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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**

**OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY**

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| STATE OF IDAHO, DEPARTMENT OF FINANCE, SECURITIES BUREAU,<br><br>Plaintiff,<br><br>vs.<br><br>JAMISON POTTER, ADAM BENTLEY, and CHRISTOPHER DRISCOLL, individually and dba NORTH AMERICAN CAPITAL TRUST LLC, NORTH AMERICAN CAPITAL GROUP LLC, PACIFIC PARTNERS LLC, and SILVERSTONE EQUITY GROUP LLC,<br><br>Defendants. | Case No. CV OC 0905488<br><br>**VERIFIED COMPLAINT**<br><br>Fee category: Exempt |

COMES NOW the State of Idaho, Department of Finance, Gavin M. Gee, Director, by and through its counsel, Alan Conilogue, Deputy Attorney General, and upon information and belief, complains and alleges as follows:

1. This action is brought pursuant to Idaho's Uniform Securities Act (2004), Idaho Code § 30-14-101 *et seq.* (the Act), and in particular Idaho Code § 30-14-603, wherein the Idaho Department of Finance (Department) is authorized to bring actions seeking injunctive and other relief against persons who have either violated or are about to violate provisions of the Act or any rule promulgated thereunder.

2. The acts and practices herein comprising violations of law by the above-named defendants occurred in Ada County and elsewhere in the state of Idaho.

## CASE SUMMARY

3. Plaintiff alleges that Defendants have unlawfully issued securities in the form of investment contracts to about forty (40) investors, in an aggregate amount of over six million dollars ($6,000,000). Between May and December, 2007, Defendants solicited and accepted investor money under various pretenses, and either lost it in imprudent investments or spent it on personal items.

4. Defendants defrauded investors by misrepresenting the investment and by omitting material information from the investor solicitations. Defendants failed to register these securities, and Defendants failed to register as securities broker-dealers or agents, as required by law. Defendants paid their early investors with funds from later investors, to create the appearance of a functioning investment, but it was simply a Ponzi scheme that eventually collapsed.

## DEFENDANTS

5. Defendant Jamison Dwain Potter (Potter) is an individual currently believed to be residing in Boise, Idaho. At all times material to the allegations in this Verified Complaint, Potter lived at 4831 Fern Street, Nampa, Canyon County, Idaho. He is 34 years old.

6. Defendant Adam Michael Bentley (Bentley) is an individual currently believed to be residing in St. George, Utah. At all times material to the allegations in this Verified Complaint, Potter lived at 3594 West Sella Court, Eagle, Ada County, Idaho. He is 29 years old.

7. Defendant Christopher Edward Driscoll (Driscoll) is an individual currently believed to be residing in St. George, Utah. At all times material to the allegations in this Verified Complaint, Driscoll lived at 1725 North Bisque Avenue, Kuna, Ada County, Idaho. He is 32 years old.

8. Defendant North American Capital **Trust,** LLC (NAC Trust) is a limited liability company formed on June 1, 2007, under the laws of the State of Idaho, with a principal place of business at 4831 Fern Street, Nampa, Canyon County, Idaho. NAC Trust was administratively dissolved on September 4, 2008. Its managers were Jamison Potter, Adam Bentley, Meridias Capital, and Pineridge Capital Holding.

9. Defendant North American Capital **Group,** LLC (NAC Group) is a limited liability company formed on July 5, 2007, under the laws of the State of Nevada, with a principal place of business at 2840 Highway 95 Alt S, #7, Silver Springs, Nevada. NAC Group was defaulted on August 1, 2008. Its manager was Jamison Potter.

10. Defendant Pacific Partners, LLC (Pacific) is a limited liability company formed on February 13, 2006, under the laws of the State of Idaho, with a principal place of business at 4831 Fern Street, Nampa, Canyon County, Idaho. Pacific is in good standing as of the date of the filing of this complaint. Its manager is Jamison Potter.

11. Defendant Silverstone Equity Group, LLC (Silverstone) is a limited liability company formed on August 16, 2007, under the laws of the State of Nevada, with a principal place of business at 2840 Highway 95 Alt S, #7, Silver Springs, Nevada.

