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10 REGINA LISAIUSKAS, et al.

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Superior Court of California,
County of San Diego

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 REGINA LISAIUSKAS; SIMONA
14 KAUSAS; ROLANDAS KAUSAS;
15 TODD LAW; KURTIS TOLLIVER; THE
16 HILDY L. FENTIN TRUST; RYAN
17 FENTIN-THOMPSON; KAZYS
18 ADOMKAITIS; VICTORIA
19 VISKANTAS; GINTAS ADOMKAITIS;
20 LINAS PAULIUS; RUTA STECHER;
21 DANIEL WEINSTEIN; JON GRAZYS;
22 ANDRIUS VISKANTAS; JOHN WEBER;
23 MERVYN WITHERSPOON;
24 STEPHANIE WITHERSPOON; ROBERT
25 ANTHONY RYAN; MONTINNI
26 PINERA; CHRISTOPHER ROTH; and
27 CLINTON BRYAN,

28 Plaintiffs,

v.

CANYON CREATE CORP.; RxMM
HEALTH, INC.; RxMM HEALTH
CALIFORNIA, INC.; RxMM HEALTH
OPERATIONS, INC.; RxMM
PROPERTIES, INC.; RxMM
MANAGEMENT, INC.; GEORGE ROTH,
an individual; ROSS LYNDON-JAMES,
an individual; CAMPBELL McAULEY,
an individual; GEZA MOLNAR, an

Case No. 37-2018-00054912-CU-BC-CTL

COMPLAINT FOR DAMAGES:

- (1) VIOLATION OF FEDERAL SECURITIES ACT §§ 4(A), 5(C), 10(B), 17(A) AND 15(A);
- (2) VIOLATION OF CALIFORNIA CORPORATIONS CODE §§ 25110 AND 25401;
- (3) NEGLIGENT MISREPRESENTATION;
- (4) BREACH OF CONTRACT;
- (5) FINANCIAL ELDER ABUSE;
- (6) BREACH OF FIDUCIARY DUTY;
- (7) ACCOUNTING AND INSPECTION OF CORPORATE RECORDS

1 individual; and DOES 1–20, inclusive,
2 Defendants.
3

4 **NATURE OF THE CASE**

5 1. Plaintiffs were bilked out of hundreds of thousands of dollars in a fraudulent
6 investment scheme. Most, with little or no other assets, were not qualified investors. A few
7 are elderly. The principals of Canyon Create Corp. (“Canyon”), a purported beauty and
8 wellness company using hemp CBD as the start ingredient, induced plaintiffs and others to
9 invest in the company under their erroneous belief that the investments would be used to
10 develop, manufacture, market, and distribute Canyon’s products. Instead, plaintiffs’ hard-
11 earned cash was used to fund a personal lifestyle for Canyon’s principals that included
12 thousands of dollars in non-business-related Uber rides, restaurant and bar tabs, hotels and
13 airfare, personal ski vacations to Big Bear, Tom Dixon designer office desks, and cash
14 withdrawals and transfers. All of this occurred while the company was not revenue
15 positive. Many plaintiffs lost their life-savings to pay for defendants’ personal expenses.
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19 **JURISDICTION AND VENUE**

20 2. Many of the investment solicitations were directed at plaintiffs located in San Diego
21 County and the Stock Purchase Agreements were executed in San Diego County. Venue as
22 to each corporate defendant is proper in this judicial district under Code of Civil Procedure
23 § 395.5 because each corporate defendant either maintains an office, transacts business,
24 has an agent, or is found in San Diego County, and is within the jurisdiction of this Court
25 for service of process.
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1 **THE PARTIES**

2 3. Plaintiff Regina Lisauskas is and at all relevant times was, a resident of Encinitas,
3 California who invested \$75,000 in Canyon.

4 4. Plaintiffs Simona and Rolandas Kausas are and at all relevant times were, residents
5 of San Diego, California who invested \$100,000 in Canyon.

