



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
CUTTING EDGE SUPPLEMENTS, LLC;) Case No.: AP-21-07
and DESMOND RICHARD BLOSS,)
)
Respondents.)
)
Serve: Desmond R. Bloss)
and Cutting Edge Supplements, LLC)
611 Louis Street)
Charleston, AR 72933-9173)

**ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY
RESTITUTION, CIVIL PENALTIES, COSTS, AND OTHER
ADMINISTRATIVE RELIEF SHOULD NOT BE IMPOSED**

On June 24, 2021, the Enforcement Section of the Missouri Securities Division of the Office of Secretary of State ("the Enforcement Section"), through Director of Enforcement Douglas. M. Jacoby, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs, and Other Administrative Relief Should Not Be Imposed ("the Petition") against the above-named Respondents. After receiving the Petition, the Missouri Commissioner of Securities ("the Commissioner") issues the following order:

I. ALLEGATIONS OF FACT

The Petition alleges the following facts:

A. Introduction

Between November 28, 2016, and June 30, 2017, Respondent Desmond Richard Bloss ("Bloss") misappropriated a \$60,000 investment made by a Missouri couple into Bloss's business enterprise, Cutting Edge Supplements, LLC ("CES"), in violation of Section 409.5-501 of the Missouri Securities Act of 2003.¹

¹ Unless otherwise noted, all statutory references are to the 2020 Supp. Revised Statutes of Missouri.

B. Respondents

1. CES is a Missouri limited liability company organized on January 30, 2012. CES operated a small chain of retail stores located in St. Joseph, Kirksville, and Chillicothe, Missouri that sold dietary supplement products targeted at health and fitness. CES also had an on-line presence from which it drew additional sales.
2. A check of records maintained by the Commissioner revealed that at all times relevant there was no registration, granted exemption, and/or notice filing indication status as a “federal covered security” for any securities issued by CES.
3. Bloss is a forty-one-year-old Charleston, Arkansas resident with an address at 611 Louis Street, Charleston, Arkansas 72933-9173. Bloss is the founder, organizer and sole managing member of CES.

C. Enforcement Section’s Investigation

4. In 2015, a Sumner, Missouri couple (“MR1” and “MR2”) were introduced to Bloss through a mutual friend at a recreational event. At the time, Bloss was operating two CES retail stores: one at 516 N. Baltimore Street in Kirksville, Missouri (the “Kirksville Store”) and another at 110 S. Washington Street in Chillicothe, Missouri (the “Chillicothe Store”).
5. The couple and Bloss (collectively, “Parties”) maintained infrequent contact with each other through social media and electronic communication over the next several months.
6. By May 2016, Bloss had opened a third CES location at 3714 N. Belt Highway in St. Joseph, Missouri (the “St. Joseph Store”).
7. In the summer of 2016, while at another recreational event in which the Parties attended, Bloss mentioned to MR1 and MR2 his interest to expand CES by establishing yet another new retail location (the “Liberty Store”) in the soon-to-be-developed Liberty Commons shopping center (“Liberty Commons”) in Liberty, Missouri.
8. In the course of Bloss’s conversations with MR1 and MR2 about the prospect of a Liberty Store, Bloss mentioned the need for \$60,000 to turn the prospect into reality.
9. To induce MR1 and MR2’s investment in the Liberty Store, Bloss represented to MR1 and MR2 that CES, in general, was a profitable business, though Bloss did not disclose any financials of CES to MR1 or MR2. The representation led MR1 and MR2 to believe that CES was financially sound.
10. After several further discussions, MR1 and MR2 agreed to provide the \$60,000 to Bloss to open the Liberty Store.
11. On November 2, 2016, Bloss emailed MR1 and MR2 with a draft copy of a written agreement (“Draft Agreement”) to formalize and memorialize the proposed investment

in the Liberty Store. In the email, Bloss wrote, in relevant part:

...[w]e are getting real close to a finalized deal on the Liberty Commons Store. The Developers are really wanting us in there because of the draw we bring, and the way it fits with the other stores and restaurants in the center. We are excited about this store, as it is going to be an incredibly busy shopping center!

12. On November 22, 2016, Bloss emailed MR1 and MR2 with a revised copy of the Draft Agreement (“Revised Agreement”) for the proposed investment in the Liberty Store. In the email, Bloss wrote, in relevant part:

Attached is the revised document that more clearly lays out the payment periods. I went ahead and bumped in an additional year at the 20% level. I have 2 copies printed out for us to sign and each have an original copy.

