

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

<hr/>		§
SECURITIES AND EXCHANGE COMMISSION,		§
		§
Plaintiff,		§
		§
vs.		§
		§
MARK ALLAN PLUMMER		§ Civil Action No.: 3:19-cv-1538
		§
		§
Defendant.		§
		§
<hr/>		§

COMPLAINT

Plaintiff Securities and Exchange Commission (“SEC”) alleges as follows:

SUMMARY

1. Defendant Mark Allan Plummer (“Plummer” or “Defendant”), through his company Texas E&P Partners, Inc. and its affiliated entities (“Texas E&P”),¹ defrauded investors by misappropriating investor funds. From February 2015 to April 2017, Texas E&P raised \$6.1 million by selling interests in joint ventures formed to drill and operate two separate oil well projects. However, instead of using all of these funds to drill and operate the oil well projects—as represented to investors when soliciting their investments—Plummer misappropriated large sums of money. In total, Plummer misappropriated \$399,011 for undisclosed personal and unauthorized business expenses—including for entertainment, travel, retail expenses, and his income taxes.

2. In doing so, Plummer violated the antifraud provisions of the federal securities

¹ Texas E&P formerly operated under the name Chestnut Exploration Partners, Inc. (“Chestnut Exploration”).

laws. Thus, in the interest of protecting the public from further illegal activity, the SEC brings this action seeking all available relief—including permanent injunctions, disgorgement of ill-gotten gains plus prejudgment interest, and civil money penalties.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action under Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)]; and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

4. Each of the joint-venture interests offered and sold is an investment contract, and therefore a “security” as that term is defined under Securities Act Section 2(a)(1) [15 U.S.C. § 77b(a)(1)] and Exchange Act Section 3(a)(10) [5 U.S.C. § 78c(a)(10)].

5. Defendant has, directly or indirectly, made use of the means or instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business alleged in the Complaint.

6. Venue is proper because a substantial part of the transactions, acts, practices, and courses of conduct constituting violations of the federal securities laws occurred in the Northern District of Texas.

PARTIES

7. Plaintiff SEC is an agency of the United States government.

8. Defendant Plummer is a natural person residing in Richardson, Texas. He is the founder, owner, and President of Texas E&P. In December 2016, a Financial Industry Regulatory Authority (“FINRA”) hearing panel found that Plummer and Texas E&P produced an altered document to the FINRA staff, and that Plummer provided misleading testimony

regarding the document. The FINRA decision expelled Texas E&P from FINRA membership and barred Plummer from association with any FINRA member. Plummer has a combined six judgments from past FINRA arbitrations initiated by investors. Plummer is not registered with the SEC in any capacity and remains barred by FINRA.

FACTS

I. PLUMMER HAS A LENGTHY HISTORY PROMOTING OIL AND GAS INVESTMENTS.

9. Plummer has been in the oil business for over thirty years. He founded numerous entities related to his drilling projects—including oil and gas operating companies, funding companies, service companies, and holding corporations.

10. Plummer has had many regulatory issues. In 2012, the Texas State Securities Board issued an order against Chestnut Exploration for overcharging investors.² FINRA has also conducted multiple investigations of Plummer and his entities over many years for misuse of investor funds and inadequate supervisory procedures, among other concerns. This resulted in the expulsion and judgments in investor arbitrations discussed in Paragraph 8, above.

11. In January 2016, during the FINRA investigation, Plummer renamed Chestnut Exploration to Texas E&P and continued fundraising for two projects under that name: East Texas 2H and Salmon 2W. Fundraising for the East Texas 2H project was active from February to September 2015. Salmon 2W fundraising was active from June 2015 through April 2017.

II. PLUMMER DISSEMINATED FALSE AND MISLEADING OFFERING MATERIALS TO INVESTORS AND MISAPPROPRIATED INVESTOR FUNDS.

12. During this time period, Plummer marketed the Texas E&P securities using false and misleading offering materials—including a Confidential Investor Memorandum (“CIM”).

² *In the Matter of the Dealer Registration of Chestnut Exploration Partners, Inc.*, Order No. IC12-CAF-06 (Jan. 10, 2012).

He distributed the CIM to any investor interested in purchasing the Texas E&P securities. In total, at least 100 investors from at least 18 different states were solicited and invested in the securities based on the representations in the CIM. These investors included several from the state of Texas, including Granbury, Fort Worth, and Dallas in the Northern District.

