalty in the amount of two hundred ten thousand dollars (~~\$~~210,000.00) if this Order becomes effective by operation of law, or, if a Respondent seeks a hearing ~~and~~ legal authority ~~resolves~~ this matter, pay a civil penalty in an amount not to exceed \$10,000.00 for each violation of the Act by the Respondent(s).
- c. The Respondents shall jointly and severally ~~pay~~ costs associated with this investigation in the amount of six thousand two hundred ~~eighty~~ dollars and seventy-five cents (\$6,288.75) if this Order becomes effective by ~~oper~~ation of law, or if a Respondent seeks a hearing and any legal authority resolves ~~this~~ matter, pay the actual costs associated with the investigation and legal proceeding in ~~accord~~ance with S.C. Code Ann. § 35-1-604(e).

VII. NOTICE OF OPPORTUNITY FOR HEARING

Each of the Respondents are ~~also~~ notified that she/he/it ~~has~~ the right to a formal hearing on the matters contained herein. To schedule ~~a~~ hearing, a Respondent must ~~submit~~ with the Division within thirty (30) days after the date of ~~issu~~ance of this Order, a written Answer specifically requesting a hearing. If any ~~Res~~pondent requests a hearing, the ~~Division~~, within fifteen (15) days after receipt of a ~~written~~ request, will schedule a hearing for that Respondent. The written request