6 5. Plaintiff Todd Law is and at all relevant times was, a resident of La Jolla, California
7 who invested \$27,500 in Canyon.

8 6. Plaintiff Kurtis Tolliver is and at all relevant times was, a resident of Bozeman,
9 Montana who invested \$20,000 in Canyon.

10 7. Plaintiff Hildy L. Fentin Trust, who's trustee, Hildy Fentin, is and at all relevant
11 times was, a resident of Del Mar, California, invested \$10,000 in Canyon.

12 8. Plaintiff Ryan Fentin-Thompson is and at all relevant times was, a resident of
13 Solana Beach, California who invested \$5,000 in Canyon.

14 9. Plaintiff Kazys Adomkaitis is and at all relevant times was, a resident of Northville,
15 Michigan who invested \$2,500 in Canyon.

16 10. Plaintiff Victoria Viskantas is and at all relevant times was, a resident of Northville,
17 Michigan who invested \$3,000 in Canyon.

18 11. Plaintiff Gintas Adomkaitis is and at all relevant times was, a resident of Dedham,
19 Massachusetts who invested \$3,000 in Canyon.

20 12. Plaintiff Linas Paulius is and at all relevant times was, a resident of Glen Ellyn,
21 Illinois who invested \$10,000 in Canyon.

1 13. Plaintiff Ruta Stecher is and at all relevant times was, a resident of Chula Vista,
2 California who invested \$10,000 in Canyon.

3 14. Plaintiff Daniel Weinstein is and at all relevant times was, a resident of La Jolla,
4 California who invested \$45,000 in Canyon.

5 15. Plaintiff Jon Grazys is and at all relevant times was, a resident of Downers Grove,
6 Illinois who invested \$2,500 in Canyon.

7 16. Plaintiff Andrius Viskantas is and at all relevant times was, a resident of Northville,
8 Michigan who invested \$10,000 in Canyon.

9 17. Plaintiff John Weber is and at all relevant times was, a resident of Bozeman,
10 Montana who invested \$3,000 in Canyon.

11 18. Plaintiff Mervyn Witherspoon is and at all relevant times was, a resident of Derby,
12 United Kingdom who invested \$2,500 in Canyon.

13 19. Plaintiff Stephanie Witherspoon is and at all relevant times was, a resident of
14 Derby, United Kingdom who invested \$2,500 in Canyon.

15 20. Plaintiff Robert Anthony Ryan is and at all relevant times was, a resident of Bolton,
16 United Kingdom who invested \$6,410 in Canyon.

17 21. Plaintiff Montinni Pinera is and at all relevant times was, a resident of Spring
18 Valley, California who invested \$5,000 in Canyon.

19 22. Plaintiff Christopher Roth is and at all relevant times was, a resident of La Mesa,
20 California who invested \$20,000 in Canyon.

21 23. Plaintiff Clinton Bryan is and at all relevant times was, a resident of San Diego,
22 California who invested \$2,000 in Canyon.

1 24. Defendant Canyon is a *suspended* Nevada corporation that, at all relevant times
2 herein, operated and conducted business out of Hollywood, California.

3
4 25. Defendant RxMM Health, Inc. is, and at all relevant times was, a California
5 corporation that operates and conducts business out of Laguna Beach, California.

6 26. Defendant RxMM Health, California, Inc. is, and at all relevant times, was,
7 California corporation that operates and conducts business out of Laguna Beach,
8 California.

9
10 27. Defendant RxMM Health Operations, Inc. is, and at all relevant times, was,
11 California corporation that operates and conducts business out of Laguna Beach,
12 California.

13 28. Defendant RxMM Properties, Inc. is, and at all relevant times, was, California
14 corporation that operates and conducts business out of Laguna Beach, California.

15
16 29. Defendant RxMM Management, Inc. is, and at all relevant times, was, California
17 corporation that operates and conducts business out of Irvine, California.

