

Securities and Exchange Commission, §  
§  
Plaintiff, §  
§  
v. § Civil Action No. CIV-05-213 DJS ACT  
§  
Custom Designed Compressor §  
Systems, Inc. §  
and Shelby E. Ball, §  
§  
Defendants. §

### **COMPLAINT**

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

#### **SUMMARY OF THE ACTION**

1. The Commission brings this civil action against Custom Designed Compressor Systems, Inc. (“CDC”), a New Mexico-based equipment manufacturing company, and Shelby E. Ball (“Ball”), CDC’s chief executive officer, president and director. In 2004, Ball and CDC defrauded public investors by issuing millions of shares of unregistered CDC stock to promoters who sold them to the public at artificially inflated prices to raise money for CDC and the promoters.

2. From mid-September 2004 to mid-October 2004, Ball issued 18 false press releases describing CDC as a profitable manufacturer of custom compressor systems using proprietary designs that enabled marginally-producing natural gas wells to extract and distribute gas. In reality, CDC owned few assets and its repeated claims of revenue streams, lucrative contracts with major producers, and unique compressor technology were outright falsehoods or

gross exaggerations of CDC's actual business operations. Ball condoned the further distribution of CDC's false press releases through spam emails and broadcast faxes.

3. At the same time Ball was issuing false press releases, the promoters were selling millions of shares to public investors. During the time period at issue in this case, the market price of CDC surged from initial trades of \$.50 per share to a height two weeks later of \$9.00 per share, split adjusted, on trading volume averaging over 500,000 shares per day. Sales by the promoters during this pump and dump scheme generated proceeds in excess of \$4.6 million, of which CDC received \$737,000.

4. Through these actions, the defendants violated, and unless restrained and enjoined will continue to violate, the registration provisions of the federal securities laws, Sections 5(a) and 5(c) of the Securities Act of 1933, as amended ("Securities Act") [15 U.S.C. §§ 77e(a) and 77e(c)], the antifraud provisions of Section 10(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to authority conferred on it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)] to restrain and enjoin the defendants from engaging in the acts, practices and courses of business described in this Complaint and acts, practices and courses of business of similar purport and object. The Commission seeks permanent injunctions against both defendants. The Commission also seeks equitable relief in the form of disgorgement of ill-gotten gains with prejudgment interest, an accounting, civil penalties as to both defendants, and an officer and director bar and penny stock bar as to Ball.

6. This Court has jurisdiction in this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].

7. The defendants, directly or indirectly, made use of the means and instrumentalities of interstate commerce, and of the mails, in connection with the acts, practices, and courses of business alleged in this complaint.

8. Certain of the acts, practices and courses of business constituting the violations of law alleged herein occurred within the District of New Mexico. CDC maintained its headquarters and conducts or conducted business within in the District of New Mexico during the time period covered by this Complaint, and defendant Ball conducted business within the District of New Mexico.

#### **THE DEFENDANTS**

9. Custom Designed Compressor Systems, Inc., also known as CDC Systems, is a Delaware corporation headquartered in Bloomfield, New Mexico, in an oil and gas producing region known as the San Juan Basin. CDC claims to supply compressors to enhance the production and distribution of natural gas. CDC's stock is not registered under the Securities Act or the Exchange Act and is quoted on the National Quotation Bureau Pink Sheets ("Pink Sheets") under the ticker symbol CPYJ. CDC's securities were penny stock during most of the time period at issue in this case.

10. Shelby E. Ball, age 33, of Dallas, Texas, is the chief executive officer and director of CDC. Ball was principally responsible for drafting and distributing the false press releases and for distributing CDC stock to the public.

## FACTS

### A. Initial Stock Offering and Commencement of Trading

11. In June 2004, Ball and other family members incorporated CDC in anticipation of starting a business to supply compressors to the natural gas industry. To finance the company, Ball devised a plan to raise up to \$1 million in capital through public trading facilitated by quotations on the Pink Sheets. Ball was personal friends with a stock promoter whom he hired to take CDC public through an initial public offering which circumvented the registration and disclosure requirements of the federal securities laws. The promoter introduced Ball to other penny stock promoters who agreed to collaborate in issuing and distributing CDC's stock and press releases.

