

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
v.)
)
GASTON E. CANTENS and TERESITA CANTENS)
)
Defendants.)
_____)

COMPLAINT

Plaintiff Securities and Exchange Commission alleges as follows:

INTRODUCTION

1. Defendants Gaston E. Cantens and his wife, Teresita Cantens, the co-owners of Royal West Properties, Inc., a Miami, Florida-based real estate developer, conducted an affinity fraud and Ponzi scheme from at least 2002 through 2009. Beginning in 1993, Royal West offered and sold promissory notes to investors by guaranteeing 9 to 16 percent annual returns over a one, three, or five-year period. The promissory notes were purportedly secured by mortgages on real estate parcels Royal West sold in connection with development projects in Southwest Florida. The Cantens touted Royal West's financial success, and assured prospective investors that recorded mortgage receivables collateralized and secured their investment. Through Royal West, the Cantens raised more than \$135 million from hundreds of investors, many of them from South Florida's Cuban-exile community.

2. In reality, Royal West operated at a loss starting no later than 2002. In classic Ponzi scheme fashion, the Cantens used new investor funds to pay principal and interest to earlier investors, and to fund Royal West's ongoing business operations. During this time, the

Cantens also diverted more than \$20 million to finance unrelated personal business ventures and pay themselves exorbitant salaries. In addition, contrary to the Cantens' claims that recorded mortgage receivables backed investors' principal, Royal West failed to properly record as many as a third of the mortgage receivables it held.

3. As a result of this conduct, the Cantens violated Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a) and (c) and 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5.

4. The Commission requests that the Court enter orders: (1) permanently enjoining the Cantens from violating the federal securities laws; (2) directing the Cantens to submit a sworn accounting and disgorge all profits or proceeds they received as a result of the acts and/or courses of conduct complained of, with prejudgment interest; and (3) ordering them to pay civil money penalties.

DEFENDANTS AND RELATED PARTY

5. Gaston Cantens, 71, resides in Miami. He was the founder and president of Royal West. He met with investors on Royal West's behalf and signed promissory notes, personal guarantees and checks to investors.

6. Teresita Cantens, 73, also resides in Miami. She served as Royal West's secretary and treasurer and, in this capacity, met with investors and signed personal guarantees and checks to investors.

7. Royal West is a Florida corporation with its principal place of business in Miami. The Company has been previously registered with the State of Florida as a land developer. The Cantens together managed and controlled all aspects of the business, which was primarily the

sale and financing of real estate lots on the west coast of Florida. Royal West has never registered an offering or class of securities under the Securities Act or the Exchange Act. On May 27, 2009, a group of investors filed an involuntary petition against Royal West in the U.S. Bankruptcy Court for the Southern District of Florida. On July 1, 2009, the Court appointed a Chapter 11 Trustee and, on August 10, 2009, the Court approved the Trustee's motion to convert the case to Chapter 7 liquidation proceedings.

JURISDICTION AND VENUE

8. The Court has jurisdiction over this action pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d) and 77v(a)] and Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa].

9. The Court has personal jurisdiction over the Defendants, and venue is proper in the Southern District of Florida because many of the Defendants' acts and transactions constituting violations of the Securities and Exchange Acts occurred in the Southern District of Florida. More specifically, Royal West's principal place of business is in the Southern District of Florida, and the Cantens reside in the District.

10. In connection with the conduct alleged in this Complaint, the Defendants, directly and indirectly, singly or in concert with others, have made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

THE DEFENDANTS' FRAUDULENT INVESTMENT SCHEME

A. Royal West's Real Estate and Mortgage Business

11. Royal West's primary business since 1982 was the development and sale of real estate lots on the west coast of Florida. Royal West purchased large tracts of land, subdivided

them into smaller parcels and sold them to U.S. and foreign buyers looking for vacation properties. Royal West aggressively marketed itself through television infomercials broadcast on Spanish-language channels nationwide, especially in states with large Hispanic populations such as Florida, Texas, New York, New Jersey and California. The company also marketed itself on its website and through word-of-mouth.