18 30. RxMM Health, Inc., RxMM Health, California, Inc., RxMM Health Operations,
19 Inc., RxMM Properties, Inc. and RxMM Management, Inc. are collectively referred to
20 herein as “RxMM.”

21
22 31. Defendant Campbell McAuley is, and at all relevant times was, an individual
23 residing in Los Angeles, California and Canyon’s founder and President.

24
25 32. Defendant Geza Molnar is, and at all relevant times was, an individual residing in
26 Newport Beach, California and Canyon’s Chief Financial Officer and Secretary.

1 33. Defendant George Roth is, and at all relevant times was, an individual residing in
2 Las Vegas, Nevada and the Chief Operating Officer of RxMM. and a Director of Canyon.

3
4 34. Defendant Ross Lyndon-James, is and at all relevant times was, an individual
5 residing in Newport Beach, California and the Executive Director of RxMM and a Director
6 of Canyon.

7 35. On information and belief, RxMM is liable to plaintiffs either directly or indirectly
8 on one of these grounds: RxMM expressly or impliedly agreed to assume Canyon's
9 liabilities; the transaction between RxMM and Canyon amounts to a consolidation or
10 merger; RxMM is a mere continuation of Canyon; and/or transferring assets to the
11 successor is to escape liability for the predecessor's debts.
12

13 36. All individual defendants are liable to plaintiffs under Corporations Code §§ 25504
14 and/or 25504.1 because they controlled a direct violation of § 25501, were officers and
15 directors of a liable corporation, and/or materially assisted in a violation of § 25401.
16

17 37. Individually named defendants are, and at all times were, Canyon's principal
18 owners and managers. There exists, and at all times existed, a unity of interest and
19 ownership between individually named defendants and Canyon, such that any individuality
20 and separateness between these defendants have ceased, and Canyon is the alter ego of
21 individually named defendants. Individually named defendants have exercised complete
22 control of Canyon's business, such that adherence to the fiction of the separate existence of
23 the defendant company as an entity distinct from the individually named defendants would
24 permit abuse of the legal formalities and promote injustice.
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1 38. Plaintiffs do not now know the true names and capacities (whether individual,
2 corporate, or otherwise) of defendants DOES 1–20, and have therefore sued those
3 defendants by fictitious names. Plaintiffs will amend this Complaint to state their true
4 names and capacities when ascertained. Each of these fictitiously named defendants is an
5 alter ego of one or more of the named defendants or is in some manner liable or
6 responsible to plaintiffs under the causes of action in this Complaint.
7

9 **GENERAL ALLEGATIONS**

10 39. Defendant McAuley founded Canyon Create as a Nevada corporation in September
11 2016.

12 40. On information and belief, Defendant RxMM entered into an option to buy Canyon
13 in June 2016 and thereafter bought it. On information and belief, Canyon is now a
14 subsidiary of RxMM.
15

16 41. In April 2017, Canyon entered into a Consulting Agreement with non-party Tadas
17 Lisauskas. The Consulting Agreement states that one of Lisauskas’ duties under the
18 agreement is “the introduction of interested parties as prospective investors in any fund-
19 raising activities undertaken by the Company” during its “Pre-IPO Reg D capital raising.”
20 The agreement provides that Tadas is not a full-time employee of Canyon and would not
21 become a full-time employee until after the Pre-IPO Reg D capital raising is complete.
22

23 42. McAuley represented to Tadas Lisauskas that the funding was needed to develop,
24 manufacture, market, and distribute Canyon’s skin-care products.
25

26 43. At the request of Canyon and its principals and under the Consulting Agreement,
27 Lisauskas then contacted numerous friends and family to potentially invest in Canyon.
28

1 44. Lissauskas repeated the representations defendants made to him, particularly
2 statements McAuley and Williams made regarding the purpose of the capital raising.
3 Lissauskas reasonably believed these statements to be true and had no reason to question
4 that Canyon and its principals would use the investment funds for their own personal
5 expenses and not to develop, manufacture, and market Canyon's products.
6

