

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
CIVIL DIVISION

A. HEATH ABSHURE, ARKANSAS SECURITIES COMMISSIONER

Plaintiff,

CV09- 5346-6

v.

Case No. CV2009-\_\_\_\_\_

CLEAN TECHNOLOGY INTERNATIONAL  
CORPORATION; DIAMOND CAPITAL  
CORPORATION; WILLIAM DARRELL LAINHART,  
INDIVIDUALLY, AND AS TRUSTEE OF  
CAPITAL HERITAGE IRREVOCABLE TRUST AND  
CAPITAL HERITAGE REVOCABLE TRUST;  
IRENE M. F. LAINHART; REX ROBERTSON;  
AND JAMES STEAD, JR.

Filed 07/29/09 15:13:52  
Pat O'Brien Pulaski Circuit Clerk  
CR07

Defendants

and

CAPITAL HERITAGE IRREVOCABLE TRUST  
CAPITAL HERITAGE REVOCABLE TRUST

Relief Defendant

**MOTION FOR TEMPORARY RESTRAINING ORDER, ORDER PROHIBITING THE  
DESTRUCTION OF DOCUMENTS AND EVIDENCE, ORDER APPOINTING  
RECEIVER, ORDER FREEZING ASSETS AND ORDER FOR ACCOUNTING**

The plaintiff, A. Heath Abshure, Arkansas Securities Commissioner, for his Motion for Temporary Restraining Order, Order Prohibiting the Destruction of Documents, Order Appointing Receiver, Order Freezing Assets and Order for Accounting hereby states and alleges:

1. The plaintiff, A. Heath Abshure, Arkansas Securities Commissioner (Commissioner) is charged with administration of the Arkansas Securities Act (Act), codified at Ark. Code Ann. § 23-42-101 *et seq.* (Repl. 2000). *See* Ark. Code Ann. § 23-42-201 (Repl. 2000). The Commissioner is authorized by Ark. Code Ann. § 23-42-209 (Repl. 2000) to seek equitable relief in this Court whenever “upon grounds or evidence satisfactory” to the

Commissioner anyone “has engaged or is about to engage in any act or practice” that is a violation of the Act.

2. The complaint filed in this matter and the exhibits attached thereto, which are incorporated herein by reference, demonstrate that the defendants have engaged in, and are likely to engage in, acts and practices that violate the Act. The facts pertinent to this motion are stated in the complaint and in the following exhibits:

- a. Affidavit of Gretchen Hall, Securities Examiner employed by the Arkansas Securities Department, which is attached and incorporated as Exhibit 1;
- b. Affidavit of Charles Danny Cross, which is attached and incorporated as Exhibit 2;
- c. Affidavit of Jim Carroll, which is attached and incorporated as Exhibit 3;
- d. Affidavit of Deane T. Wallace, which is attached and incorporated as Exhibit 4;
- e. Affidavit of David Wardlaw, D.D.S., M.S., which is attached and incorporated as Exhibit 5;
- f. Affidavit of Danny Paul Harris, which is attached and incorporated as Exhibit 6;
- g. Affidavit of Rick Andrews, which is attached and incorporated as Exhibit 7;
- h. Affidavit of Thomas H. Strickland, which is attached and incorporated as Exhibit 8;
- i. Certification of A. Heath Abshure, which is attached and incorporated as Exhibit 9;
- j. FINRA Order, which is attached and incorporated as Exhibit 10;
- k. Arkansas Securities Department Orders, which are attached and incorporated

collectively as Exhibit 11; and

1. Kansas District Court, Shawnee County, Order, which is attached and incorporated as Exhibit 12.
3. The Commissioner is likely to prevail on the merits.
4. Although the law does not require the Commissioner to prove immediate and irreparable harm, the Commissioner alleges that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary redress will occur from the sale, transfer, destruction, concealment or other disposition of the defendants' assets or records unless defendants are immediately restrained or enjoined forthwith and without notice.
5. If the issuance of a temporary restraining order, order appointing a receiver, order freezing assets, and order for accounting is delayed until notice is given to the opposing parties, there is a strong likelihood that investor funds may be lost to the detriment of those investors.
6. Pursuant to Ark. R. Civ. Pro. 65(d) and Ark. Code Ann. § 23-42-209(a)(5) (Repl. 2000), the Commissioner respectfully requests that no security be required for issuance of a restraining order, as the Arkansas Securities Department is an agency of the State of Arkansas.
7. The Commissioner respectfully requests that defendants, their agents, servants, employees, assigns and those persons acting on their behalf, under their direction and control and/or in active concert or participation with them, be restrained from:
  - a. Offering or selling any security in this state;