12. The Cantens managed all aspects of the development, sale and financing of the real estate lots. Royal West sold the real estate lots through a wholly-owned real estate company, which employed dozens of sales agents who sold the individual lots to the public. Royal West maintained offices in Florida and New York, as well as in Colombia, Ecuador, Peru and Venezuela, with sales representatives across the United States and Latin America.

13. To entice the public to purchase land in a relatively undeveloped area of Florida, Royal West offered buyers, many of whom would not have qualified for conventional loans, easy financing terms. Royal West typically offered purchase money mortgages for eight-year terms at 9 to 12 percent interest with little or no money down. Upon closing the transaction, Royal West would take back a mortgage receivable from each buyer, which Royal West would then service.

B. Royal West's Fraudulent Investment Offering

14. Beginning in 1993, to finance its real estate and mortgage business, Royal West started offering investors no-risk, collateralized promissory notes promising annual returns of 9 to 16 percent, paid in monthly installments over one-, three- or five-year terms. The Cantens told prospective investors Royal West would pay the interest from its sale of the real estate lots and mortgage payments it would collect from the purchasers.

15. The Cantens told prospective investors they would use investors' funds to finance Royal West's real estate business. They touted Royal West's successful track record, but did not

provide any details about its financial condition. Instead, they assured prospective investors their principal would be secure because, among other things, recorded mortgage receivables collateralized the promissory notes. The Cantens also purportedly assigned specific mortgage receivables to individual investors.

16. To gain the trust of prospective investors, the Cantens exploited their extensive ties to South Florida's Cuban exile community, including ties to prominent educational and religious organizations. The Cantens cultivated an image of a pious couple who were very involved in the community and with whom it was a privilege to invest.

17. For example, Gaston Cantens emphasized that Jesuit priests and other well-known leaders in the Cuban-American community had invested with Royal West. The Cantens also recruited investors through their contacts with alumni and others associated with a local private boys' school where Gaston Cantens served on the Board of Advisors. The Cantens also targeted investors at charitable and religious gatherings, and at social functions in their home.

18. The Cantens pitched the investment opportunity to individuals who learned of Royal West through television commercials broadcast on Spanish-language channels nationwide. When these individuals contacted Royal West about purchasing real estate, the Cantens also offered the investment opportunity. Many of Royal West's prospective investors learned about the investment opportunity by word of mouth in the Cuban community.

19. Many investors were elderly and agreed to invest their life savings with the Cantens. To assuage these investors' concerns about the safety and security of their savings, the Cantens boasted of their personal wealth, claiming to have stakes in multi-million dollar business ventures. At times, the Cantens also signed personal guarantees in favor of certain individuals who expressed concern about the potential risk to their principal.

20. The Cantens collected investors' funds via cash, check or wire-transfer and deposited the money into Royal West's operating account. This was the same account through which the Cantens channeled funds in connection with Royal West's real estate business and general operations.

21. Upon receipt of investors' funds, Royal West would send investors a promissory note Gaston Cantens had signed, as well as an amortization schedule detailing the payment terms and expected monthly payment. Depending on the particular investor, the Cantens also sent out mortgage and assignment documents, as well as personal guarantees. On a monthly basis or at the end of the investment term, each investor received their purported principal and monthly interest payments.

22. Over the course of sixteen years, Royal West raised approximately \$135 million from more than 400 investors, predominantly Cuban-Americans living in South Florida.

C. Material Misrepresentations and Omissions to Investors

23. In connection with Royal West's offering, the Cantens made numerous material misrepresentations and omissions regarding, among other things, the safety and security of investors' principal and returns, the success of Royal West's business, the source of purported investment returns, and the use of investor funds.

24. The Cantens told potential investors that Royal West generated investors' returns through the sale of land and its mortgage receivables business, which they claimed was highly successful. These representations were false because Royal West was not generating sufficient income from its real estate business and mortgage receivables to pay its business expenses or investors' principal and interest payments.

