

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF SOUTH CAROLINA**

**IN THE MATTER OF:**

**James Shepard and  
Vetrazzo, LLC,**

**Respondents.**

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**ORDER TO CEASE AND DESIST  
File No. 13109**

**WHEREAS**, the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”) has been authorized and directed by the Securities Commissioner of South Carolina (the “Securities Commissioner”) to administer the provisions of S.C. Code Ann. § 35-1-101, *et seq.*, the South Carolina Uniform Securities Act of 2005 (the “Act”); and

**WHEREAS**, the Division received information regarding alleged activities of James Shepard (“Shepard”) and Vetrazzo, LLC (“Vetrazzo”) (collectively, the “Respondents”), which, if true, would constitute violations of the Act; and

**WHEREAS**, the information led the Division to open and conduct an investigation of the Respondents pursuant to S.C. Code Ann. § 35-1-602; and

**WHEREAS**, the Division has determined that evidence exists to support the following findings of fact and conclusions of law:

**I. JURISDICTION**

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

## **II. RESPONDENTS**

2. James Shepard is a California resident with a last known address of 1414 Harbour Way South Suite 1400, Richmond, California 94804.

3. Vetrazzo was a Delaware limited liability company with a last known address of 1414 Harbour Way South Suite 1400, Richmond, California 94804.

## **III. FINDINGS OF FACT**

4. Respondent Vetrazzo was an entity headquartered in Richmond, California and allegedly engaged in the production of kitchen countertops made of recycled glass.

5. Respondent Shepard served as the President of Respondent Vetrazzo.

6. In order to fund the alleged operations of Respondent Vetrazzo, the Respondents offered and sold shares in Respondent Vetrazzo (the "Shares") to investors throughout the United States.

7. The Shares were offered pursuant to a claim of exemption from registration with the Division and the United States Securities and Exchange Commission (the "SEC") under the safe harbor provisions of Regulation D Rule 506, 17 C.F.R. § 230.506 ("Regulation D").

### **A. Respondents' Scheme**

8. In order to aid in the offer and sale of the Shares, the Respondents engaged a self-proclaimed financial expert and purveyor of investment opportunities (the "Promoter") to recommend the investment to her clients.

9. In addition to numerous books on the subject of “wealth-building,” the Promoter held various seminars (the “Seminar” or the “Seminars”) for investors at which she and others offered various opportunities to invest in numerous companies.

10. The Respondents engaged the Promoter to offer the Shares to the attendees at her Seminars and compensated her with Shares and a position on Respondent Vetrizzo’s Board of Directors.

11. The Seminars were marketed to the public by general solicitation and general advertising by the Promoter and her staff through the Promoter’s website, radio broadcasts, television appearances, email and mailing lists, and other publications.

12. Because the Shares were offered and sold to Seminar attendees who had been the subjects of general solicitation, the Shares could not meet the safe harbor provisions of Regulation D as set forth in 17 C.F.R. § 230.502 (c), specifically the requirement that “neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to...[a]ny seminar or meeting whose attendees have been invited by any general solicitation or general advertising.”

#### B. The Scheme Ensnares South Carolina Investors.

13. In 2006, two South Carolina investors (the “South Carolina Investors”), having read several of her books, contacted the Promoter and sought her investment advice.

14. During at least one Seminar and elsewhere between May 2006 and May 2009, the Respondents offered and sold the Shares to the South Carolina Investors.

15. In connection with the offer and sale of the Shares, Respondent Shepard and other agents of the Respondents, on behalf of the Respondents, made numerous false and misleading statements and omissions, including, but not limited to, the following:

- a. Omitting to disclose the significant contingent liability faced by the Respondents in light of their failure to register properly the Shares and the lack of applicability of any exemption from registration;
- b. Omitting to disclose that the Shares could not legally be offered for sale in one or more of the jurisdictions in which they were offered or sold;
- c. Omitting to disclose the commissions paid to the Promoter by the Respondents;
- d. Falsely stating that the Shares would yield a thirty percent (30%) annual return with little to no risk.