12. Ball and the promoters hid the true nature of CDC's stock offering by purporting to qualify for an exemption pursuant to Rule 504 of Regulation D of the Exchange Act. [17 C.F.R. § 240.504] They devised a scheme to issue CDC stock to a purported accredited investor who would agree to transfer the stock to the promoters, who would sell it into the public markets through various brokerage accounts concurrent with a campaign to issue and broadly distribute press releases about CDC. Under the plan, the stock CDC issued to the purported accredited investor would be the sole source of stock available to the public.

13. Ball, CDC and the promoters put the plan into effect on September 14, 2004, when CDC issued stock to a single investor. They then caused the stock to be reissued to the promoters who distributed the stock to the public. The promoter and his associates sold nearly 2 million shares of stock and raised proceeds of \$4.66 million, of which CDC received \$737,000.

14. The only information available to the public about CDC issuing stock was contained in a misleading Form D signed by Ball and filed with the Commission on or about

September 15, 2004. The Form D stated that CDC had issued 8,250,000 shares to an accredited investor in exchange for \$82,500. In fact, as of the filing, CDC had not received any money, but had an arrangement with the promoters to receive up to \$1 million once CDC's stock was transferred to them by the initial investor and resold to unsuspecting investors. The Form D further represented that CDC's securities would only be sold to accredited investors. This statement was misleading in light of the fact that under the scheme, the initial accredited investor was merely a conduit by which CDC stock was distributed to the public.

**B. False and Misleading Press Releases**

15. Concurrent with the start of CDC trading through the Pink Sheets, Ball and the promoters mounted a publicity campaign to generate investor interest. From September 23, 2004 through October 14, 2004 Ball created and distributed 18 separate press releases to investors. The information in the press releases included several false and misleading statements about CDC's business dealings and revenue projections. The false and misleading press releases were further disseminated through promotional spam emails and blast faxes with Ball's knowledge.

16. In its first press release issued September 23, 2004, CDC announced itself as a public company. The press release failed to disclose that the public offering involved shares that were issued in violation of the federal securities registration requirements and that CDC was dependent on the promoters selling shares to the public to raise money to fund its operations. This press release also stated that CDC's innovative compressor system was "available to the public" and would turn marginal gas wells into profitable producers. In fact, the company did not have a single compressor built and ready for sale, but simply had plans to develop and manufacture such a system provided sufficient funds were raised from investors.

17. On September 27, 2004, CDC issued a press release with the headline “CDC Systems Inc. Announces Burlington Resources Requisition.” The press release stated that CDC had received an order to place compressors on ten wells owned by Burlington Resources, a major natural gas producer. CDC claimed that the order would produce \$198,000 in annual revenue. In fact, no such order existed. Burlington Resources learned of the release and immediately demanded that CDC issue a retraction. CDC did not comply with the request until October 22, 2004.

18. On September 28, 2004, CDC announced that it would receive over \$1.1 million in annual revenues from 55 CDC compressors currently operating. The next day CDC reported that the 55 compressors represented \$4.1 million of CDC assets deployed in the field. In truth, CDC did not own any compressors and was not entitled to receive any revenue from any operating compressors.

19. On September 29, 2004, CDC announced that it had received approval for a \$15 million loan to manufacture the large number of compressors needed for the following 24 months of operations. CDC never disclosed that it was required to deposit \$400,000 before the loan would be approved. At the time, CDC did not have the money to make the deposit required to get the loan.

20. In two separate press releases dated October 4 and 5, 2004, CDC claimed that two separate companies had chosen CDC to supply compressors for more than 20 new gas wells, with potential annual revenue for CDC in excess of \$600,000. In fact, neither company ever gave CDC a binding commitment to purchase compressors. Both companies were still working on acquiring leases for drilling the wells, which had to be successfully completed before any drilling could be started. Assuming drilling was both started and successfully completed, the

companies planned to evaluate the need for compressors. Even then, the companies agreed to purchase compressors from CDC only if CDC's compressors were comparable in quality to other compressors on the market and were offered at competitive prices. Despite these material contingencies, CDC reported that its total assets with the addition of these purported agreements would be \$5.3 million by the end of November 2004.

