

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
3 Deputy Commissioner
JOHN R. DREWS (SBN 69595)
4 Corporations Counsel
CALIFORNIA DEPARTMENT OF CORPORATIONS
5 One Sansome Street, Suite 600
San Francisco, CA 94104
6 Tel: 415/972-8570
7 Fax: 415/972-8550

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

JUN 02 2011

BY Jennifer Burton
DEPUTY

8 Attorneys for the People of the State of California

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN BERNARDINO**

12 THE PEOPLE OF THE STATE OF)
13 CALIFORNIA, by and through the)
14 CALIFORNIA CORPORATIONS)
15 COMMISSIONER,)

Case No.: CIVRS 1105460

16 Plaintiff,

**COMPLAINT FOR PERMANENT
INJUNCTION AND ANCILLARY RELIEF**

17 v.

**(VIOLATION OF AN ORDER ISSUED BY
THE CALIFORNIA CORPORATIONS
COMMISSIONER)**

18 TERRELL ORNETT HICKMAN, an individual,)
19 THE PROMINENT GROUP, LLC;)
20 PROMINENT BUSINESS MANAGEMENT,)
21 INC.; 220 E. FLAMINGO ROAD 224, LLC;)
22 230 E. FLAMINGO ROAD 114, LLC; 270 E.)
23 FLAMINGO ROAD 115, LLC)

24 Defendants.

25 Preston DuFauchard, the California Corporations Commissioner, acting to protect the public
26 from unlawful and fraudulent sales of unqualified securities, brings this action in the public interest,
27 in the name of the People of the State of California. The People of the State of California allege:

28 ///

1 **VENUE AND JURISDICTION**

2 1. The California Corporations Commissioner (“Commissioner” or “Plaintiff”) brings
3 this action to enjoin the Defendants from violating an Order of the Commissioner issued under the
4 Corporate Securities Law of 1968 (California Corporations Code section 25000, et seq.) and to
5 enforce the Defendants’ compliance with the terms of the Commissioner’s Order.

6 2. Plaintiff brings this action pursuant to California Corporations Code section 25530, in
7 his capacity as head of the California Department of Corporations.

8 3. Defendants have failed to comply with an Order issued by the Commissioner.
9 Defendants’ failure to comply with the Order took place within San Bernardino County and other
10 counties in the State of California. Violation of the Order described herein occurred and will
11 continue to occur within San Bernardino County and throughout the State of California unless
12 enjoined.

13 **DEFENDANTS**

14 4. Defendant TERRELL ORNETT HICKMAN (“HICKMAN”) is an individual whose
15 last known address is 6970 Martano Place, Rancho Cucamonga, CA 91701. At all relevant times
16 HICKMAN was the President of and maintained full control over the activities of The Prominent
17 Group, LLC (“TPG LLC”), a Nevada limited liability company, and the activities of Prominent
18 Business Management, Inc., (“PBM Inc.”), a California corporation. TPG LLC and PBM Inc. were
19 founded to arrange and manage investments in real estate, and offered investment advisory and
20 money management services to residents of California. TPG LLC is the manager of the following
21 Defendants: 220 E. Flamingo Road 224, LLC; 230 E. Flamingo Road 114, LLC and 270 E.
22 Flamingo Road 115, LLC; all collectively referred to subsequently as “The Flamingo Road LLC’s”.
23 All three were registered by HICKMAN and TPG LLC with the Nevada Secretary of State on
24 September 18, 2006 with the same registered address of 4760 South Pecos Road, Suite 103, Las
25 Vegas, Nevada 89121.

26 **STATEMENT OF FACTS**

27 5. HICKMAN was employed at American Express Financial Services and was
28 terminated from this position in March of 2004. HICKMAN never disclosed the fact of his

1 termination to the majority of people he solicited funds from, and misrepresented to investors his
2 accomplishments at American Express Financial Services.

3 6. At all relevant times HICKMAN was the manager and president respectively of TPG
4 LLC and PBM Inc. and maintained full control over the activities of both companies.

5 7. On or about November 4, 2010, the Department of Corporations issued an Amended
6 Statement in Support of Order Levying Administrative Penalties Pursuant to Corporations Code
7 section 25252; Claim for Ancillary Relief Pursuant to Corporations Code section 25254 and a Desist
8 and Refrain Order for violations of Corporations Code sections 25110 (unqualified sale of securities)
9 and 25401 (sale of securities by means of material omissions).