13. On November 28, 2016, Bloss met MR1 and MR2 at a restaurant in Brookfield, Missouri where the Parties executed the Revised Agreement.

14. The Revised Agreement states, in relevant part:

a. “Investor’s Investment in the Company shall consist of the following:

- (1) The sum of Sixty Thousand and 00/100 Dollars, (\$60,000), to be paid by Investor to the Company; and,
- (2) The Company agrees to use such sum of money **to open a retail store in the Liberty Commons, a new ‘destination shopping area’ for the Northland is located at the South East Corner of I-35 & 152 Highway, Liberty, Missouri ...**” (emphasis added);

b. “For consideration of such Investment, The Company shall for eight years of operation (96 months) period, as described herein, pay to Investor a portion of the Net Income (Gross Income less Gross Expenses) of The Company’s Liberty Store, as follows:

- (1) Investor shall receive 20% of the Net Income made from the Liberty Store during 2017;
- (2) Investor shall receive 20% of the Net Income made from the Liberty Store during 2018;
- (3) Investor shall receive 20% of the Net Income made from the Liberty Store during 2019;
- (4) Investor shall receive 15% of the Net Income made from the Liberty Store during 2020;

- (5) Investor shall receive 15% of the Net Income made from the Liberty Store during 2021;
 - (6) Investor shall receive 10% of the Net Income made from the Liberty Store during 2022;
 - (7) Investor shall receive 10% of the Net Income made from the Liberty Store during 2023;
 - (8) Investor shall receive 10% of the Net Income made from the Liberty Store during 2024;
 - (9) Investor shall receive 10% of the Net Income made from the Liberty Store during the remaining 96-month period of operation during 2025, after such time no further share of the Net Income shall be due to Investor from The Company and this agreement shall terminate. It is understood and agreed that it is presumed this final calculation will be only for a partial year, depending on the 'open for business' date established in 2017";
- c. "It is agreed that a 'year of operation' (12-month period) shall mean from the 'open for business' date of the Liberty Store to, and including, the day before the anniversary of that 'open for business' date the year following, being a 12-month period";
 - d. "It is agreed that within 60-days of the end of a calendar year (tax year) of operation for each of the first calendar years of operation (the first year being a partial year), The Company shall furnish the Investor a statement of Gross Income and Gross Expenses of The Company's Liberty Store";
 - e. "It is agreed that for each calendar year of operation that a share of the Net Income is due Investor, payments from The Company to Investor shall be paid on a quarterly basis (one-fourth of the total share due for the preceding year, or portion thereof, on or before 3/31, 6/30, 9/30, and 12/31 of the subsequent year) during the following calendar year of operation based on the calculation of the Net Income of the previous year, or portion thereof, as described above";
 - f. "It is understood and agreed that investor has no obligation to invest any funds to make up any net loss to The Company";
 - g. It is understood and agreed that Investor has no interest in the Liberty Store other than the right to receive payments from The Company as described herein";
 - h. "The Company will notify Investor in writing immediately of any change in or discontinuance of The Company's doing business at the Liberty Store"; and

- i. "This Agreement shall become effective when it is signed by the parties together with the evidence of the Investment having been paid to The Company by Investor and shall constitute the entire agreement by and between the parties."
15. The term "Investor" is identified in the Revised Agreement as MR1 and MR2 and the term "The Company" is identified as CES. "Investment" is defined as MR1 and MR2's \$60,000 investment referenced in the Revised Agreement.
16. The Revised Agreement is countersigned on behalf of CES by Bloss as Manager of CES.
17. At the time of the execution of the Revised Agreement, Bloss was a resident of Missouri.
18. On the same day as the Revised Agreement was executed, November 28, 2016, MR1 and MR2 tendered \$60,000 to Bloss in the form of two cashier's checks: one in the amount of \$40,000 from First Missouri Bank ("Check #10114") and the other in the amount of \$20,000 from Carroll County Trust Company ("Check #017961"). Both Check #10114 and Check #017961 were paid to the order of CES.
19. A review of CES's Alliant Bank savings account ending in #4455 ("CES Savings Account") shows the deposits of Check #10114 and Check #017961 on November 29, 2016.
20. According to Alliant Bank records, Bloss is the sole signatory on the CES Savings Account.
21. Further review of CES Savings Account records shows that between December 9, 2016, and June 22, 2017, Bloss transferred all \$60,000 of MR1 and MR2's investment funds in ten (10) separate transactions from the CES Savings Account to CES's Alliant Bank business checking account ending in #9893 ("CES Checking Account"), where the funds became commingled with other monies in the account.
22. According to the CES Checking Account records, Bloss frequently and routinely used money from the CES Checking Account to pay for his personal expenses.
23. A first-in-first-out ("FIFO") analysis of the CES Checking Account for the period December 1, 2016, through December 31, 2016, shows, among other things, the following uses of MR1 and MR2's \$60,000 investment:
 - a. Payments to American Express related to two AMEX corporate cards registered to CES (one, ending in #1018 and held by Bloss; the other, ending in #1026 and held by Bloss's then girlfriend)(together, the "AMEX Corporate Cards"), which primarily contained personal expenses and business expenses unrelated to the Liberty Store;