- b. Transacting business in this state as broker-dealers or agents;
  - c. Directly or indirectly, making untrue statements of material facts in connection with the offer, sale and/or purchase of securities from or in this state;
  - d. Omitting to state material facts necessary in order to make statements made, in light of the circumstances under which they are made, not misleading, in connection with the offer, sale and/or purchase of securities from or in this state; and
  - e. Directly or indirectly, engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the offer, sale and/or purchase of securities from or in this state.
8. The Commissioner respectfully requests that defendants, their agents, servants, employees, assigns and those persons acting on their behalf, under their direction and control and/or in active concert or participation with them, be restrained from tampering with, mutilating, altering, erasing, concealing, removing, destroying or otherwise disposing of any and all books, records, documents, files, correspondence, computer disks, tapes or other data recordings of any type, pertaining to or referring to defendants or any financial transaction by defendants or to which defendants were parties.
9. The Commissioner respectfully requests that, pending determination of his application for permanent injunction, the assets of defendants Clean Technology International Corporation (CTIC); Diamond Capital Corporation (DCC); William Darrell Lainhart (D. Lainhart); Irene M. F. Lainhart (I. Lainhart), Capital Heritage Irrevocable Trust (CHIT) and Capital Heritage Revocable Trust (CHRT) be frozen. The Commissioner requests

that the freeze include, but not be limited to, those funds located in any bank, depository institution or securities brokerage account and apply to accounts in the name of any individuals or entities controlled by defendants CTIC; DCC; D. Lainhart; I. Lainhart, CHIT and CHRT or over which said defendants have signatory or other designated authority, if the funds are derived to any extent from the activities alleged in the complaint.

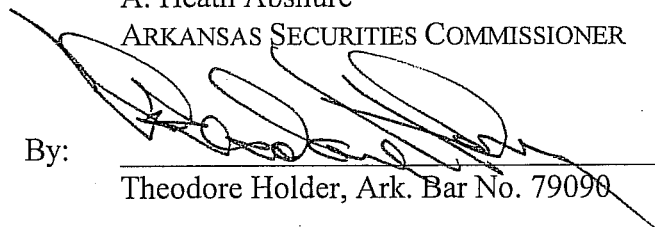
10. The Commissioner respectfully requests that John E. Pruniski, III with the law firm of Hilburn, Calhoun, Harper, Pruniski, & Calhoun, Ltd. be appointed as Receiver for defendants CTIC and DCC.
11. The Commissioner respectfully requests that defendants CTIC and DCC be ordered to file with this Court and serve on the Commissioner an accounting, under oath, detailing all of their assets and detailing all funds received from investors and the disposition and/or use of those funds received pursuant to the scheme described in the Commissioner's complaint. The Commissioner requests that defendants be ordered that the accounting include, but not be limited to, the total amount received from investors, the name and address of each investor, the amount invested, the date each such investment was made and a listing of all expenditures showing the amount and to whom paid and the date of payment.
12. A brief in support of this motion is filed herewith and incorporated herein by reference.

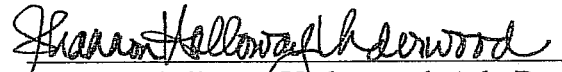
WHEREFORE, plaintiff respectfully requests that the Court issue forthwith and without notice a temporary restraining order, order preventing the destruction and spoilation of evidence, order appointing a receiver, order freezing assets, and order for accounting, and all other relief to

which the plaintiff may be entitled.

Respectfully submitted,

A. Heath Abshure  
ARKANSAS SECURITIES COMMISSIONER

  
By: \_\_\_\_\_  
Theodore Holder, Ark. Bar No. 79090

  
Shannon Holloway Underwood, Ark. Bar No. 05136

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