16. Between 2006 and 2009, as a result of the efforts of the Respondents, the Promoter, and other agents operating on behalf of the Respondents, the South Carolina Investors purchased over one hundred and sixty-five thousand dollars (\$165,000) worth of the Shares.

17. Rather than receiving the promised thirty percent (30%), the South Carolina Investors substantially all of their over one hundred and sixty-five thousand dollar (\$165,000) investment.

18. In or about June 2010, Respondent Vetrizzo was purchased by Polycor, Incorporated, a Canadian mining company, and its operations were moved to Tate, Georgia.

#### **IV. CONCLUSIONS OF LAW**

19. The South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.*, governs the offer and sale of securities in this State.

20. Pursuant to S.C. Code Ann. § 35-1-102(2), an agent is an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities, or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities.

21. Pursuant to S.C. Code Ann. § 35-1-102(29), stock, investment contracts, and certificates of interest or participation in profit-sharing agreements, *inter alia*, constitute securities.

22. 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 that security is registered, a federal covered security,<sup>1</sup> or exempt from registration.

23. Pursuant to S.C. Code Ann. § 35-1-402(a), it is unlawful for an individual to transact business as an agent in this State unless that individual is registered or exempt from registration.

24. Pursuant to S.C. Code Ann. § 35-1-402 (d), it is unlawful for an issuer, engaged in offering, selling, or purchasing securities in this State, to employ or associate with an agent who transacts business in this State on behalf of that issuer unless that agent is registered under S.C. Code Ann. § 35-1-402 (a).

25. Pursuant to S.C. Code Ann. § 35-1-501, it is unlawful for a person in connection with the offer or sale of a security in this State: (1) to employ a scheme, device, or artifice to defraud; (2) to make an untrue statement of material fact or to omit to state a material fact

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<sup>1</sup> Complying with the requirements of the safe harbor provisions of 17 C.F.R. § 230.501, *et seq.*, would preempt the requirements of § 35-1-301; however, as set forth above, the Shares failed to meet the safe harbor provisions' requirements.

necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; or (3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

26. Pursuant to S.C. Code Ann. §35-1-604(a)(1), if the Securities Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of the Act or a rule adopted or order issued under the Act, the Securities Commissioner may issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with the Act.

27. Pursuant to S.C. Code Ann. § 35-1-604(b), an order issued under § 35-1-604(a) is effective on the date of issuance and must include a statement of any civil penalty or costs of investigation sought, a statement of the reasons for the order, and notice that, within fifteen (15) days after the receipt of a request in a record from a Respondent, the matter will be scheduled for a hearing as to that Respondent.

28. The Shares offered and sold by the Respondents constitute securities as defined by the Act.

29. The Shares offered and sold by the Respondents were neither federal covered securities, exempt from registration, nor registered with the SEC or the Division and were therefore sold in violation of the Act.

30. The Promoter acted as an agent in the offer and sale of the Shares to the South Carolina Investors on behalf of the Respondents.

31. The Respondents employed an unregistered agent in violation of the Act.

32. The Respondents sold securities in this State: (1) while employing a scheme, device, or artifice to defraud; (2) through the making of untrue statements of material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading; and (3) by engaging in an act, practice, or course of business that operated as a fraud or deceit upon another person.

33. It is in the public interest, for the protection of investors, and consistent with the purposes of the Act that the Respondents be ordered to cease and desist from engaging in the above enumerated practices which constitute violations of the Act and pay an appropriate civil penalty for their wrongdoing.

#### **V. CEASE AND DESIST ORDER**

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

- a. The Respondents and every successor, affiliate, control person, agent, servant, and employee of the Respondents, and every entity owned, operated, or indirectly or directly controlled by or on behalf of either of the Respondents **CEASE AND DESIST** from transacting business in this State in violation of the Act, and, in particular, §§ 35-1-301, 35-1-402, and 35-1-501 thereof; and
- b. Respondent Shepard pay a civil penalty in the amount of Sixty Thousand Dollars (\$60,000) if this Order becomes effective by operation of law, or, if Respondent Shepard seeks a hearing and any legal authority resolves this matter, pay a civil penalty in an amount not to exceed Ten Thousand Dollars

(\$10,000) for each violation of the Act by Respondent Shepard, and the actual cost of the investigation or proceeding.