- b. Payment to Marlin Business Financial on a loan to finance an ice machine for the Kirksville Store;
 - c. Payment of monthly membership dues to Anytime Fitness public gym;
 - d. Payment to Great Western Bank on a loan taken out in the name of another entity owned by Bloss;²
 - e. Payment of rent to the landlord of the strip mall in which the Kirksville Store is located;
 - f. Payment for a purchase at Orscheln Farm & Home store in Brookfield, Missouri;
 - g. Purchase of a Missouri hunting/fishing permit;
 - h. Payment to Bank of America related to a personal Bass Pro Mastercard registered to Bloss, which solely contained personal expenses; and
 - i. A check made out to, based on information and belief, an employee of the Kirksville Store.
24. By June 30, 2017, Bloss had completely exhausted MR1 and MR2's entire \$60,000 investment on the foregoing expenses and other expenses similar to those listed in paragraph 23 above to operate CES's other store locations and for Bloss's own personal benefit.
25. To date, MR1 and MR2 have received no return on their investment or return of their \$60,000 principal.

C. Additional Findings

26. In or around June 2016, Bloss had engaged a commercial real estate broker ("Bloss's Broker") to identify a suitable location for a new CES store.
27. By August 2016, Bloss's Broker had presented Bloss with the Liberty Commons as a potential location for the new CES store.
28. By November 2, 2016, Bloss appeared fully engaged with establishing a new CES store in Liberty Commons.
29. It wasn't until May 19, 2017 – nearly six months after receiving MR1 and MR2's investment – that Bloss, on behalf of CES, executed a lease agreement ("Liberty Lease") and lease guaranty ("Lease Guaranty") with the landlord of Liberty Commons ("Liberty Landlord").

² Limitless Performance, LLC.

30. On that same date, May 19, 2017, Bloss, in connection with the execution of the Liberty Lease, provided the Liberty Landlord a check written against the CES Checking Account in the amount of \$4,030 (“Check #2092”), which served as a security deposit for the lease of the retail premises (“Premises”).
31. Based on FIFO analyses of the CES Savings Account and CES Checking Account, by the time Check #2092 was presented to Alliant Bank for payment on June 13, 2017, Bloss already had exhausted approximately \$58,500 of MR1 and MR2’s \$60,000 investment by using those funds to operate CES’s other store locations and for Bloss’s own personal benefit, as described above in paragraphs 23 and 24. At the time Check #2092 was presented to Alliant Bank for payment, the remaining \$1,500 of MR1 and MR2’s funds still resided in the CES Savings Account.
32. Shortly after executing the Liberty Lease, Bloss expressed to the Liberty Landlord dissatisfaction with certain physical issues with the Premises.
33. Between May 2017 and September 2017, the Liberty Landlord and Bloss, through Bloss’s Broker, attempted to remedy Bloss’s concerns with the Premises.
34. Meanwhile, on June 22, 2017, Bloss transferred the last \$1,500 of MR1 and MR2’s \$60,000 investment from the CES Savings Account to the CES Checking Account. A FIFO analysis of the CES Checking Account shows Bloss using the \$1,500 to pay American Express on June 23, 2017, for the benefit of the AMEX Corporate Cards.
35. A FIFO analysis of the monthly statements related to the AMEX Corporate Cards shows that the payment made on June 23, 2017, offset charges primarily related to personal expenses.
36. On September 28, 2017, it was becoming clear to the Liberty Landlord that CES may not perform its obligations under the Liberty Lease.
37. On October 13, 2017, the Liberty Landlord issued a letter (“Reaffirmation Letter”) to Bloss reminding Bloss of CES’s obligations under the Liberty Lease and requesting Bloss provide the Liberty Landlord with written confirmation that CES intended to take possession of the Premises.
38. Bloss did not respond to the Reaffirmation Letter.
39. In June 2018 the Liberty Landlord sent Bloss a follow-up letter notifying Bloss that the Liberty Landlord had identified a new tenant for the Premises and unless Bloss provided the Liberty Landlord immediate notice of CES’s intent to take possession of the Premises, the Liberty Landlord would move forward to mitigate its damages and deliver possession of the Premises to a new tenant.
40. Based on information and belief, Bloss thereafter abandoned any further effort to open the Liberty Store or another CES store.