10 8. In the Amended Statement in Support of Order the Commissioner of the Department
11 of Corporations alleged that HICKMAN engaged in numerous violations of the Corporate Securities
12 Law of 1968, and specifically in violation of Corporations Code sections 25110 (sale of unqualified
13 securities) and 25401 (sale of securities by means of misrepresentations and omissions of material
14 facts) in that HICKMAN engaged in the following conduct:

15 A) In March 2006, HICKMAN offered and sold unqualified securities to California
16 residents in the form of an investment contract for \$100,000 with PBM Inc. to manage investors'
17 funds in a real estate project in Las Vegas, Nevada.

18 B) In July 2007, HICKMAN solicited funds from investors for a joint venture that
19 would purchase condominiums in Arizona. The investors' funds and credit were used to purchase
20 two condominium units. TPG LLC was to manage the investment in the property and it was
21 represented to the investor that all units were generating rental income, and the profits from such
22 rental income was to be shared with the investors. No profits were ever received and the properties
23 went into foreclosure. Interests in the joint venture were securities offered and sold in the State of
24 California.

25 C) In October 2007, HICKMAN AND TPG LLC sold to a then resident of California
26 a "partnership interest" in the form of a promissory note issued by TPG LLC for \$50,000. This
27 promissory note was a security pursuant to Corporations Code section 25019 and was offered and
28 sold in the State of California.

1 D) In August 2008, HICKMAN induced an investor to enter into an “investment
2 agreement” wherein the investor paid HICKMAN \$40,000 in consideration of a promise to repay the
3 original investment at the rate of \$5000 per month, plus 8% interest on the original \$40,000
4 investment. This “investment agreement” was a security offered and sold in California.

5 E) In January 2009, HICKMAN offered and sold securities in the form of
6 membership interests in TPG LLC to residents of the State of California.

7 F) In May 2009, HICKMAN accepted in excess of \$110,000 to purchase a
8 “Partnership in the Private Equity firm: The Prominent Group.” This partnership was a security
9 offered and sold in the State of California.

10 G) The Department of Corporations had not issued a permit or other form of
11 qualification authorizing any person to offer or sell any of these above-mentioned securities in this
12 state, and they were not exempt from qualification.

13 H) HICKMAN, TPG LLC and PBM Inc. engaged in the offer and sale of
14 membership interests in limited liability companies that are collectively referred to as The Flamingo
15 Road LLC’s. At the time of the offer and sale of these securities between April 2007 and January
16 2009, HICKMAN, TPG LLC and PBM Inc. failed to disclose to the investors in the Flamingo Road
17 LLC’s that HICKMAN had caused property to be purchased in the name of two individual investors
18 as joint tenants and not in the name of the 230 E. Flamingo Road 114, LLC, and had effected this
19 transaction in June of 2006. The investor whose name was put on the title, as well as the other
20 investors, were never informed of the creation of the joint tenancy at the time of the purchase or at
21 the execution of the operating agreement for the 230 E. Flamingo Road 114, LLC which was signed
22 on April 27, 2007.

23 I) HICKMAN failed to disclose to investors in the Flamingo Road LLC’s that a
24 delinquency notice had been filed with the County Recorder of Clark County, Nevada against the
25 property at 230 E. Flamingo Road 114 as of June 27, 2008 for failure to make timely payments to
26 the Meridian Private Residence Homeowners Association:

27 J) that as of January 30, 2009 all assessments, late fees, interest, association charges,
28 legal fees, collection fees and costs had gone unpaid on the property located at 230 E. Flamingo

1 Road 114; and

2 K) that as of January 1, 2009 a default in payment then due on a Deed of Trust had
3 occurred in relation to the property located at 230 E. Flamingo Road 114.

4 L) At the time (January 2009) of the offer and sale of a “Partnership Interest in the
5 Private Equity Firm The Prominent Group” in consideration of a sum in excess of \$110,000,
6 HICKMAN failed to disclose to the investors:

7 1) that a default in payment had occurred in relation to property located at 230 E.
8 Flamingo Road 114 and that TPG LLC was the manager of this project;

9 2) that HICKMAN had been terminated from his previous position at American
10 Express Financial Services in March of 2004; and

11 3) that TPG LLC as the named manager of The Flamingo Road LLC’s had failed to
12 provide Capital Account statements for the years 2006, 2007 and 2008 to investors in those
13 companies as required by their respective operating agreements.