21. In its October 5, 2004 press release CDC stated that its expected annual revenue would be \$2,764,000. In light of CDC not owning any compressors or having any right to receive revenue from a single operating compressor, its revenue projection of over \$2.7 million lacked a reasonable basis. That day CDC's stock price closed at \$4.85 per share, resulting in a market capitalization of more than \$0.55 billion.

22. On October 15, 2004, CDC announced that it had \$600,000 to \$800,000 worth of compressor parts on hand for use in manufacturing. In truth, the parts were used parts that CDC had acquired at auction for approximately \$50,000.

23. Beginning October 22, 2004, CDC issued a series of clarifying press releases acknowledging inaccuracies in many of the releases items discussed above. When this information was made public, CDC's stock price collapsed to \$.20 per share.

**FIRST CLAIM FOR RELIEF**  
**FRAUD AND MARKET MANIPULATION: Violations by CDC and Ball of Section 10(b)**  
**of the Exchange Act and Rule 10b-5 [15 U.S.C. § 78j(b)]**

24. Paragraphs 1 through 23 are hereby realleged and incorporated by reference.

25. Defendants CDC and Ball, directly and indirectly, with scienter, by use of the means or instrumentalities of interstate commerce, or of the mails, have employed devices, schemes or artifices to defraud; have made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances

under which they were made, not misleading; or have engaged in acts, practices or courses of business which have been and are operating as a fraud or deceit upon the purchasers or sellers of such securities.

26. By reason of the conduct described in paragraph 25, defendants CDC and Ball have violated and, unless restrained and enjoined, will continue to violate Section 10(b) of the Exchange Act and Rule 10b-5 thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

**SECOND CLAIM FOR RELIEF**  
**SALE OF UNREGISTERED SECURITIES: Violations by CDC and Ball of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)]**

27. Paragraphs 1 through 26 are hereby realleged and incorporated by reference.

28. Defendants CDC and Ball, directly or indirectly, made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer and sell securities of CDC through the use or medium of a prospectus or otherwise, and carried or caused to be carried through the mails, or in interstate commerce, by means or instruments of transportation, such securities for the purpose of sale or for delivery after sale, when no registration statement had been filed or was in effect as to such securities.

29. By reason of the conduct described in paragraph 28, defendants CDC and Ball have violated and, unless restrained and enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that the Court:

**I.**

Find that the Defendants, and each of them, committed the violations alleged.



**II.**

Enter an Order of Permanent Injunction as to each defendant, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, enjoining each defendant from further violations of the provisions of law and rules alleged in this complaint.

**III.**

Enter an Order requiring each defendant to provide an accounting and disgorge proceeds obtained from their unlawful conduct.

**IV.**

Enter an Order requiring each defendant to pay civil penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act.

**V.**

Enter an order barring defendant Ball from acting as an officer or director of a public company pursuant to Section 20(e) of the Securities Act and Section 21(d)(2) of the Exchange Act.

**VI.**

Enter an order barring Ball from participating in an offering of penny stock pursuant to Section 20 of the Securities Act and Section 21(d) of the Exchange Act.

**VII.**

Grant such further equitable relief as this Court deems appropriate and necessary.

DATED: February 25, 2005

Respectfully submitted,

/s/

\_\_\_\_\_  
Julie K. Lutz, Esq.  
John B. Smith, Esq.  
Sherry A. Gonzales, Esq.  
Securities and Exchange Commission  
1801 California Street, Suite 1500  
Denver, CO 80202-2656  
(303) 844-1000  
Fax (303) 844-1068

David Iglesias, Esq.  
U.S. Attorney  
District of New Mexico

by: \_\_\_\_\_ /s/

Ray Hamilton  
Supervisory Assistant U.S. Attorney