7 45. Canyon's website represents that "Canyon Create Corp is backed by value-based,
8 profit driven strategies to bring healing products to consumers worldwide." The website
9 also represents that Canyon has "industry leading technology" and "specialized
10 equipment" that affords Canyon the advantage of providing the most competitively priced
11 wholesale products in the industry. The website represents that Canyon has "custom
12 package design" that helps drive products to sale. These are statements of facts and not
13 forward-looking statements.
14
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16 46. When investors asked questions about the nature of the investment and the future of
17 Canyon Create, those questions were referred to Ross Lyndon-James of RxMM for
18 response. For example, in April of 2017, Lyndon-James responded to an investor inquiry
19 by stating that Canyon Create would be publicly traded in Q3 of 2017.
20

21 47. Defendants did not give prospective investors, including plaintiffs, a prospectus or
22 any written materials disclosing the risks of investing in Canyon.
23

24 48. Plaintiffs signed Stock Purchase Agreements with Canyon. Collectively, plaintiffs
25 paid Canyon over \$350,000 in consideration for the SPA.

26 49. The SPA provides that, "Seller does hereby represent and warrant to Purchaser, as a
27 material inducement to enter into this Agreement, that ... the conduct of Corporation's
28

1 business is in full compliance with all applicable government statutes, rules, regulations,
2 ordinances and decrees” The SPA provides that the shares are being conveyed under
3 the safe-harbor exemptions provided by the laws and regulations of the State of Nevada,
4 and exempt under the provision of Section 5 of the Securities Act of 1933, as amended (the
5 “Act”) under exemptions under Sections 39(b), 4(2) or 4(6) thereof.
6

7 50. The securities sold to plaintiffs were unregistered and non-exempt. Defendants did
8 not determine whether any of the plaintiffs were accredited investors, and some, if not all,
9 were not.
10

11 51. After receiving hundreds of thousands of dollars from plaintiffs, defendants decided
12 not to use the investment funds for business purpose, such as development, manufacturing,
13 or marketing the products. Instead, defendants used the money for their own personal use
14 and benefit, including thousands of dollars spent on Uber, restaurants, hotels, airfare, and
15 other entertainment. Cash transfers were made to Williams, McAuley, and several other
16 individuals on a monthly or bi-monthly basis.
17

18 52. Plaintiffs did not know, nor should have known, the facts about defendants’
19 intention to use the investment monies for their own personal use and benefit, rather than
20 for business, and plaintiffs reasonably relied on defendants’ representations that their
21 investments were being solicited to develop, manufacture, market, and distribute Canyon’s
22 products.
23

24 53. After plaintiffs learned of the misuse of corporate assets and the wasting of their
25 investments on personal expenses, Canyon posted a letter to shareholders on its website
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1 admitting wrongdoing and acknowledging that it would now pursue a new business model
2 and “focus on development and sales.”

3
4 54. The shareholder letter further states that Canyon has plans to “perform an audit on
5 the company books and records.”

6 55. On or about July 9, 2018, Canyon Create made a partial payment of \$117,150
7 toward refunding plaintiffs herein on their investment, but it then ceased all
8 communication regarding further reimbursement.
9

10 **FIRST CAUSE OF ACTION**

11 **Violation of Securities Act §§ 4(a), 5(c), 10(b), 17(a) and 15(a)**

12 **Against all Defendants**

13 56. Paragraphs 1 through 55 are part of this cause of action.

