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 13 *and Relief Defendant CJ Investments, LLC*

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 SECURITIES AND EXCHANGE
 17 COMMISSION,

18 Plaintiff,

19 v.

20 MATTHEW WADE BEASLEY; BEASLEY
 21 LAW GROUP PC; JEFFREY J. JUDD;
 22 CHRISTOPHER R. HUMPHRIES; J&J
 23 CONSULTING SERVICES, INC., an Alaska
 24 Corporation; J&J CONSULTING SERVICE,
 25 INC., a Nevada Corporation; J AND J
 26 PURCHASING, LLC; SHANE M. JAGER;
 27 JASON M. JONEGARD; DENNY
 28 SEYBERT; and RONALD TANNER,

Defendants,

THE JUDD IRREVOCABLE TRUST; PAJ
 CONSULTING INC; BJ HOLDINGS LLC;
 STIRLING CONSULTING, L.L.C.; CJ
 INVESTMENTS, LLC; JL2
 INVESTMENTS, LLC; ROCKING HORSE
 PROPERTIES, LLC; TRIPLE THREAT
 BASKETBALL, LLC; ACAC LLC;
 ANTHONY MICHAEL ALBERTO, JR.; and
 MONTY CREW LLC;

Relief Defendants

CASE NO.: 2:22-cv-00612

**DEFENDANT CHRISTOPHER
 HUMPHRIES AND RELIEF
 DEFENDANT CJ INVESTMENTS,
 LLC'S MOTION TO DISMISS THE
 SECURITIES AND EXCHANGE
 COMMISSION'S AMENDED
 COMPLAINT**

CHRISTIANSEN
 TRIAL LAWYERS



1 Defendant Christopher R. Humphries (“Chris” or “Mr. Humphries”), and Relief
 2 Defendant CJ Investments, LLC, (collectively, the “Humphries Defendants”) by and through
 3 Peter S. Christiansen, Esq., Kendeleo L. Works, Esq., and Keely P. Chippoletti, Esq. of
 4 Christiansen Trial Lawyers, their Counsel of Record, hereby move to dismiss the Securities and
 5 Exchange Commission’s (“SEC”) Amended Complaint against them. On June 24, 2022, the
 6 Humphries Defendants filed their first motion to dismiss pursuant to Federal Rule of Civil
 7 Procedure 9 (b) (ECF No. 112). In response, the SEC filed an amended complaint and added
 8 additional allegations pertaining to Mr. Humphries (ECF No. 118).¹ The SEC’s case is largely
 9 focused on the two lead defendants – Matthew Beasley and Jeffrey Judd – and is woefully thin
 10 regarding the Humphries Defendants and still falls short of what Rule 9 (b) requires. The SEC’s
 11 Amended Complaint is still replete with only generalizations against Mr. Humphries and thus,
 12 despite amendment, fails to meet the heightened standard for pleading fraud based securities
 13 violations. Accordingly, consistent with Rules 9(b) and 12(b), the Amended Complaint must be
 14 dismissed as to the Humphries Defendants.

15 MEMORANDUM OF POINTS AND AUTHORITIES

16 I. Relevant Factual Allegations and Procedural History

17 This action arises from allegations that Mr. Humphries, along with the other Defendants,
 18 engaged in a “long-running fraudulent offering of securities.”² Amended Compl. at ¶ 1. The
 19 SEC generally lumps Mr. Humphries in with Beasley and Judd without allegations to support this
 20 approach. It has named the Humphries Defendants in all of its five claims for relief asserting: 1)
 21 Violations of Section 5(a) and (c) of the Securities Act [15 U.S.C. § 77e(a) and (c)]; 2) Violations
 22 of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)(1)]; 3) Violations of Section 10(b) of
 23 the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5[17 C.F.R. § 240.10B-5];
 24

25 ¹ More specifically, in its Amended Complaint, the SEC added the following new six paragraphs regarding
 26 Humphries: 49-51, 54, and 60-61. It added some examples to paragraph 48. It removed “on information and belief”
 from paragraph 68.