14 9. On May 3, 2010, the Department of Corporations issued the original pleadings, and
15 these pleadings were served on HICKMAN and the other Defendants, TPG LLC, PBM Inc. and the
16 Flamingo Road LLC’s (220 E. Flamingo Road 224, LLC, 230 E. Flamingo Road 114, LLC and 270
17 E. Flamingo Road 115, LLC) all of which were managed by TPG LLC and were registered as
18 Nevada limited liability companies on the same day (September 18, 2006) by HICKMAN and TPG
19 LLC, with the same registered address of 4760 South Pecos Road, Suite 103, Las Vegas, Nevada
20 89121. HICKMAN filed a written request for a hearing on behalf of all Defendants on June 9, 2010.
21 On November 4, 2010 the amended pleadings referred to above were filed.

22 10. On August 4, 2010, HICKMAN and all other Defendants were served with a Notice
23 of Administrative Hearing, which was set for November 22, and 23, 2010 at the Office of
24 Administrative Hearings in Los Angeles, California. HICKMAN did not respond to Discovery
25 requests and failed to comply with a Motion to Compel Discovery Order which was granted by the
26 presiding administrative law judge. HICKMAN did appear at the hearing for both days, took the
27 stand and testified under oath. Plaintiff introduced documentary and testimonial evidence into the
28 record at the hearing.

1 11. On or about December 22, 2010, Administrative Law Judge Julie Cabos-Owen issued
2 a proposed Decision pursuant to the provisions of the California Administrative Procedures Act.

3 12. On or about February 7, 2011, the Commissioner issued an Order adopting the
4 proposed Decision. The Order specifies that the Decision shall become effective on February 8,
5 2011.

6 13. The Decision and Order made findings of fact and conclusions of law. The Decision
7 and Order found that Plaintiff proved the allegations set forth in the Statement in Support of Order
8 Levying Administrative Penalties and Claim for Ancillary Relief, and the Decision and Order also
9 upheld the issuance of the Desist and Refrain Order against Defendants TERRELL ORNETT
10 HICKMAN, TPG LLC, PBM Inc., 220 E. Flamingo Road 224, LLC, 230 E. Flamingo Road 114,
11 LLC and 270 E. Flamingo Road 115, LLC.

12 14. The Decision and Order required that, within 90 days of the effective date of the
13 Decision and Order that HICKMAN, TPG LLC, PBM Inc., 220 E. Flamingo Road 224, LLC, 230 E.
14 Flamingo Road 114, LLC and 270 E. Flamingo Road 115, LLC jointly and severally remit to the
15 Department of Corporations \$23,000 in administrative penalties.

16 15. The Decision and Order further required that, within 90 days of the effective date of
17 the Decision and Order that HICKMAN and PBM Inc. shall jointly and severally disgorge to the
18 client Ertha D'Aguilar the amount of \$3000 paid in investment advisory fees for engaging in
19 unlicensed investment adviser activity.

20 16. Further within 90 days of the effective date of the Decision and Order the
21 Defendants, jointly and severally were to make payments of restitution as follows:

22 (A) to Walter and Betty Jones--\$548,098.69

23 (B) to Erick Benson--\$122,045

24 (C) to Edward Keynerd-- \$23,000

25 (D) to Theresa Harris--\$39,000

26 (E) to Ertha D'Aguilar-- \$60,000

27 (F) to Algernon Boga-- \$10,647.58

28

1 And it was further ordered that HICKMAN was to provide proof to the Department of
2 Corporations of the above listed payments totaling \$802,791.27. These payments were to be
3 completed by May 9, 2011, which would be 90 days from the effective date of the Decision and
4 Order.

5 17. The Decision and Order were served on HICKMAN and all other Defendants.
6 HICKMAN and all other Defendants failed to seek reconsideration of the Decision and Order, file a
7 petition for a writ of mandamus or otherwise appeal the Decision and Order. The Decision and
8 Order is now final.

9 18. As of today's date, over 90 days from the effective date of the Decision and Order,
10 HICKMAN and all other Defendants have failed to make any of the payments ordered by the
11 Commissioner. Furthermore, HICKMAN and all other Defendants have failed to contact Plaintiff to
12 request more time to comply with the Decision and Order. HICKMAN and all other Defendants are
13 in violation of the Commissioner's Order.

14 **FIRST CAUSE OF ACTION**

15 **VIOLATION OF AN ORDER ISSUED BY**

16 **THE CALIFORNIA CORPORATIONS COMMISSIONER**

17 **(AGAINST TERRELL ORNETT HICKMAN AND ALL OTHER DEFENDANTS)**

18 19. Plaintiff incorporates by reference paragraphs 1 through 18 of this Complaint as
19 though fully set forth herein.

