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J. DAVID NAVARRO, Clerk
By LOIS WITTEN
DEPUTY

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

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

STATE OF IDAHO, Department of Finance, Plaintiff, vs. KidZtime TV, Inc., Capital Funding & Financial Group, Inc., Tri-State Marketing, Inc., and Diane Puliafico, Defendants.	Civil No. CV OC 9702700D **VERIFIED COMPLAINT** Fee Category: Exempt

Comes now the State of Idaho, Department of Finance, Gavin M. Gee, Director, by and through counsel, to complain and allege as follows:

JURISDICTION

1. This action is brought under the provisions of the Idaho Securities Act, Title 30, Chapter 14, Idaho Code, and in particular Idaho Code §30-1442 wherein the Director of the Idaho

Department of Finance (Department) is empowered to bring actions seeking injunctive and other relief against defendants who have either violated or are about to violate provisions of the Idaho Securities Act or any rule or order thereunder.

VENUE

2. The acts and practices alleged herein comprising violations of law by the above-named Defendants occurred in the conduct of trade and commerce in Ada County, and elsewhere in the State of Idaho.

DEFENDANTS

In this Complaint, when reference is made to any act of "Defendant" or "Defendants", such reference shall be deemed to mean that each Defendant acted individually, jointly and severally, and participated, engaged in, directed, and/or aided and abetted in a material way such act unless specifically indicated otherwise.

3. Defendant KidZtime TV, Inc. (KidZtime) is a Colorado corporation. KidZtime is purportedly a television network which distributes children's programming through local broadcast area "affiliates". KidZtime offered and sold securities in the State of Idaho in unlawful manners, as described below. KidZtime's last known address is 3040 Riverside Drive, Suite 219, Columbus, Ohio 43221.

4. Defendant Capital Funding & Financial Group, Inc. (Capital Funding) is a Colorado corporation. Capital Funding is in the business of organizing investment offerings in the form of general partnerships and limited liability companies. Capital Funding offered and sold securities in the State of Idaho in unlawful manners, as described below. Capital Funding's last known address is 10125 West 6th Ave., 2nd Floor, Lakewood, Colorado 80215.

5. Defendant Tri-State Marketing, Inc. (Tri-State), is a telemarketing company that

offered and sold securities in the State of Idaho in unlawful manners on behalf of Capital Funding and KidZtime, as described below. Tri-State's last known address is 5060 Shoreham Place Suite 200, San Diego, California 92122.

6. Defendant Diane Puliafico (Puliafico), a California resident, offered and sold securities in Idaho in unlawful manners on behalf of Tri-State, Capital Funding and KidZtime. Puliafico has never been registered in Idaho as a securities salesman. Puliafico's last known business address is 5060 Shoreham Place Suite 200, San Diego, California 92122.

BACKGROUND

7. At least since February 1996, Defendants have solicited Idaho residents to invest in KidZtime TV Affiliates. The investment opportunity purportedly operates as follows. KidZtime TV obtains cablecast contracts in certain television markets. After the contracts are obtained, KidZtime TV Affiliates are formed in that market and KidZtime licenses the rights to the market to Capital Funding. Capital Funding then offers and sells, through marketing companies such as Tri-State, investment units in the KidZtime TV Affiliates. When the affiliate is fully subscribed, the license rights granted by KidZtime TV to Capital Funding are transferred to the affiliate.

8. Investment opportunities in KidZtime have been offered on the radio, through printed offering materials, and through oral solicitations to Idaho residents.

9. Offerees were informed by Defendants that an investment would pay dividends annually in an amount between 21% and 40% of the invested amount, and that an investment would appreciate between 61% and 243% within a three to five year period.

10. Offerees were informed by Defendants that the affiliates would take the form of general partnerships initially, and could be changed immediately upon full subscription to limited

liability partnerships or companies. Further, offerees were informed that every affiliate had in fact changed to a limited liability company. When potential investors hesitated to invest in a general partnership, they were then offered opportunities to invest in affiliates which had already converted to limited liability companies.