14 57. Defendants: (a) without a registration statement in effect, directly or indirectly,
15 made use of the means or instruments of transportation or communication in interstate
16 commerce or of the mails to sell securities through the use or medium of a prospectus or
17 otherwise; or carried securities or caused securities to be carried through the mails or in
18 interstate commerce, by means or instruments of transportation, for sale or for delivery
19 after sale; and (b) without filing a registration statement, directly or indirectly, made use of
20 the means or instruments of transportation or communication in interstate commerce or of
21 the mails to offer to sell or to offer to buy securities through the use or medium of a
22 prospectus or otherwise.
23

24
25 58. Defendants, for the purchase or sale of securities, violated Section 10(b) of the
26 Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] in that, by the
27
28

1 means or instrumentalities of interstate commerce, or of the mails, or of any facility of any
2 national securities exchange, directly or indirectly:

3 (a) employed a device, scheme, or artifice to defraud;

4 (b) made an untrue statement of material fact or omitted to state a material fact
5 necessary to make the statements made, in the light of the circumstances under which
6 they were made, not misleading; or
7

8 (c) engaged in an act, practice, or course of business which operated or would
9 operate as a fraud or deceit upon another person.
10

11 59. Defendants violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)]
12 in that, in the offer or sale of securities, by the means or instruments of transportation or
13 communication in interstate commerce, or by using the mails, directly or indirectly,
14 employed a device, scheme or artifice to defraud.
15

16 60. Defendants violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C.
17 §§ 77q(a)(2) and 77q(a)(3)] in that, in the offer or sale of securities, by the means or
18 instruments of transportation or communication in interstate commerce, or by using the
19 mails, directly or indirectly, obtained money or property with an untrue statement of a
20 material fact or an omission to state a material fact necessary to make the statements made,
21 in the light of the circumstances under which they were made, not misleading; or engaged
22 in a transaction, practice or course of business which operated or would operate as a fraud
23 or deceit upon the purchaser.
24

25
26 61. Defendants violated Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)] by
27 making use of the mails or of the means or instrumentalities of interstate commerce to
28

1 effect transactions in, or to induce or attempt to induce the purchase or sale of, securities
2 without registering with the Commission as a broker or dealer.

3
4 62. As a direct and proximate result of defendants' conduct, plaintiffs are entitled to
5 rescission and return of consideration paid, plus interest, or damages.

6
7 **SECOND CAUSE OF ACTION**

8 **Violation of California Corporations Code §§ 25110 and 25401**

9 **Against all defendants**

10 63. Paragraphs 1 through 62 are part of this cause of action.

11 64. Defendants sold securities as defined in Corporations Code § 25109.

12 65. The securities sold to plaintiffs were not exempt under Corporations Code § 25102,
13 or any other section, nor qualified under Corporations Code §§ 25111–25113 from
14 regulation under the Corporate Securities Law, Corporations Code § 25000 et seq.

15
16 66. Defendants violated Corporations Code § 25110 by selling unexempt and
17 unqualified securities to plaintiffs.

18 67. Defendants violated Corporations Code § 25401 by selling securities with written
19 and oral communications that include untrue statements of material fact and/or omit
20 material facts necessary to make the statements made not misleading.

21
22 68. As a direct and proximate result of defendants' negligent misrepresentations,
23 plaintiffs suffered damages in an amount to be proved, including but not limited to, the
24 funds plaintiffs have paid to defendants—over \$350,000.

1 **THIRD CAUSE OF ACTION**

2 **Negligent Misrepresentation**

3 **Against all Defendants**

4 69. Paragraphs 1 through 68 are part of this cause of action.

5 70. Defendants' representations described above were false, and defendants made those
6 representations having no reasonable ground to believe them to be true.

7 71. Defendants made those representations to induce plaintiffs to act in reliance on
8 them by entering into the SPAs and investing funds.

9 72. Plaintiffs did not know that defendants' representations were false and believed
10 them to be true. In actual and justifiable reliance on those representations, plaintiffs were
11 induced to and entered into the SPAs with defendants and invested more than \$300,000.

12 73. Had plaintiffs known that the representations were false, plaintiffs would not have
13 entered into the SPAs or invested the funds.

14 74. As a direct and proximate result of defendants' fraud, plaintiffs have suffered
15 damages, including but not limited to, the funds they paid to defendants, over \$300,000.