27 ² Defendant Humphries further asserts that the transactions at issue do not constitute the exchange of any “security.”
 28 However, this motion is limited solely to the SEC’s failure to meet the particularized pleading required to state a
 claim for fraud and/or claims that are derived from an alleged fraudulent scheme.



1 and 4) Violations of Sections 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)]; and 5)
2 Equitable Disgorgement.

3 On March 3, 2022, the FBI executed search warrants at the residences of Matthew
4 Beasley, Esq., Jeffrey Judd and Chris and Jessica Humphries. Amended Compl. at ¶ 6. In
5 relevant part, the FBI sought records of securities or investment contracts marketed, sold or
6 contemplated to be marketed or sold by Judd, Humphries, J&J Consulting, J&J Investments and
7 J&J Purchasing.

8 Although the SEC’s Amended Complaint describes the alleged standoff and cites to
9 Beasley having “repeatedly confessed to an FBI negotiator that the J&J Entities’ investment
10 scheme was actually a Ponzi scheme that started in 2016 or 2017,”³ the SEC tellingly omits crucial
11 exculpatory evidence that Beasley provided the FBI in a recorded statement regarding Mr.
12 Humphries. The SEC provides a brief summary of the recorded statement in paragraph 6, but has
13 failed to advise the Court about the exculpatory evidence contained in the recorded statement.
14 What is worse is that the SEC generally lumps Mr. Humphries in with the defined J&J entities,
15 despite that there is no allegation he has any ownership interest in any of the named Defendant
16 entities. *Id.* at ¶ 1. The SEC, in essence, misleads the Court. Indeed, the SEC fails to include
17 that Beasley repeatedly informed law enforcement that he alone had knowledge of the purported
18 fraud—further specifying Chris did not know. Particularly relevant, Beasley affirmed the
19 following:

20 MR. BEASLEY: Nobody else was involved in the scheme.

21 FBI AGENT ADAM: Nobody else was involved.

22 MR. BEASLEY: Nobody even knew. Nobody even knew.

23 FBI AGENT ADAM: Nobody even knew what?

24 MR. BEASLEY: That I was running a Ponzi scheme.

25 FBI AGENT ADAM: Okay, a Ponzi scheme.
26
27

28 ³ *Id.* at ¶6.



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MR. BEASLEY: They didn't know.
FBI AGENT ADAM: Who didn't know Matthew?

MR. BEASLEY: They had no idea. If they did, they would have called you guys.
...

FBI AGENT ADAM: Ok so the FBI was at some other people's houses today to talk to them about maybe something you're involved in.

MR. BEASLEY: They did search warrants today. They did search warrants today.

FBI AGENT ADAM: Okay. They did a search warrant today and you might have some involvement in it.

Mr. Beasley: They – they knew nothing. ***I lied to them. I ran the entire thing and the only thing these individuals did wrong is believe me, that was it. They knew nothing.*** They believed that I was a good person...

See Beasley Transcript attached to SEC's Memorandum of Points and Authorities in Support of Ex Parte Application for TRO, ECF No. 2-5, page 22 of 337 (transcript pp. 6-7) (emphasis added). Mr. Beasley goes on to reiterate that he alone had sole knowledge the subject investments were a so-called Ponzi scheme no less than ten times, even identifying Chris by name and specifying that Chris and other of the named Defendants knew nothing. *Id* at p. 21 of 337 (transcript p. 4); p. 23 of 337 (transcript pp. 12-13); p. 24 of 337 (transcript p. 16); p. 27 of 337 (transcript pp. 27 and 29); p. 41 of 337 (transcript pp. 14-16); 42 of 337 (transcript p. 21); p. 46 of 337 (transcript p. 34). Mr. Beasley's recorded statement makes sense when you consider that Mr. Humphries was, in essence, a salesman who was kept away from the monies and did not have access to the financial records and performance side of the business. He spent his own money and invited family members to do the same believing it was real and would be a good way to receive installment payments derived from contracts executed with plaintiff lawyers.