## RELATED NON-DEFENDANTS

12. Defendant Patriot Financial Group Corp. (Patriot) is a company formed on July 1, 2005, under the laws of the State of Utah, with a principal place of business at 2188 Bird Court, West Jordan, Utah. Patriot's status expired on January 13, 2006. Its managers are unknown, but its registered agent was Randall E. Kimball (Kimball) of 2188 Bird Court, West Jordan, Utah. Much of the money raised by Defendants was sent to Kimball and Patriot, who sent it to a bank in Panama, allegedly as an investment. The money has never been returned, despite demands for it.

13. Defendant Legacy International Group, Inc. (Legacy) is a corporation formed on October 11, 2005, under the laws of the State of Nevada, with a principal place of business at 1231 West 9000 South, Suite 104, West Jordan, Utah. Legacy was defaulted on November 1, 2008. Randall E. Kimball was its President, Secretary, Treasurer and Director. Legacy is believed to have also been used to further the scheme to defraud.

## FACTS

14. Beginning around May, 2007, and continuing for several months in 2007, Defendants Potter, Bentley and Driscoll solicited funds from investors under both North American Capital Trust and North American Capital Group. Defendants prepared a 59-page Memorandum relating to the investment, which, although not so titled, constituted a Private Placement Memorandum, as that term is used in a securities context. The Memorandum included disclosures about and descriptions of the investment, and included as sub-documents an Accredited Investor Certification, a Subscription Agreement, and an Operating Agreement of North American Capital Trust, LLC.

15. The Memorandum described the investment:

> North American Capital Trust, LLC ("LLC") is a Nevada Limited Liability Company structured for the purpose of investing in early stage private and public ventures through a structured investment club. Our concept is to become angel investors who seek out proprietary opportunities that have extremely high investment return potential.

16. Most of that description was false, as alleged below.

17. Defendants had investors sign an Investor Acknowledgment Letter, which was allegedly coupled with the Memorandum. The Letter described the investment, purportedly the same one as referred to in the Memorandum:

> [T]he first opportunity presented to me is an Insurance Guarantees/Life Settlement Policy Buy/Sell Activity. I acknowledge that the initial opportunity involves monthly transactions involving the acquisition of policies utilizing the capital of the participating investors and that on a delivery first basis where such policies are registered to the participants as beneficiaries prior to capital being released for the purchase process.

18. Again, most of that description was false.

19. Defendants verbally described to investors a life settlement purchase program that was to return 10% a month, wherein existing policies would be purchased from an insured at a discounted price. No insurance policies were ever purchased.

20. Instead, Defendants sent some of the investor money to Patriot and Legacy[1], companies associated with Kimball, who in turn sent it to Multi Financial Securities in Panama. Defendants used some of the investor money as Ponzi payments to prior investors, and Defendants converted some of the investor money to personal use. Other than the early Ponzi payments, little of the investor money has been returned because Defendants have been unable to get it back out of Panama. Plaintiff believes the money has been stolen or is otherwise permanently lost.

21. Defendants received some money back from Kimball's companies during the summer of 2007, but these payments were also Ponzi payments. The payments dried up in the fall of 2007, and eventually ceased altogether. To date, Defendants continue to offer a series of excuses and

[1] Legacy Trust is sometimes referred to by Defendants as Legacy International.

assurances that the money will be returned, but have yet to return any of it.

22. Bentley and Driscoll discontinued association with Potter in late 2007. Potter continued to solicit money under the auspices of his companies Pacific and Silverstone, telling investors that their money would be used to purchase Canadian bonds, technology stocks, or insurance investments. Investment monies solicited by Potter were used as Ponzi payments to earlier investors, and for personal expenses.

23. In order to beguile investors into signing the agreements, Defendants made the misrepresentations set forth below. Defendants also omitted from their sales pitch important information necessary to make an informed investment decision.

24. The agreements between Defendants and individual investors created a common enterprise whereby the investor would earn a profit simply by providing the money. The investor was not expected to expend any effort to obtain the return, other than transferring the investment funds. The agreements thus constituted investment contracts.

