

BEFORE THE  
STATE OF WISCONSIN  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES

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In the Matter of  
THERAPLAY LLC, J&M MANAGEMENT,  
TROY PFEFFERLE and  
GARY W. PFEFFERLE,

Respondents.

PETITION FOR ORDER

File No. S-09008(EX)

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The staff of the Bureau of Enforcement of the Division of Securities, Department of Financial Institutions, State of Wisconsin ("the Division") has conducted an investigation in this matter pursuant to §551.602, Wis. Stats., and as a result thereof alleges as follows:

1. Theraplay LLC ("Theraplay") is a Nevada limited liability company organized on November 13, 2003, with a last known business address of 1207 Kussman Road, Marion, Wisconsin 54950.
2. J&M Management ("J&M") is a Wisconsin corporation, with a last known business address of 1207 Kussman Road, Marion, Wisconsin 54950. Upon information and belief it is owned by James and Marlene Pfefferle.
3. Troy Pfefferle ("TPfefferle") at all times material hereto has been an individual with a last known address of 1207 Kussman Road, Marion, Wisconsin 54950. TPfefferle is the son of James and Marlene Pfefferle. At all times material hereto he represented himself as an agent of Theraplay.
4. Gary W. Pfefferle ("GPfefferle") at all times material hereto has been Organizer and Managing Member of Theraplay with a last known address E9657 Blueberry Road, Bear Creek, Wisconsin 54922.
5. Herbert Pfefferle ("HPfefferle") at all times material hereto has been a member of Theraplay with a last known address of E9683 State Highway 76, Bear Creek, Wisconsin 54222.
6. Upon information and belief, between September of 2002 and June of 2003, TPfefferle pursued contacts on numerous occasions with a person outside of the State of Wisconsin ("Investor") with the stated purpose of soliciting an investment contract to obtain funds for the purchase of property for the operations of Theraplay in Wisconsin. TPfefferle told the investor that this investment would be secured by real estate, however, the investor never received any documentation of any such security interest in the real estate..
7. Upon information and belief, on August 8, 2003, the Investor agreed to invest in Theraplay and wired \$148,500 to a trust account of Nolan Sales LLC as instructed by TPfefferle for the closing costs to J&M Management so that Theraplay could purchase property represented by TPfefferle to be for the operations of Theraplay in Wisconsin.

8. This Agreement between TPfefferle and the Investor is an investment contract as defined in §DFI-Sec 1.02(6)(a), Wis. Adm. Code, which states an investment in a common enterprise with the expectation of profits to be derived through the essential managerial efforts of someone other than the investor. For purposes of this subdivision, a "common enterprise" is an enterprise in which the fortunes of the investor are tied to the efficacy of the efforts of those seeking the investment or a third party.

9. Upon information and belief, on or before August 8, 2003 TPfefferle faxed to the Investor diagrams of a property "they" purchased at 1207 Kussman Road, Marion Wisconsin for the purpose of operating Theraplay. The diagrams have notations indicating the Investor's portion of the land. TPfefferle stated the loan would be repaid on December 31, 2003.

10 Upon information and belief, on August 15, 2003, the Register of Deeds Office in Shawano County, Wisconsin recorded a Warranty Deed to James L. Pfefferle and Marlene V. Pfefferle, d/b/a J&M Management, of the property located at 1207 Kussman Road, Marion, Wisconsin.

11. The \$148,000 was still outstanding as of December 23, 2003. Approximately one week before the repayment was due, TPfefferle called the Investor stating she needed to send an additional \$98,000 to secure her "shares" in the business.

12. The investor sent a check in the amount of \$98,000 to TPfefferle on December 23, 2003.

13. Upon information and belief, the Investor did not receive any share certificates until August 24, 2004 or any other information from the respondents despite her repeated requests for the information.

14. Upon information and belief, on four more occasions the Investor was asked to provide funds for the business or for other purposes which she did as follows:

- a. July 14, 2004 - \$40,886 for a truck
- b. July 29, 2004 - \$4,516 to TPfefferle's sister (a loan)
- c. September 2, 2004 - \$7,025 for computer equipment, laptop and other items
- d. September 21, 2004 - \$26,000 (no specific reason given)

15. Upon information and belief, TPfefferle did not advise the Investor prior to her investments that he had numerous unsatisfied judgments totaling \$71,536.91 against him, that he had a criminal conviction for failure to pay child support and that he failed to pay back a prior investor in another entity in the same type of business, without even offering to transfer his interest into the new company.

16. Upon information and belief, TPfefferle did not advise the Investor during the period of time from the first investment to September 21, 2004 (the date of the last investment) that he continued to amass unsatisfied judgments against him in the additional amount of \$111,776.09.

17. Upon information and belief, on August 31, 2004 the Investor received an Operating Agreement ("Agreement") which indicated she owned a 5% interest in Theraplay based on her contributions. The Agreement also stated that other members included GPfefferle (47.5% interest) and

HPfefferle (46.5% interest). The Investor signed the Members Agreement of Theraplay LLC on July 29, 2004 and signed an Operating Agreement on August 31, 2004.

18. Upon information and belief, on October 27, 2004 the investor signed a Certificate of Membership Interest in Theraplay, LLC with additional members GPfefferle and HPfefferle.

19. The Certificate of Membership Interest in a Nevada LLC referred to above is a security as defined in §551.102(28), Wis. Stats.

20. According to section 4.4 of the Operating Agreement of Theraplay, GPfefferle, as Managing Member, was responsible for the operations of the business and its records.

21. Upon information and belief, since her initial investment the investor repeatedly has requested financial statements including balance sheets, tax returns and Schedules K-1 indicating her ownership in the business and her capital account. The Investor never received a response. Investor also asked for proof that GPfefferle and HPfefferle had also invested capital into the business for their large percentage of stock. She again received no response.

22. The charter of Theraplay was revoked on December 1, 2005 in Nevada for failure to meet state filing requirements. TPfefferle did not advise the Investor of this fact, and she continued to believe Theraplay was in good standing.

23. In September of 2006, TPfefferle visited the Investor and advised her that she had not received any dividends to date because everything was poured back into R&D, but assured her that "sales are strong" and dividends should be paid shortly.

24. Upon information and belief, the investor became aware in September 2006 that TPfefferle and his family had taken residence at the location on 1207 Kussman Road, Marion, Wisconsin which is the location that the operations of Theraplay were to be established.

25. On April 13, 2007, Troy Pfefferle and Kathleen Pfefferle filed a Chapter 7 Bankruptcy petition with the United States Bankruptcy Court for the Eastern District of Wisconsin.

26. The Petition did not list the Investor as one of the creditors in this Petition, even though the Investor has not been paid back any of the monies she invested with TPfefferle.

27. The Division has tried on two occasions (by letter dated June 19, 2009 and by telephone call on July 9, 2009) to contact GPfefferle asking for documentation of the business records. GPfefferle has not responded to these requests to date.

28. Respondent TPfefferle has violated §551.41(2), Wis. Stats., by making a untrue statement of a material fact and omitting 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 in connection with the offer and sale of a security.

29. All Respondents have violated §551.41(3), Wis. Stats., by engaging in an act, practice or course of business that operates or would operate as a fraud or deceit upon another person through their conduct as alleged above in connection with the offer and sale of a security.

Therefore, the staff of the Bureau of Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached order pursuant to Ch. 551, Wis. Stats.

Kathryn L. Denton 3/12/10  
Kathryn L. Denton Date  
Examiner  
Bureau of Enforcement

Leslie M. VanBuskirk 3/12/10  
Leslie M. VanBuskirk Date  
Attorney Supervisor  
Bureau of Enforcement