Both Chris and Jessica Humphries were present at the time of the execution of a warrant at their home in Huntington Beach, California. Unlike Mr. Beasley who engaged in a violent hours-long stand-off with the FBI, the Humphries were cooperative and compliant with law



1 enforcement. *See generally id.*; *see also* Amended Compl. At the time of that search, both Chris
2 and Jessica Humphries had their iPhones and laptops seized. Mr. Humphries has not been charged
3 criminally but understands the investigation remains ongoing.

4 Despite the ongoing parallel criminal investigation and search and seizure of so-called
5 evidence, the SEC’s Amended Complaint herein demonstrates a paucity of factual allegations
6 specific to Mr. Humphries. Although it is alleged that he “promoted the investment to people at
7 his gym and church, as well as through friends and family,” the Complaint is devoid of any
8 allegation specifically identifying any such persons. *See generally id.*; *see also id.* at ¶ 48. The
9 SEC’s Amended Complaint attempts to remedy its earlier deficiencies by pointing to general
10 representations Mr. Humphries purportedly made to “his investors,” but it again fails to name any
11 particular investor and provides only general timeframes as to when the so-called
12 misrepresentations were made. *See generally* Compl. on file herein; *see also Amended Compl.* at
13 ¶¶ 48-51, 54, and 60-61. The SEC has still not provided any specific dates or times, much less
14 the manner or place in which the purported communication(s) occurred. *Id.*

15 The crucial missing details required by Rule 9(b) pertains to **how** Mr. Humphries
16 allegedly knew and **when** he allegedly knew the investment program was a Ponzi scheme.
17 The only direct allegation about knowledge of the fraud by Mr. Humphries appears in paragraph
18 68 where the SEC summarily avers that “Humphries also knew or was reckless in not knowing
19 that the purchase agreement investment scheme was a fraud. Humphries was at least aware of
20 indicia that the tort settlements at issue in the investment were fictitious but nonetheless acted to
21 hide that fact from investors.” *See* ECF 1 at ¶ 55; *see* ECF 118 at ¶ 68. While the SEC makes
22 detailed assertions as to both Judd and Beasley’s knowledge that the scheme was a fraud, the SEC
23 fails to do so with regard to Mr. Humphries.

24 The only other allegation in the 28-page Amended Complaint regarding Humphries’
25 alleged knowledge is pleaded in paragraph 69 where the SEC alleges, ***on information and belief***,
26 that certain undefined information made its way back to Humphries. Specifically, the SEC alleges
27 that “Over the years despite being told not to do so, several attorneys contacted the investors on
28 the purchase agreements and the attorneys denied having such clients or entering the purchase



1 agreements. ***On information and belief***, this information made its way back to the promoters,
 2 including Humphries, and ultimately Judd himself.” *Id.* at ¶ 69 (emphasis added). No date is
 3 alleged. No detail is alleged. Clearly, the SEC possesses no direct evidence against Mr.
 4 Humphries. The Amended Complaint is silent as to how or when or through whom such
 5 “information” made its way back to Mr. Humphries. The SEC has unfairly included the
 6 Humphries Defendants in this case without having plead the basics of Rule 9(b) as against him.
 7 Likely, the SEC lacks any proof of any actual knowledge by Mr. Humphries.

8 Given the exculpation of Mr. Humphries by Mr. Beasley and the paucity of these vague
 9 allegations, the case against the Humphries Defendants should be dismissed on Rule 9(b)
 10 grounds. If and when the SEC can ever plead its case against Mr. Humphries with the requisite
 11 particularity, it can then seek to add him as a defendant.

12 II. Legal Argument

13 A. The SEC Fails to Plead Fraud With Particularity as to Mr. Humphries and 14 Ignores Crucial Exculpatory Evidence.

15 The Amended Complaint should be dismissed because as to Mr. Humphries, the SEC has
 16 failed to plead fraud with particularity as required by Rule 9(b). “Rule 9(b)’s heightened pleading
 17 requirements apply to allegations of securities fraud” and require the SEC to “set out the who,
 18 what, when, where, and how of the alleged fraud...” *S.E.C. v. Kameli*, 373 F. Supp. 3d 1194,
 19 1201, 1204 (N.D. Ill. 2019) (citations omitted)(finding that although SEC need not plead the date,
 20 time, sender, recipient and content of every securities transaction, it was required to, “make clear
 21 exactly which of the eight years of communications form the basis of its fraud allegations and
 22 must differentiate among the defendants sufficiently to give each defendant fair notice of their
 23 alleged role.”). Mr. Humphries is a victim, not a knowing participant in a Ponzi scheme. A
 24 complaint that attributes misrepresentations to all defendants and lumps defendants together for
 25 pleading purposes is insufficient to satisfy Rule 9(b). *Id.* at 1201.