25. Defendants, at all times material herein, were not registered with the State of Idaho or the National Association of Securities Dealers (NASD) (now known as the Financial Industry Regulatory Authority, or FINRA) as broker/dealers, or as broker/dealer agents.

26. The securities issued by Defendants were not registered with the State of Idaho or the Securities and Exchange Commission (SEC).

Misrepresentations

27. To induce investors to invest, Defendants made false representations.

a. Defendants represented to some investors that the investment was low risk or risk free, and the invested principal was safe. This was false because the investment was not low risk or risk free. Defendants told other investors that the investment was moderately or very risky.

Further, Defendants have stopped paying the agreed interest and cannot return the invested funds because they cannot get investor money back. An investment that does not pay the expected return and that loses the investors' money is not risk free.

b. Defendants represented that the investor could withdraw all or part of the invested funds upon 60 days notice. This was false because investors have been unable to withdraw their funds, despite several requests. Several investors have asked for return of their funds, but Defendants have not returned the money.

c. Defendants told investors that the investment was for the purchase of life settlement insurance policies. No insurance policies were purchased.

d. Defendants told investors that they would receive policy documents, but did not provide them.

e. Defendants told investors they would receive a 10% return per month. A few such payments were made, but some investors received not a single payment, and the returns have now stopped for all investors.

f. Defendants told some investors that their money would never leave the bank, but would function as a type of collateral. Instead, the money was sent to Panama.

Material Omissions

28. Defendants did not tell potential investors certain information that would be necessary to make other statements not misleading, and that an investor would likely consider as material to a decision to invest with Defendants. Defendants failed to disclose the following material information:

a. Information about Defendants' financial condition or operating history;

b. That investor money would eventually be forwarded to a bank in Panama;

c. That Defendants had no ability to track and monitor investor funds to ensure that investor money was being used for appropriate and legitimate purposes;

d. That new investor money may be used to repay existing investors who wanted to liquidate their investment with Defendants;

e. That new investor money would be used by Defendants for their personal expenses;

f. The amount and type of compensation paid to Defendants;

g. That Defendants were not registered as broker-dealers or as agents to sell the securities, as required by Idaho's Uniform Securities Act (2004); and

h. That the joint venture agreements were securities issued by Defendants, but were not registered as required by Idaho's Uniform Securities Act (2004).

## COUNT ONE
## (Fraud - False and Misleading Statements)

29. The allegations of paragraphs 1 through 28 above are realleged and incorporated herein as if set forth verbatim.

30. Idaho Code § 30-14-501(2) provides that it is unlawful for any person, directly or indirectly, in connection with the offer, sale or purchase of a security, to make an untrue statement of material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

31. Defendants' misrepresentations to prospective investors as set forth in paragraphs 27 a through f were made in connection with the offer, sale or purchase of securities. Defendants' misrepresentations were material and were false and misleading, constituting violations of Idaho Code § 30-14-501(2) as to each misrepresentation to each investor.

32. Defendants' omissions of material facts and failures to disclose material information to

prospective investors as set forth above were made in connection with the offer, sale or purchase of securities. Defendants' omissions of material facts and failures to disclose material information, as specifically set forth in paragraphs 28 a thorough h above, constitute violations of Idaho Code § 30-14-501(2) as to each omission and failure to disclose to each investor.

## COUNT TWO
**(Fraudulent Conduct)**

33. The allegations of paragraphs 1 through 28 above are realleged and incorporated herein as if set forth verbatim.

34. Idaho Code § 30-14-501(3) provides that it is unlawful for any person, directly or indirectly, in connection with the offer, sale or purchase of a security, to engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

35. Defendants' acts as set forth in paragraphs 1 through 28 were made in connection with the offer, sale or purchase of securities. Their conduct as described in paragraphs 1 through 28 constitutes engaging in transactions, acts, practices, or courses of business which operate or would operate as a fraud or deceit upon investors or prospective investors, in violation of Idaho Code § 30-14-501(3) as to each investor.