41. By the end of January 2017 Bloss closed the Chillicothe Store.
42. In or around April 2018 Bloss closed the Kirksville Store. Based on information and belief, Bloss still owes unpaid rent to the landlord of the Kirksville Store location.
43. In or around April 2018 Bloss closed the St. Joseph Store. Based on information and belief, Bloss still owes unpaid rent to the landlord of the St. Joseph Store location.
44. In or around December 2019 Bloss relocated his personal residence from Missouri to Arkansas.

II. COMMISSIONER'S DETERMINATIONS AND FINDINGS

One Violation of Section 409.5-501

45. **THE COMMISSIONER DETERMINES THAT** the Revised Agreement executed by the Parties is a security under Section 409.1-102(28) which defines "security" as, among other things, "evidence of indebtedness" and an "investment contract."
46. By engaging in the conduct as set forth above, Respondents, in connection with the offer and sale of a security engaged in an act, practice or course of business that operates or would operate as a fraud or deceit upon another person, in violation of Section 409.5-501, in that Respondents misappropriated MR1 and MR2's investment by spending the funds on personal expenses and other expenses unrelated to opening the Liberty Store.
47. Respondents' violation of Section 409.5-501 constitutes an engagement in an illegal act, practice, or course of business subject to the Commissioner's authority under Section 409.6-604.
48. An order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003. *See* Section 409.6-605(b).

III. ORDER

NOW, THEREFORE, it is hereby ordered that Respondents, their agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this order be prohibited from violating or materially aiding in any violation of:

- A. Section 409.5-501, by, in connection with the offer or sale of securities, engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

IV. STATEMENT

Pursuant to Section 409.6-604, the Commissioner hereby states that he will determine whether to grant the Enforcement Section's requests for:

- A. \$25,000 against Respondents, jointly and severally, for one violation of Section 409.5-501, in a final order unless Respondents request a hearing and show cause why the penalties should not be imposed;
- B. an order to pay restitution in the amount of \$60,000 against Respondents, jointly and severally, plus annual interest at a rate of eight percent (8%) from the date of the violation, for any loss, including the amount of any actual damages that may have been caused by the Respondents' conduct;
- C. an award of the costs of the investigation against Respondents, jointly and severally, as determined after review by the Commissioner of evidence submitted by the Enforcement Section, in a final order, unless Respondents request a hearing and show cause why an award should not be made; and
- D. an order that the Commissioner provides such other relief as he deems just, in a final order, unless Respondents request a hearing and show cause why the relief should not be imposed.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 1st DAY OF JULY, 2021.

JOHN R. ASHCROFT
SECRETARY OF STATE


DAVID M. MINNICK
COMMISSIONER OF SECURITIES





STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
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CUTTING EDGE SUPPLEMENTS, LLC;) Case No.: AP-21-07
and DESMOND RICHARD BLOSS,)
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Respondents.)
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Serve: Desmond R. Bloss)
and Cutting Edge Supplements, LLC)
611 Louis Street)
Charleston, AR 72933-9173)

NOTICE

TO: Respondents and any unnamed representatives aggrieved by the Order:

You may request a hearing in this matter within thirty (30) days of receipt of this Order pursuant to Section 409.6-604(b), RSMo, and 15 CSR 30-55.020. Any request for a hearing before the Commissioner must contain:

- a. a brief statement of the facts;
- b. a summary of the factual and legal issues involved;
- c. a request for relief;
- d. suggestions in support of the relief sought, including the relevant statutes;
- e. the name of the party requesting the hearing; and
- f. the name of the attorney representing the party, if any.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to the order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing to:

David M. Minnick, Commissioner of Securities
Office of the Secretary of State, Missouri
600 West Main Street, Room 229
Jefferson City, MO 65102

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2021, a copy of the foregoing Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, Costs and Other Administrative Relief Should Not Be Imposed in the above-styled case was **mailed via certified U.S. mail to:**

Desmond R. Bloss
and Cutting Edge Supplements, LLC
611 Louis Street
Charleston, AR 72933-9173


Laurie Dawson
Securities Office Manager