26 Notably, the SEC violates the rule of completeness and misleads this Court by failing to
 27 acknowledge that Beasley implicated only himself – to the direct and specific exclusion of Mr.
 28 Humphries. The Rule of Completeness (codified as FRE 106) ensures fairness by providing for



1 the admission of additional portions of a statement or recording where one side offers an
 2 abbreviated version that distorts the meaning of the statement or excludes substantially
 3 exculpatory or relevant passages. *See U.S. v. Lopez*, 4 F.4th 706, 715 (9th Cir. 2021). Although
 4 the Court generally cannot go beyond the four corners of the pleading in assessing a Rule 12(b)
 5 motion to dismiss, an exception exists where a complaint expressly incorporates an outside
 6 document. *See* FRCP 12(d); *In re Colonial Mortgage Bankers Corp.*, 324 F.3d 12, 15
 7 (2003). Because the Complaint here specifically cites to and relies upon Beasley’s confession,
 8 this Court may consider the transcript of that confession in assessing the merit of Mr. Humphries’
 9 motion to dismiss. Amended Compl. at ¶6.

10 The SEC’s omission of material facts renders all the more troubling, its failure to allege
 11 particularized facts establishing a valid fraud claim against Mr. Humphries. To be clear, the SEC
 12 should not be permitted to rely upon a recorded “confession” that exculpates Mr. Humphries,
 13 while at the same time asserting he was a knowing participant in the alleged fraud without ever
 14 stating a specific basis for such averments. *See generally In re Colonial Mortgage Bankers Corp.*,
 15 324 F.3d at 15 (noting the court, “is not bound to credit ‘bald assertions, unsupportable
 16 conclusions and opprobrious epithets’”).

17 As to the pleading requirements of Rule 9(b), the SEC fails to allege facts sufficient to
 18 place Mr. Humphries on notice of the basis for its fraud allegations, *i.e.*, the “who,” “what,”
 19 “when,” and “where,” required by Rule 9(b). Indeed, the SEC consistently and categorically
 20 lumps Mr. Humphries in with other Defendants offering very little, if any specificity as to which
 21 statements can be linked directly to him. While the Amended Complaint cites to additional
 22 statements allegedly made by Humphries over the years, it provides no specificity as to where or
 23 to whom the statements were made, on what particular date, nor the mode of such
 24 communications. Moreover, much like *Kameli*, the Amended Complaint here encompasses an
 25 allegedly fraudulent scheme that spans five years for Judd and Beasley, and three years for Mr.
 26 Humphries,⁴ but offers insufficient detail as to which purported representations the alleged fraud

27
 28 ⁴ In paragraph 48 of the Amended Complaint, the SEC alleges Chris started promoting as of August 2019.



1 is derived from and fails to differentiate among Defendants sufficient to give Mr. Humphries fair
 2 notice of his individual role. The SEC essentially assumes that Mr. Humphries knew what was
 3 going on and knew that the monies were not being used as represented. This is unfair and
 4 factually inaccurate based on Beasley’s statement – the very confession upon which the SEC
 5 relies in bringing this case in the first instance. The SEC should be required to plead when he
 6 learned it was fraudulent, how he knew it was a fraudulent scheme, and his role in perpetrating
 7 such a scheme.

8 The SEC has brought a sweeping fraud case, but not all persons who interacted with
 9 Beasley and Judd are responsible for their actions. The Court should require the SEC to be
 10 specific regarding Mr. Humphries. His assets have been frozen and his life has been turned upside
 11 down based on these scant allegations. Rule 9(b) requires the SEC to describe in detail how Mr.
 12 Humphries engaged in securities fraud. The SEC has failed to do so. The Amended Complaint
 13 should be dismissed, and the SEC given leave to replead the case against Mr. Humphries or
 14 dismiss him from the case because they lack the ability to do so.