16 **FOURTH CAUSE OF ACTION**

17 **Breach of Contract and Breach of Covenant of Good Faith and Fair Dealing**

18 **Against Defendant Canyon Create and other defendants as Alter Egos**

19 75. Paragraphs 1 through 74 are part of this cause of action.

20 76. The SPA provides that Canyon represents and warrants it fully complies with all
21 applicable governmental statutes, rules, regulations, ordinances, and decrees and
22 represented that the shares are exempt from registration.
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1 77. Canyon breached the SPA by violating all statutes, rules, and regulations in the sale
2 of unregistered and non-exempt securities that do not come within any safe-harbor
3 provision.
4

5 78. Plaintiffs performed all obligations under the Stock Purchase Agreement, except
6 those obligations excused or which could not legally be thrust on plaintiffs.
7

8 79. Canyon breached the implied covenant of good faith and fair dealing by breaching
9 the obligation in good faith to deal fairly with plaintiffs and not unreasonably deprive
10 plaintiffs of economic benefits arising from the contractual relationship.

11 80. Because of Canyon's breach of the Stock Purchase Agreement and implied
12 covenant of good faith and fair dealing, plaintiffs have suffered damages in an amount to
13 be proved.
14

15 81. Besides any damages awarded, plaintiffs are entitled to costs and attorney fees
16 under the terms of the SPA.
17

18 **FIFTH CAUSE OF ACTION**

19 **Elder Abuse**

20 **Against All Defendants**

21 82. Paragraphs 1 through 81 are part of this cause of action.

22 83. Plaintiffs Regina Lisauskas, Victoria Viskantas and Mervyn Witherspoon are each a
23 "dependent adult" within the meaning of Welfare & Institutions Code § 15610.23.
24

25 84. Defendants committed financial abuse against Lisauskas, Viskantas and
26 Witherspoon by taking, appropriating, obtaining, and/or retaining their personal property
27 for wrongful use and/or with intent to defraud.
28

1 85. As a direct and proximate result of defendants' actions, Lisauskas, Viskantas and
2 Witherspoon were harmed.

3 86. For these violations of the Elder Abuse and Dependent Adult Civil Protection Act,
4 defendants are liable for special and general damages, and attorney fees and costs under
5 Welfare & Institutions Code § 15657.5.
6

7 87. Defendants' acts in committing financial elder abuse were oppressive and malicious
8 within the meaning of Civil Code § 3294, entitling Lisauskas, Viskantas and Witherspoon
9 to an award of punitive damages.
10

11 **SIXTH CAUSE OF ACTION**

12 **Breach of Fiduciary Duty and Misuse of Corporate Assets**

13 **Against Individual Defendants**

14 88. Paragraphs 1 through 87 are part of this cause of action.
15

16 89. As Canyon's directors and/or officers, the individually named defendants owed
17 fiduciary duties of care, loyalty, and good faith to plaintiffs, as Canyon shareholders.

18 90. The individually named defendants breached their fiduciary duties to plaintiffs.
19

20 91. The individually named defendants acted contrary to the interests of plaintiff
21 shareholders.

22 92. Plaintiff shareholders have suffered damages proximately caused by the
23 individually named defendants' breach of fiduciary duty.

24 93. The individually named defendants acted knowingly and willfully and their conduct
25 was fraudulent, oppressive, and/or malicious within the meaning of Civil Code § 3294,
26 entitling plaintiffs to an award of punitive damages.
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- 6. Exemplary damages as allowed by law;
- 7. Costs of suit, including reasonable attorney fees; and
- 8. Such other relief as the Court deems just and proper.

Dated: October 26, 2018

**LAW OFFICES OF
VATCHÉ CHORBAJIAN, APC**

/s/ Vatche Chorbajian
VATCHE CHORBAJIAN, ESQ.
Attorney for Plaintiffs