11. The investments offered and sold by Defendants are securities in the form investment contracts.

12. Misleading and incomplete disclosures were provided to Idaho offerees and investors. Investors were informed that the investments were not securities, and thus did not require registration. Administrative orders entered by other states directing defendants to cease unlawful securities activities were not disclosed.

COUNT ONE

The allegations contained in paragraphs 1 through 12 are hereby realleged as if fully set forth.

13. Beginning on a date uncertain but at least since February 1996 Defendants sold or offered for sale, or caused to be sold, either directly or indirectly, or aided and abetted in the offer or sale of investment contract securities to Idaho residents.

14. The securities offered and sold by Defendants were not registered with the Department as required by Idaho Code §30-1416.

15. Defendants have violated Idaho Code §30-1416.

COUNT TWO

The allegations contained in paragraphs 1 through 15 are hereby realleged as if fully set

forth.

16. At no time have the Defendants been licensed by the Department of Finance as broker-dealers or salesmen to sell or offer for sale securities as required by Idaho Code §30-1406.

17. Defendants have violated Idaho Code §30-1406.

COUNT THREE

The allegations contained in paragraphs 1 through 17 are hereby realleged as if fully set forth.

18. Defendants offered and sold securities to individuals in violation of an antifraud provision of the Idaho Securities Act, Idaho Code §30-1403(2), in that they made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. The untrue statements of material fact made by Defendants include, but are not limited to, the following:

A. Misrepresenting to offerees and/or investors that the investments were not securities.

The omissions of Defendants include, but are not limited to, the following:

B. Failing to disclose to offerees and/or investors that a Cease and Desist Order was entered by the State of New Hampshire on February 5, 1997 against KidZtime TV, KidZtime TV Affiliated Partners, and Capital Funding ordering those parties to cease offering or selling securities in violation of the New Hampshire securities act, and fining those parties $15,000.

C. Failing to disclose to offerees and/or investors that a Cease and Desist Order was entered by the State of North Dakota against KidZtime TV and Capital Funding on December 18,

1996 ordering those parties to cease offering or selling securities in violation of the North Dakota securities act.

D. Failing to disclose to offerees and/or investors that Cease and Desist Orders were entered by the State of Pennsylvania on June 12, 1996 against KidZtime Affiliated Partners and Capital Funding ordering them to cease offering and selling securities in violation of the Pennsylvania securities act.

E. Failing to disclose to offerees and/or investors that a Cease and Desist Order was entered by the State of South Dakota on November 8, 1995 against Capital Funding Group ordering it to cease offering or selling securities in violation of the South Dakota securities act.

F. Failing to disclose to offerees and/or investors that a Cease and Desist Order was entered by the State of Alabama on April 4, 1996 against Capital Funding ordering it to cease offering or selling securities in violation of the Alabama securities act.

G. Failing to disclose to offerees and/or investors that the investments were securities, were required to be registered under the Idaho Securities Act, and that the investments were not so registered.

H. Failing to disclose to offerees and/or investors that the Defendants were not registered with the Idaho Department of Finance as broker-dealers or salesmen as required under the Idaho Securities Act.

19. Defendants have violated Idaho Code §30-1403(2).

COUNT FOUR

The allegations contained in paragraphs 1 through 19 are hereby realleged as if fully set

forth.

20. Defendants used the proceeds of the sale of securities in a manner which violated the Act in that offering expenses exceeded the amount allowed under the Act.

21. Rule 130.02.c. of the rules pursuant to the Idaho Securities Act (IDAPA 12.01.08.130.02.c.) provides that costs of selling securities in Idaho as defined under the Act shall not exceed fifteen percent (15%) of the proceeds. Defendants' offering costs exceeded fifty percent (50%) of the proceeds.