25. First, Royal West was experiencing an increasing rate of default among land purchasers, starting in 2002 and increasing to as much as 40 percent by 2005. Additionally, in many cases, the interest rate Royal West offered purchasers on the underlying mortgage receivable was the same or lower than the rate of return they promised to investors, making it nearly impossible for the receivables to generate the required returns.

26. By 2002, Royal West did not have sufficient funds to make promised principal and interest payments, much less meet its operating expenses. Therefore, the Cantens used new investor funds to make principal and interest payments to earlier investors.

27. The Cantens knew or were reckless in not knowing about Royal West's deteriorating financial condition. They had total control over Royal West's sole operating bank account and directed all of its real estate, mortgage and investment activities. Indeed, in August 2006, Gaston Cantens directed Royal West's internal accountant to prepare a cash flow analysis to determine how much new investor money Royal West would have to raise on a monthly basis to meet its operating expenses and pay its investor obligations.

28. The resulting analysis revealed that the amount of funds collected from the real estate business every month was well below the amount Royal West needed to pay investors' returns, exclusive of operating and other costs. The analysis further showed that between January and July 2006, Royal West's monthly shortfall ranged from \$236,000 to \$592,000 a month, and totaled \$2.8 million. Without the infusion of new investor funds during that same period, the shortfall would have been to \$6.5 million.

29. Despite knowing this information about Royal West's worsening financial condition, the Cantens failed to disclose this fact to investors. Instead, they continued to actively solicit new investor funds, all the while continuing to reassure investors as to the safety of their

principal and the success and stability of Royal West. Between August 2006 and January 2009, the Cantens collected more than \$63 million of new investor funds.

30. The Cantens' representations that the promissory notes were collateralized were also false. Starting no later than 2005, Royal West did not record as many as one-third of the assignments of mortgage receivables that served to collateralize investors' promissory notes. The Cantens also assigned specific mortgage receivables to individual investors, but did not take the necessary steps to perfect this assignment. Additionally, Royal West assigned the same mortgage receivables to multiple investors at the same time.

31. Royal West also failed to pay real estate taxes on numerous parcels of land and failed properly to document and record certain sales. Because they were in charge of Royal West's operations and closely supervised every aspect of its business operations, the Cantens knew or were reckless in not knowing that their failure to record the assignments meant the promissory notes were not properly collateralized and secured by the mortgage receivables.

32. Moreover, the Cantens misled investors about their use of investor funds. The Cantens told potential investors Royal West would use their money to finance the real estate and mortgage business. In reality, they used a substantial portion of investor funds to make principal and interest payments to earlier investors.

33. In addition, the Cantens misappropriated approximately \$20 million of investor funds for their personal use. Starting in January 2002, the Cantens siphoned at least \$14 million to fund personal business ventures through corporate entities they controlled. In addition, the Cantens paid themselves more than \$5.2 million in salaries and bonuses, and diverted approximately \$1 million to their children and their grandchildren in the form of "consulting fees," even though those individuals performed no work for Royal West.

C. Royal West's Collapse

34. By December 2008, Royal West's investors began experiencing difficulty redeeming their promissory notes and were no longer receiving monthly returns. By that time, Royal West had depleted the funds it needed to satisfy the outstanding notes it had issued. Although investors began asking the Cantens to return their principal, the Cantens refused and asked for more time, blaming general economic conditions.

35. Although Royal West ceased making payments to investors and refused to return their principal, the Cantens continued to solicit and receive new investor funds. For example, in early December 2008, Teresita Cantens called an investor and asked her to invest additional funds with Royal West. Based on her assurances about the success of Royal West's business and the safety of the funds, the investor placed more than \$88,000 with Royal West that same month.

36. On December 4, 2008, Gaston Cantens sent a letter to another investor asking her to reinvest with Royal West. He said in the letter that Royal West's sales had increased, and as a result had generated new mortgage receivables available for investors. Based on his assurances, the investor decided to invest \$50,000 with Royal West in January 2009.

37. On February 27, 2009, Gaston Cantens wrote to all investors and said Royal West had ceased making interest payments due to economic conditions. The letter also claimed Royal West needed an additional two months to restructure the business. Cantens reassured investors that Royal West intended to meet its payment obligations to all investors.

