

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

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In the Matter of

HEARTLAND HOMEBUYERS, LLC  
and  
HELEN LUKIC

PETITION FOR ORDER

File No. S - 222055 (EX)

Respondents.

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The staff of the Bureau of Enforcement of the Division of Securities, Department of Financial Institutions, State of Wisconsin has conducted an investigation in this matter pursuant to § 551.56, Wis. Stats.,<sup>1</sup> and as a result thereof alleges as follows:

1. Heartland Homebuyers, LLC (“HHB”) is a Wisconsin limited liability company organized on November 21, 2001, with a principal place of business located at 6412 W. North Avenue, Wauwatosa, WI 53213.
2. Helen Lukic (“Lukic”) is a Wisconsin resident born in September 1954 with a last known business address of 6412 W. North Avenue, Wauwatosa, WI 53213. At all material times, Lukic was a Managing Member, registered agent and control person of HHB.

**GENERAL FACTS**

3. HHB’s primary business activities consisted of the purchase and rehabilitation of residential real estate in and around Milwaukee, Wisconsin and subsequent re-sale of the properties or lease of the properties to tenants.
4. HHB’s business operations were partially funded by private investors that Lukic personally solicited.
5. During the period of 2002 through 2008, Lukic, on behalf of HHB, offered and sold HHB promissory notes to at least 53 persons including 29 Wisconsin residents. HHB raised millions of dollars from investors who were promised returns on their promissory notes ranging from 7.5 percent to 36 percent.
6. Both verbally and in written offering materials, Lukic represented to investors that, as an alternative to obtaining mortgage loans from conventional banks and hard money lenders, HHB was soliciting investor funds to purchase residential real estate in Wisconsin. However, contrary to Lukic’s representations to investors, HHB regularly financed the acquisition of real estate by borrowing from banks and hard money lenders and granting them mortgages on the properties.
7. HHB offered investors the option to make either unsecured investments or investments that were secured by private mortgages against the real estate that would purportedly be purchased with the investors’ funds.

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<sup>1</sup> Unless otherwise noted, all statutory references are to the Wisconsin Statutes (2005-06), which were in effect at the time of the violations alleged and apply pursuant to § 551.703, Wis. Stats. (2007-08).

8. Investor funds obtained by HHB were not always used to purchase real estate as represented by Lukic and HHB. Instead, investor funds were frequently depleted contrary to the representations to investors, including through cash withdrawals of investor funds for Lukic's personal use, investments in commercial real estate located outside of Wisconsin, payment of debts unrelated to the purchase and renovation of residential real estate in Wisconsin, and payments to investors of purported returns on their investments with HHB.
9. Lukic and HHB falsely represented to investors in written offering materials that HHB would only maintain "very low loan to value loans" to purchase properties, whereby debt would not exceed 70% of the property value, and that such business model was "a much safer approach than most lending institutions take."
10. In fact, HHB did not maintain a 70% loan-to-value ratio in its portfolio as represented to investors. Instead, all or nearly all of the properties purchased by HHB were financed by banks or hard money lenders with mortgages exceeding 70% loan-to-value. HHB's liabilities to the promissory note investors vastly exceeded any remaining equity in the properties.
11. In March 2007, HHB obtained \$392,000 from 13 investors in exchange for 30-day short-term unsecured promissory notes promising a 25 percent return on investment ("March 2007 notes").
12. HHB defaulted on all of the March 2007 notes by failing to repay any investors within 30 days. Most investors in the March 2007 notes never received any return on their investments or any repayment of principal.
13. After HHB defaulted on the March 2007 notes, HHB and Lukic continued soliciting investors, obtaining nearly \$1 million in new investor funds and renewing notes with existing investors. Neither Lukic nor HHB disclosed to new investors or renewing investors that HHB had defaulted on the March 2007 notes.
14. In or around February 2008, Lukic privately acknowledged that HHB was in dire financial straits and lacked the resources to even repay \$5,000 to a single investor.
15. Despite knowing that HHB was financially distressed, Lukic falsely touted to investors and potential investors throughout 2008 that HHB was financially prosperous and presented a safe investment opportunity for investors.
16. Lukic continued touting the success of HHB even when HHB was insolvent, with liabilities exceeding assets by nearly \$3 million and without adequate resources to pay HHB's debts as they became due.
17. Lukic did not disclose to any investors when soliciting their investments that her business was insolvent or lacked liquidity to pay its debts as they became due. To the contrary, Lukic represented to investors that her business was prosperous and that HHB could liquidate investments and repay investors with only a month's notice.
18. By mid-2008, HHB was being operated as a Ponzi scheme, with Lukic using funds obtained from new investors to directly pay out returns to previous investors. Lukic never informed investors that she would utilize their investment funds to pay off HHB's pre-existing liabilities to other investors.

19. HHB entered into receivership in or about March 2009. The receivership was subsequently dismissed without payments to the promissory note investors, who were collectively owed nearly \$5 million.
20. HHB's financial condition, its default on investor promissory notes, application of investor funds, the mortgaging of HHB property, and the security for the investments were all material facts to the HHB investors.