## COUNT THREE
**(Unregistered Securities)**

36. The allegations of paragraphs 1 through 28 above are realleged and incorporated herein as if set forth verbatim.

37. Defendants issued, sold or offered for sale in Idaho securities in the form of investment contracts. Such securities were not registered with the Department as required by Idaho Code § 30-14-301.

38. The Defendants' failure to register such securities with the Department constitutes a violation of Idaho Code § 30-14-301.

## COUNT FOUR
**(Failure to Register)**

39. The allegations of paragraphs 1 through 28 above are realleged and incorporated herein as if set forth verbatim.

40. Defendants transacted business in Idaho as broker-dealers. No Defendant was registered as a broker-dealer with the Department as required by Idaho Code § 30-14-401(a).

41. Defendants' failure to register as broker-dealers with the Department constitutes a violation of Idaho Code § 30-14-401(a).

42. Defendants transacted business in Idaho as agents of broker-dealers or of issuers. No Defendant was registered as an agent with the Department as required by Idaho Code § 30-14-402(a).

43. Defendants' failure to register as agents with the Department constitutes a violation of Idaho Code § 30-14-402(a).

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in favor of Plaintiff and against Defendants as follows:

1. That Defendants be adjudged to have violated Idaho's Uniform Securities Act (2004), Idaho Code § 30-14-101 *et seq.*, rules promulgated thereunder, and other applicable federal laws and regulations as proven at trial, as to Counts One through Four alleged above, as well as any additional counts proven at trial.

2. That Defendants be permanently enjoined from engaging in any act or practice violating any provision of Idaho's Uniform Securities Act (2004) or any rule promulgated thereunder,

pursuant to Idaho Code § 30-14-603(b)(1), and in particular, that they be permanently enjoined from:

a. Selling or offering for sale securities in any form in the state of Idaho;

b. In connection with the offer, sale or purchase of any security, directly or indirectly:

i. Employing any device, scheme, or artifice to defraud;

ii. Making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;

iii. Engaging in any act, practice or course of business that operates or would operate as a fraud or deceit upon another person.

3. That Defendants each be ordered to pay a civil penalty of up to $10,000 for each violation of the Act as the Court deems appropriate, pursuant to Idaho Code § 30-14-603(b)(2)(C), for total penalties of at least $40,000 for each Defendant, and that the Court award a money judgment in favor of Plaintiff in such amount.

4. That Defendants be ordered, jointly and severally, to make restitution to investors, pursuant to Idaho Code § 30-14-603(b)(2)(C) in the amount of five million three hundred seventy three thousand four hundred sixty four dollars ($5,373,464). That Defendants pay the restitution amount to Plaintiff, to be delivered to the investors, and that the Court award a money judgment in favor of Plaintiff in such amount.

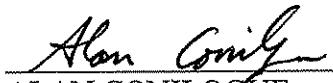
5. That Plaintiff be awarded attorney fees and costs incurred in the preparation and prosecution of this action, pursuant to Idaho Code § 12-121, and that the Court award a money judgment in favor of Plaintiff in such amount. Should judgment be taken by default herein,

Plaintiff asserts that $5,000 is a reasonable sum for the same.

6. For such further relief as this Court may deem just and equitable under the circumstances.

DATED this 19th day of MARCH, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



ALAN CONILOGUE
Deputy Attorney General

## VERIFICATION

STATE OF IDAHO )
)ss.
County of Ada )

MARILYN T. CHASTAIN, Bureau Chief of the Securities Bureau of the Department of Finance, State of Idaho, being first duly sworn, deposes and says:

I have read the foregoing Verified Complaint, and know the contents thereof; and that the same are true to the best of my knowledge and belief.

DATED this 18th day of March, 2009.

Marilyn T. Chastain
MARILYN T. CHASTAIN

SUBSCRIBED AND SWORN to before me this 18 day of March, 2009.

Rita Jensen
Notary Public for Idaho
Residing at: Meridian, Idaho
My Commission Expires: 3/6/2013

RITA JENSEN NOTARY PUBLIC STATE OF IDAHO