38. On May 27, 2009, Gaston Cantens met with certain investors who had been demanding the return of their principal. He gave the investors a "status report" document that reiterated his request for more time to begin making payments and returning principal. The document said Royal West ceased making payments in early 2009 and admitted the company did

not have the cash flow to return principal or satisfy payments due to investors. At this meeting and in the document, Cantens proposed a restructuring of Royal West's business and urged investors to avoid seeking any legal relief. Despite these assurances, Royal West did not take any of the steps outlined in the document.

39. In late May 2009, a group of investors petitioned the Bankruptcy Court for the Southern District of Florida to place Royal West into involuntary bankruptcy. Soon after, the Court appointed a Trustee to oversee the liquidation of Royal West.

COUNT I

Defendants Violated Section 5(a) and 5(c) of the Securities Act

40. The Commission repeats and realleges paragraphs 1 through 39 of its Complaint.

41. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities and transactions described in this Complaint, and no exemption from registration exists with respect to the securities and transactions described in this Complaint.

42. From at least 1993 through January 2009, the Defendants directly and indirectly: (a) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell securities, through the use or medium of a prospectus or otherwise; (b) carried securities or caused such securities to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or (c) made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise, without a registration statement having been filed or being in effect with the Commission as to such securities.

43. By reason of the foregoing, the Defendants directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

COUNT II

Defendants Violated Section 17(a)(1) of the Securities Act

44. The Commission repeats and realleges paragraphs 1 through 39 of its Complaint.

45. From at least 2002 through January 2009, the Defendants, directly or indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by use of the mails, in the offer or sale of securities, as described in this Complaint, knowingly, willfully or recklessly employed devices, schemes or artifices to defraud.

46. By reason of the foregoing, the Defendants directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act [15 U.S.C. §77q(a)].

COUNT III

Defendants Violated Section 17(a)(2) and (3) of the Securities Act

47. The Commission repeats and realleges paragraphs 1 through 39 of its Complaint.

48. From at least 2002 through January 2009, the Defendants, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or of the mails: (a) obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (b) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchasers of such securities.

49. By reason of the foregoing, the Defendants directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate, Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (3)].

COUNT IV

Defendants Violated Section 10(b) and Rule 10b-5 of the Exchange Act

50. The Commission repeats and realleges paragraphs 1 through 39 of its Complaint.

51. From at least 2002 through January 2009, the Defendants, directly or indirectly, by use of the means and instrumentality of interstate commerce, and of the mails in connection with the purchase or sale of securities, knowingly, willfully or recklessly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and courses of business which have operated, are now operating and will operate as a fraud upon the purchasers of such securities.

52. By reason of the foregoing, the Defendants directly or indirectly violated, and, unless enjoined, are reasonably likely to continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court:

I.

Declaratory Relief

Declare, determine, and find that the Defendants have committed the violations of the federal securities laws alleged in this Complaint.

II.

Permanent Injunctive Relief

Issue a Permanent Injunction restraining and enjoining the Defendants from violating Sections, 5(a), 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 thereunder.

III.

Sworn Accounting and Disgorgement

Issue an Order directing the Defendants to provide a sworn accounting and disgorge all ill-gotten gains, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

IV.

Penalties

Issue an Order directing the Defendants to pay civil money penalties 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. § 78(d)(3)].

V.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

VI.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or

to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,

March 3, 2010

By: *for* Robert K. Levenson (FB#008977)
C. Ian Anderson
Senior Trial Counsel
New York Reg. No. 2693067
Direct Dial: (305) 982-6317
E-mail: andersonci@sec.gov
Lead Trial Attorney to be noticed

Linda S. Schmidt
Senior Counsel
Florida Bar No. 0156337
Direct Dial: (305) 982-6315
E-mail : schmidtls@sec.gov

Attorneys for Plaintiff
**SECURITIES AND EXCHANGE
COMMISSION**
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Telephone: (305) 982-6300
Facsimile: (305) 536-4154