**IT IS FURTHER ORDERED** that, pursuant to S.C. Code Ann. § 35-1-604(a)(2) and (3), any exemption from registration with the Division that either Respondent may claim to rely upon under S.C. Code Ann. §§ 35-1-201(3)(C), (7), or (8); 35-1-202; 35-1-401(b)(1)(D) or (F); or 35-1-403(b)(1)(C), has been and is **PERMANENTLY REVOKED**.

#### **VI. REQUIREMENT OF ANSWER AND NOTICE OF OPPORTUNITY FOR HEARING**

The Respondents are hereby notified that they each have the right to a hearing on the matters contained herein. To schedule such a hearing, a Respondent must file with the Securities Division, Post Office Box 11549, Rembert C. Dennis Building, Columbia, South Carolina, 29211-1549, attention: Thresechia Navarro, within thirty (30) days after the date of service of this Order to Cease and Desist, a written Answer specifically requesting a hearing. If a Respondent requests a hearing, the Division, within fifteen (15) days after receipt of a request in a record from a Respondent, will schedule the hearing for the requesting Respondent(s).

In the written Answer, a Respondent, in addition to requesting a hearing, shall admit or deny each factual allegation in this Order, shall set forth specific facts on which the Respondent relies, and shall set forth concisely the matters of law and affirmative defenses upon which the Respondent relies. A Respondent without knowledge or information sufficient to form a belief as to the truth of an allegation shall so state.

Failure by a Respondent to file a written request for a hearing in this matter within the thirty-day (30) period stated above shall be deemed a waiver by that Respondent of the right to such a hearing. Failure of a Respondent to file an Answer, including a request for a hearing,



shall result in this Order, including the stated civil penalty and any assessed costs, becoming final as to that Respondent by operation of law.

This Order does not prevent the Division or any other law enforcement agency from seeking such other civil or criminal remedies that are available under the Act, including remedies related to offers or sales of securities by the Respondents which may or may not be set forth above.


CONTINUING TO ENGAGE IN ACTS DETAILED BY THIS ORDER AND/OR SIMILAR ACTS MAY RESULT IN THE DIVISION'S FILING ADDITIONAL ACTIONS AND/OR SEEKING FURTHER CIVIL PENALTIES. WILLFUL VIOLATION OF THIS ORDER COULD RESULT IN CRIMINAL PENALTIES PURSUANT TO S.C. CODE ANN. § 35-1-508.

ENTERED, this the 24<sup>th</sup> day of June, 2014.

ALAN WILSON  
SECURITIES COMMISSIONER

By: Tracy Meyers  
TRACY A. MEYERS  
Deputy Securities Commissioner

ISSUANCE REQUESTED BY:

  
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IAN P. WESCHLER  
Assistant Attorney General  
Securities Division  
Rembert C. Dennis Building  
1000 Assembly Street  
Columbia, S. C. 29201

STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
SECURITIES DIVISION

CERTIFICATE OF SERVICE AND  
AFFIDAVIT OF COMPLIANCE  
File Number 13109

I hereby certify that I served upon the individual/entity listed below a copy of the document indicated below and dated June 24, 2014, by serving a copy of said document upon the Securities Commissioner of the State of South Carolina and by placing a copy of said document in the United States mail, certified mail, return receipt requested, first class postage prepaid and addressed to:

Mr. James Shepard  
Individually & as President of  
Vetrazzo, LLC  
1414 Harbour Way South  
Suite 1400  
Richmond, CA 94804

Document(s): Order to Cease and Desist

Mailed June 24, 2014 from Columbia, South Carolina.

I further hereby certify, swear and affirm that, service of the above-listed entity is in compliance with Section 35-1-611, Code of Laws of South Carolina.

By: *Thresechia P. Navarro*  
Thresechia P. Navarro  
South Carolina Attorney General's Office  
Securities Division  
Post Office Box 11549  
Columbia, SC 29211-1549  
(803) 734-4731

Subscribed and sworn to before me on  
this 24<sup>th</sup> day of June, 2014.

*Laura Altek (handwritten)*  
Notary Public for South Carolina

My commission expires: 3-10-18