20 20. California Corporations Code section 25530, in pertinent part, provides:

21 (a) Whenever it appears to the commissioner that any person has engaged in
22 or is about to engage in any act or practice constituting a violation of any provision of
23 this division or any rule or order hereunder, the commissioner may in the
24 commissioner's discretion bring an action in the name of the people of the State of
25 California in the superior court to enjoin the acts or practices or to enforce
26 compliance with this law or any rule or order hereunder. Upon a proper showing, a
27 permanent...injunction...shall be granted...or any other ancillary relief may be
28 granted as appropriate.

(b) If the commissioner determines it is in the public interest, the
commissioner may include in any action authorized by subdivision (a) a claim for
ancillary relief, including but not limited to, a claim for restitution or disgorgement or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award additional relief.

(c) In any case in which a defendant is ordered by the court to pay restitution to a victim, the court may in its order require the payment as a money judgment, which shall be enforceable by a victim as if the restitution order were a separate civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Any order issued under this subdivision shall contain provisions that are designed to achieve a fair and orderly satisfaction of the judgment.

21. Plaintiff filed a Statement in Support of Order against HICKMAN and all other Defendants for alleged violations of the Corporate Securities Law of 1968 and the rules and regulations thereunder.

22. After appropriate notice and opportunity to be heard, the Administrative Law Judge issued a proposed Decision, containing findings of fact and conclusions of law as to the allegations against HICKMAN and the other Defendants set forth in the Statement in Support of Order.

23. The Commissioner issued an Order adopting the proposed Decision.

24. The Decision and Order required HICKMAN and the other Defendants to make payments of disgorgement and restitution to investors and also required that HICKMAN and the other Defendants jointly and severally pay administrative penalties.

25. To date, HICKMAN and the other Defendants have not made any such payments. As such, HICKMAN and the other Defendants are in violation of the Decision and Order issued by the Commissioner.

26. Section 25530(a) of the California Corporations Code provides that when it appears that any person has engaged in a violation of any Order issued under the Corporate Securities Law of 1968 that the Commissioner may bring an action in the name of the People, in the Superior Court, to enjoin violation of and enforce compliance with the Order.

27. The Commissioner seeks an injunction requiring HICKMAN and the other Defendants to comply with the Order. Unless enjoined by this Court, HICKMAN and the other Defendants will continue to violate the Order.

1 28. Section 25530(b) of the California Corporations Code provides that the
2 Commissioner may include in an action authorized by subdivision (a) a claim for ancillary
3 relief, including but not limited to, a claim for restitution or disgorgement or damages and the
4 court shall have jurisdiction to award additional relief.

5 29. The Commissioner seeks ancillary relief, in the form of disgorgement,
6 restitution and payment of administrative penalties to effect the terms of the Decision and
7 Order. Ancillary relief is necessary, in the public interest and is consistent with the purposes,
8 policies and provisions of the Corporate Securities Law of 1968.

9
10 **PRAYER**

11 WHEREFORE, Plaintiff prays for a final judgment against HICKMAN and all other
12 Defendants as follows:

13
14 **I. INJUNCTIVE RELIEF**

15 For a Permanent Injunction, pursuant to California Corporations Code section 25530:

16 1. Enjoining and restraining HICKMAN and all other Defendants from violating
17 the Order of the Commissioner; and

18 2. Compelling HICKMAN and all other Defendants to comply with the terms of
19 the Commissioner’s Order.

20 **II. ANCILLARY RELIEF**

21 For Ancillary Relief, pursuant to California Corporations Code section 25530, in
22 accordance with the terms of the Order of the Commissioner, requiring HICKMAN and all
23 other Defendants, jointly and severally to:

24 1. Remit to the Department of Corporations \$23,000 in administrative penalties.

25 2. Make payment of restitution totaling \$802,791.27 to investors in TPG LLC, PBM
26 Inc., 220 E. Flamingo Road 224, LLC; 230 E. Flamingo Road 114, LLC and 270 E.
27 Flamingo Road 115, LLC.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AND further that HICKMAN and PBM Inc. be ordered, jointly and severally, to pay \$3000 to Ertha D’Aguilar as a return of investment fees charged without a license to engage in the activities of an investment adviser.

III. THIS COURT TO RETAIN JURISDICTION

For an Order that this Court shall retain jurisdiction of this action in order to implement and carry out the terms of all orders and decrees that may be entered herein or to entertain any suitable application or motion by Plaintiff for additional relief within the jurisdiction of this Court.

IV. OTHER RELIEF

For such other and further relief as this Court may deem necessary and proper.

Dated: June 1, 2011

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
JOHN R. DREWS
Corporations Counsel
Attorney for the People of California