22. Defendants have violated the rules pursuant to the Idaho Securities Act.

COUNT FIVE

The allegations contained in paragraphs 1 through 22 are hereby realleged as if fully set forth.

23. Defendants offered securities to persons in this state in violation of an antifraud provision of the Idaho Securities Act, Idaho Code §30-1403(3), in that Defendants engaged in acts, practices, and courses of business which operated as a fraud or deceit upon offerees and investors. The Defendants' acts, practices and courses of business that operated as a fraud include, but are not limited to, the following:

A. The manner, timing, and means used in making the misrepresentation and omissions contained in paragraph 18, above.

B. Defendants engaged in a scheme to avoid registration. Specifically, Defendants artificially structured the investments as general partnerships in order to avoid registering the investments as securities. Potential investors were informed not to be concerned about general partnership liability because, as soon as the affiliate was fully subscribed, the form

of the entity could be changed to a limited liability company. If the potential investor was still reluctant to invest, he was informed that an investment could be made in an already converted limited liability company.

24. Defendants have violated Idaho Code §30-1403(3).

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for a Judgment in favor of Plaintiff and against Defendants as follows:

A. That Defendants be adjudged to have violated the Idaho Securities Act.

B. That Defendants be permanently enjoined from engaging in any acts, practices or omissions which would constitute violations of the Idaho Securities Act, Title 30, Chapter 14, Idaho Code, or any rule or order thereunder, and in particular, that they be permanently enjoined from:

1. Selling or offering for sale nonexempt securities in any form in the State of Idaho until such time as the securities have been registered with the Idaho Department of Finance in accordance with Title 30, Chapter 14, Idaho Code;
2. Selling or offering for sale nonexempt securities in any form in the State of Idaho until such time as Defendants have registered as broker-dealers or salesmen for a broker-dealer or issuer with the Idaho Department of Finance, in accordance with Title 30, Chapter 14, Idaho Code;
3. While engaged in or in connection with the offer, sale or purchase of any security:
   (a) Employing any device, scheme or artifice to defraud any investors in the securities;
   (b) 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;

(c) Engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

4. Aiding, abetting, counseling, inducing or causing any other person to engage in any of the types of conduct described in paragraphs 1, 2, or 3, above.

C. That Defendants be prohibited from claiming the availability of, using, or offering or selling securities under, any exemption under the Idaho Securities Act without receiving the prior written consent of the Director.

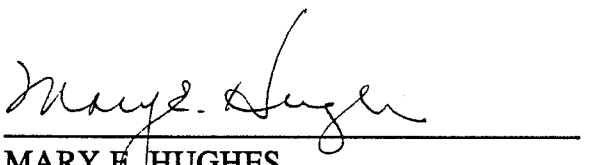
D. That Defendants be ordered to restore to each person in interest any consideration which may have been acquired or transferred in violation of the Idaho Securities Act.

E. That Defendants, and each of them, be ordered to pay a civil penalty to Plaintiff in an amount of $10,000 for each violation of the Idaho Securities Act.

F. That Plaintiff be awarded attorney's fees and costs incurred in the preparation and the prosecution of this action, and if judgment is taken by default herein, that $5,000 is a reasonable attorney's fee.

G. Such other and further relief as this Court may deem equitable and just.

DATED this 12th day of May, 1997.



MARY E. HUGHES
Deputy Attorney General
Department of Finance

VERIFICATION

STATE OF IDAHO)
) ss:
County of Ada)

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

That she has read the foregoing Verified Complaint; that she knows the contents thereof; and that the same are true to the best of her knowledge.

DATED this 12TH day of May, 1997.

Marilyn T. Scanlan

MARILYN T. SCANLAN

SUBSCRIBED AND SWORN to before me this 12th day of May, 1997.

Virginia L. Lorenz

NOTARY PUBLIC FOR IDAHO
Residing at: Caldwell
My Comm. Exp.: 4/5/2000