### SPECIFIC INVESTMENT TRANSACTIONS

#### **Investor C.M.**

21. In or about March 2005, investor C.M., an elderly retiree, met Lukic at a seminar. Lukic subsequently telephoned C.M. and offered investment opportunities in HHB that would yield a 15 percent return.
22. Lukic represented to C.M. that the funds C.M. invested would be used to purchase residential properties, and that C.M.'s investment would be secured by a mortgage against the real estate.
23. Lukic represented to C.M. that her investments in HHB would be completely safe and fully secured by real estate.
24. By December 2006, C.M. had invested a total of \$460,000 in HHB, receiving in exchange promissory notes representing that the investments were secured by real estate.
25. On or about December 6, 2006, C.M. invested \$260,000 in additional funds with HHB. In return Lukic issued C.M. a promissory note purportedly secured by two specified properties.
26. The properties which purportedly secured C.M.'s investments with HHB were already mortgaged in favor of other lenders, with little or no equity remaining to secure C.M.'s investments.
27. Lukic never disclosed to C.M. that the real estate purportedly securing C.M.'s investment had already been mortgaged in favor of other lenders. Lukic instead falsely represented to C.M. that her investments would be fully secured by real estate even though there was not enough equity in those properties to secure C.M.'s investment.
28. HHB also did not utilize the funds invested by C.M. to purchase residential real estate consistent with Lukic's representations to C.M. Instead, Lukic paid herself more than \$190,000 of C.M.'s funds and commingled C.M.'s remaining investment with other funds that were used to pay out "returns" to other promissory note investors in the fashion of a Ponzi scheme.
29. C.M. was not informed that HHB would use her invested funds to make payments to other investors or would be used for any other purpose besides purchasing residential real estate, and C.M. did not consent to the use of her investment funds for anything other than the purchase of residential real estate.
30. In or about May 2008, Lukic again solicited C.M. to invest additional funds in HHB, which Lukic represented were needed to purchase additional real estate. Lukic also represented to C.M. that HHB's business and the Wisconsin real estate market were

performing strongly even though HHB was insolvent and Lukic knew that the real estate market was performing very poorly.

31. C.M. did not have additional funds to invest in May 2008, but Lukic persuaded her to take out another mortgage against her home to fund an additional investment in HHB. In or about May 2008, C.M. took out a home equity loan as Lukic instructed and made another \$200,000 investment with HHB.
32. HHB did not purchase real estate with C.M.'s funds as Lukic had represented to C.M. Instead, immediately after receiving \$200,000 from C.M., Lukic used those funds to make interest payments to HHB promissory note holders as purported "returns" on their investments.

#### **Investor J.K.S.**

33. In or about June 2008, Wisconsin resident J.K.S. met with Lukic to discuss investing in HHB. During the meeting, Lukic described the properties that HHB possessed and the apartments it wanted to purchase.
34. Lukic falsely represented to J.K.S. that HHB was performing well financially and that it was acquiring many new properties for its portfolio. In fact, Lukic knew that HHB and the market were performing poorly, that HHB did not have sufficient funds to even pay off a single \$5,000 promissory note, that HHB was unable to sell the few properties in its portfolio, and that HHB was suffering from a severe cash flow shortage.
35. Lukic represented to J.K.S. that her \$80,000 investment would be used to purchase, renovate, and sell residential real estate. However, HHB did not purchase or renovate any properties with the funds invested by J.K.S. Instead, J.K.S.'s funds were expended in other ways, including through personal withdrawals by Lukic and through interest payments sent to other investors and payments of HHB's pre-existing debts.
36. Lukic never disclosed to J.K.S. that HHB had defaulted on investor promissory notes, that HHB was insolvent and could not repay investors, that it had no equity in the properties it owned because they were fully encumbered by conventional mortgages, or that HHB was using investor funds to pay returns to other investors.

#### **Investor S.V.**

37. In or about July 2008, Lukic and HHB solicited a Wisconsin resident, S.V., to invest in HHB. Lukic represented to investor S.V. that HHB was "stable", that it was running low on properties and was raising funds to acquire additional properties.
38. On July 2, 2008, Lukic sent S.V. an email with an attached letter describing HHB's current investment opportunity offering a higher return on investment of between eighteen percent and twenty percent. Lukic represented to the investor that it was a good time for HHB to purchase real estate, that HHB was going to purchase a lot of property quickly, and that it needed additional funds from investors to achieve its goal.
39. Lukic and HHB omitted to disclose to S.V. that HHB was already in default on investor promissory notes, HHB lacked adequate cash flow to pay notes it had already issued to earlier investors, that HHB was insolvent and unable to pay its debts as they became due,

and that HHB was using new investor funds to pay out purported returns to older investors.