13. The CIM contained false and misleading statements and/or omissions regarding the use of investor funds. For example, the Salmon 2W CIM states that the offering's objectives are to: (1) acquire an interest in two oil and/or gas wells in Anderson County, Texas, and participate in operations thereon; (2) provide cash distributions from operations; and (3) provide tax benefits to investors. The CIM details that the investor funds are to be used as follows:

Expense Category	Salmon 2W
Drilling (Turnkey Portion)	57.63%
Sales Expenses (including Commissions and Organizational Expenses)	14.0%
Due Diligence	1.0%
Completion, Testing and Equipping	27.37%
TOTAL	100%

14. The CIM also discloses that Texas E&P will be entitled to a one-time “management fee.” Though the fee is not quantified, it is defined as “an amount equal to the excess, if any, of the Turnkey Drilling Price and/or the Turnkey Completion Price over the actual cost of operations.” Therefore, the management fee cannot be calculated—much less paid—until the cost of operations is known. Since the Salmon 2W well was never drilled, the cost of operations remains unknown and Texas E&P is not entitled to a management fee on that well.

15. By April 2017, Plummer had raised a total of \$6.1 million. He spent approximately \$5 million of this money on allowable expenses—such as lease acquisitions,

utilities, legal fees, and permits. However, he also misappropriated \$399,011 as follows:³

Expense	Amount
Country Club	\$16,682.15
Various Restaurants	\$17,887.13
Various Retail Stores	\$45,651.25
College Tuition	\$9,028.50
Racquet Club	\$13,206.20
Income Taxes	\$144,462.58
Personal Transportation	\$14,706.96
Services/Memberships	\$2,667.99
Personal Travel	\$111,523.44
Other Miscellaneous	\$23,194.88
	\$399,011.19

16. Therefore, as Plummer knew or was reckless or negligent in not knowing, the statements in the CIM regarding the use of investor funds were false. Plummer—who controlled the Texas E&P bank accounts and credit cards—knew or should have known that hundreds of thousands of dollars were being misappropriated. At a minimum, he knowingly, recklessly, or negligently omitted to disclose this widespread misappropriation to investors.

FIRST CLAIM

**Violations of 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]**

17. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 16 of this Complaint as if set forth verbatim.

18. Defendant directly or indirectly, by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

³ Plummer also commingled investor funds from the Salmon 2W and East Texas 2H projects in violation of the CIM.

- (a) employed a device, scheme, or artifice to defraud;
- (b) made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and
- (c) engaged in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

19. Accordingly, the Defendant has violated and, unless enjoined, will again violate 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].

SECOND CLAIM

Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]

20. Plaintiff SEC realleges and incorporates by reference paragraphs 1 through 16 of this Complaint as if set forth verbatim.

21. Defendant, in the offer or sale of any security, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) employed a device, scheme, or artifice to defraud;
- (b) obtained money or property by means of an untrue statement of a material fact or an omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- (c) engaged in a transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

22. Accordingly, Defendant has violated and, unless enjoined, will again violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

REQUEST FOR RELIEF

The SEC respectfully requests that this Court:

I.

Permanently enjoin Defendant from violating, directly or indirectly, Section 10(b) of the Exchange Act [15 U.S.C. § 78j] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and Section 17(a) of the Securities Act [15 U.S.C. §77q(a)].

II.

Order Defendant to disgorge an amount equal to the funds and benefits obtained illegally, or to which Defendant otherwise has no legitimate claim, as a result of the violations alleged, plus prejudgment interest on that amount.

III.

Order Defendant to pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] for the violations alleged herein.

IV.

Order such other relief as this Court may deem just and proper.

June 26, 2019

Respectfully submitted,

/s/ Chris Davis

CHRIS DAVIS

Plaintiff's Lead Attorney

Texas Bar No. 24050483

United States Securities and Exchange Commission

Burnett Plaza, Suite 1900

801 Cherry Street, Unit 18

Fort Worth, Texas 76102

Telephone: (817) 900-2638

FAX: (817) 978-4927

E-mail: davisca@sec.gov

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Securities and Exchange Commission

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Mark Allan Plummer

County of Residence of First Listed Defendant Collin

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. §77q(a)(2), 15 U.S.C. § 78j(b), and 17 C.F.R. § 240.10b-5(b)

Brief description of cause:

Securities offering fraud

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

June 26, 2019 /s Chris Davis

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 3:19-cv-01538-G Document 1-1 Filed 06/26/19 Page 2 of 2 PageID 9
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

Date and Attorney Signature. Date and sign the civil cover sheet.