15 **B. The SEC’s Non-Scienter Based-Claims Should Also be Dismissed**

16 The SEC asserts claims pursuant to Sections 5(a) and (c) of the Securities Act [15 U.S.C.
 17 § 77e(a) and (c)] of the Securities Act (Count 1); and Violations of Sections 15(a)(1) of the
 18 Exchange Act [15 U.S.C. § 78o(a)(1)] (Count 4), which do not require scienter. Rule 9(b) still
 19 applies to these claims. “The majority of circuits have held that Rule 9(b) applies to claims under
 20 the Securities Act ... if they ‘sound in fraud,’ even if a plaintiff need only allege negligence to
 21 state a claim.” *S.E.C. v. RPM Int’l, Inc.*, 282 F. Supp. 3d 1, 12-13 (D.D.C. Sept. 29, 2017) (citing
 22 in relevant part to *In re Stac Elecs. Secs. Litig.*, 89 F.3d 1399, 1404-05 (9th Cir. 1996)(noting the
 23 9th Circuit is among the majority of courts finding the particularity requirements of 9(b) applies
 24 even to negligent securities acts claims where the action is grounded in fraud). In *RPM*, the court
 25 concluded that the SEC was required to meet Rule 9(b)’s heightened pleading standards in
 26 connection with its Section 17(a)(2) and 17(a)(3) because “[t]he gravamen of the SEC’s action
 27 under Section 17 here is fraud....” *Id.* at 13; *see also S.E.C. v. Sztrom*, No. 3:21-cv-00086, 2021
 28



1 WL 1889758, at *3 (S.D. Cal. May 11, 2021) (analyzing defendant’s motion to dismiss SEC’s
2 complaint alleging violations of Section 206(2) of the Advisers Act under Rule 9(b)).

3 Here, there is no question that the SEC’s claims sound in fraud. The SEC’s theory rests
4 entirely on its claims that Defendants engaged in a fraudulent Ponzi Scheme. Amended Compl.
5 at ¶¶ 1-5. Indeed, the SEC repeatedly accuses Defendants of engaging in a “fraudulent” scheme
6 or conduct. *See generally* Amended Compl. Because the entirety of the SEC’s action is based
7 on the purported fraudulent Ponzi Scheme, each of its claims must be plead with particularity,
8 which is lacking as to Mr. Humphries. Accordingly, the Complaint must be dismissed as to Mr.
9 Humphries and Relief Defendant CJ Investments, LLC.

10 **C. Conclusion**

11 In light of the foregoing facts, law and analysis, this Court should find that even after a
12 second bite at the apple, the SEC has failed to plead its fraud based claims as to Mr. Humphries
13 with the particularity required under Rule 9(b). Accordingly, the Amended Complaint should be
14 dismissed as to Mr. Humphries and Relief Defendant CJ Investments LLC.

15 Dated this 27th day of July, 2022.

16 CHRISTIANSEN TRIAL LAWYERS

17
18 By 

19 PETER S. CHRISTIANSEN, ESQ.
20 KENDELEE L. WORKS, ESQ.
21 KEELY P. CHIPPOLETTI, ESQ.

22 *Attorneys for Defendant*
23 *Christopher R. Humphries and Relief*
24 *Defendant CJ Investments, LLC*



CERTIFICATE OF SERVICE

Pursuant to FRCP 5 and LR-5.1, I certify that I am an employee of CHRISTIANSEN TRIAL LAWYERS, and that on this 27th day of July, 2022, I caused the foregoing document entitled **DEFENDANT CHRISTOPHER HUMPHRIES AND RELIEF DEFENDANT CJ INVESTMENTS, LLC'S MOTION TO DISMISS THE SECURITIES AND EXCHANGE COMMISSION'S AMENDED COMPLAINT** to be filed and served via the Court's CM/ECF electronic filing system upon all registered parties and their counsel.



An employee of Christiansen Trial Lawyers

CHRISTIANSEN
— TRIAL LAWYERS —



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