40. On July 21, 2008, S.V. invested \$20,000 with HHB, receiving two promissory notes from HHB in return.
41. Lukic did not purchase or renovate any properties with S.V.'s funds, contrary to Lukic's representations to S.V. Instead, S.V.'s funds were commingled with other HHB funds that were paid out to older investors as purported "returns" on their investments.

#### **Investor L.B.K.**

42. In or about October 2008, Lukic solicited a resident of Texas, L.B.K., to invest in HHB.
43. Lukic informed L.B.K. that her investment in HHB would be used to purchase real estate.
44. As a further inducement to invest, Lukic represented that L.B.K. would be added as a beneficiary to Lukic's key man life insurance policy as security for L.B.K.'s investment.
45. In fact, L.B.K. was one of a number of investors who Lukic promised to name as life insurance beneficiaries. Lukic never disclosed to any investor that she had already promised to name another investor as the beneficiary of her key man life insurance policy.
46. In every case, Lukic took no action to name any investor as a life insurance beneficiary and never disclosed to any investor that Lukic failed to name other investors as life insurance beneficiaries as Lukic had promised she would.
47. Lukic and HHB omitted to disclose to L.B.K. that HHB was already in default on investor promissory notes, HHB lacked resources to pay notes issued to earlier investors, HHB was insolvent and unable to pay its debts as they became due, and that HHB was using new investor funds to pay out purported returns to previous investors.
48. In or about October 2008, L.B.K. invested \$75,000 in HHB, which was the majority of her retirement savings.
49. HHB and Lukic did not use L.B.K.'s investment to purchase real estate as Lukic represented. Instead, L.B.K.'s were expended in other ways, including through personal withdrawals by Lukic and through interest payments sent to other investors and payments of HHB's pre-existing debts.

#### **Investor D.H.**

50. In or about October 2008, Lukic solicited D.H., a Wisconsin resident and investor in HHB, to invest additional moneys in HHB.
51. Lukic provided written materials to D.H., explaining that a new investment in HHB would yield a higher return than previous investment opportunities in HHB, paying between eighteen and twenty percent interest. In the written solicitation materials, Lukic touted the opportunity to invest in HHB as a "Golden Opportunity" for investors.
52. HHB was insolvent at the time Lukic solicited D.H. to invest more money, and Lukic never disclosed the insolvency to D.H.

53. Lukic and HHB omitted to disclose to D.H. that HHB was already in default on investor promissory notes, HHB lacked resources to pay notes issued to earlier investors, HHB was insolvent and unable to pay its debts as they became due, and that HHB was using new investor funds to pay out purported returns to previous investors.
54. On or about October 11, 2008, D.H. issued two checks to HHB for \$15,000 and \$20,000. D.H. received two promissory notes, both of which promised fifteen percent simple interest, payable monthly.
55. Lukic never paid any interest on the promissory notes issued to D.H. in October 2008 and never returned the principal to D.H.
56. The funds that D.H. invested with HHB were commingled with other funds and expended, including through personal withdrawals by Lukic and through interest payments sent to other investors and payments of HHB's pre-existing debts.
57. In November 2008, Lukic announced that she would cease making any monthly interest payments to investors due to a lack of funds.

### **CONCLUSION**

58. The promissory notes issued by HHB to investors were securities pursuant to Wis. Stat. § 551.02(13)(a).
59. HHB was an "issuer" of securities as defined by Wis. Stat. § 551.02(8).
60. Lukic acted as an "agent" for HHB as defined by Wis. Stat. § 551.02(2).
61. The promissory notes were never registered with the Division for offer and sale in Wisconsin, in violation of Wis. Stat. § 551.21.
62. Lukic never registered with the Division as an agent for issuer, in violation of Wis. Stat. § 551.31(1).
63. Pursuant to Wis. Adm. Code DFI-Sec 6.01, an issuer of securities or any person who is an officer, director or controlling person of the issuer is deemed to employ a "device, scheme or artifice to defraud" the purchasers of the securities within the meaning of Wis. Stat. § 551.41(1) if the person applies or authorizes or causes to be applied any material part of the proceeds from the sale of the securities in any material way contrary to the purposes specified in the prospectus used in the offering of the securities and not reasonably related to the business of the issuer as described in the prospectus.
64. As detailed above, Lukic represented verbally and in written materials that HHB would use investor funds for the purchase of residential real estate, but in fact HHB and Lukic used the funds in a contrary manner, including Lukic taking funds for her personal use and making interest payments to old investors with new investor funds. Therefore, Lukic and HHB violated Wis. Stat. § 551.41(1), by, in connection with the offer, sale, or purchase of any security in this state, directly or indirectly employing any device, scheme or artifice to defraud.

65. As detailed above, Lukic and HHB violated Wis. Stat. § 551.41(2) by, in connection with the offer and sale of securities, making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

66. As detailed above, Lukic and HHB violated Wis. Stat. § 551.41(3) by engaging in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

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.

Dated this 20<sup>th</sup> day of May, 2014.

  
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Chad MacHolz  
Examiner  
Bureau of Enforcement

  
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