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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

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

STATE OF IDAHO, DEPARTMENT OF FINANCE, SECURITIES BUREAU, Plaintiff, vs. DONALD E. SAVAGE and KARLEEN S. SAVAGE, Defendants.	Case No. CV04-12020 **VERIFIED COMPLAINT** Fee Category: Exempt

The State of Idaho, Department of Finance, Gavin M. Gee, Director, by and through its counsel, complains and alleges as follows, on its information and belief:

I

This action is brought pursuant to the Idaho Securities Act, Title 30, Chapter 14, Idaho Code (hereinafter referred to as the "Act"), and in particular, Idaho Code § 30-1442, wherein the Director is authorized to bring actions seeking injunctive and other relief against Defendants who

COPY

have either violated or are about to violate the provisions of the Act or any rule promulgated thereunder.

II

The acts and practices alleged herein comprising violations of law by the Defendants occurred in Canyon County, and elsewhere in the state of Idaho.

III

Defendants are, and at all times relevant hereto were, residents of Canyon County, Idaho.

IV

Defendants have not registered as Investment Advisers with the Idaho Department of Finance at any time prior or subsequent to the acts and conduct alleged herein.

V

For some time prior to February of 1999, Defendants were acquainted with R. A. R. A. is, and at all times pertinent hereto was, a resident of Canyon County, Idaho.

VI

In early 1999, Defendant Donald Savage represented to R. A. that Savage made his money by trading in stocks.

VII

On or about the time referred to in paragraph VI above, the Defendants offered to advise R. A. on his investments.

VIII

In or about January or February of 1999, on the advice of the Defendants, R. A. decided to establish an investment account with a securities broker-dealer, Investacorp/Applied Assets.

IX

In or about January of 1999, the Defendants introduced R. A. to Jeff Currie, a registered investment adviser at Investacorp/Applied Assets on River Street in Boise, Idaho. Defendants accompanied R. A. when R. A. met with Jeff Currie in Boise. Currie assisted R. A. in opening an investment account with Investacorp/Applied Assets. On Febuary 1, 1999, R. A. made an initial deposit of $10,000 to his account with Investacorp/Applied Assets.

X

On or about March 29, 1999, R. A. made an additional deposit of $2,000 to his account with Investacorp/Applied Assets. R. A. subsequently purchased a number of stocks including shares of Ericsson stock and shares of America Online, Inc.

XI

Between February 1, 1999, and February 9, 2000, R. A. directed Investacorp/Applied Assets to purchase securities for his investment account. Some of the securities transactions R. A. did during that period were done based on advice R. A. received from Defendants.

XII

On or about early February of 2000, the Defendants offered to manage R. A.'s money and investments while he was away on his church mission, in return for a percentage of the profits resulting. Defendants told R. A. that they had managed money for another young man they knew and that they were quite successful in doing so. R. A. was about to depart on a mission for his church for a period of two years. R. A. and the Defendants agreed that the Defendants would manage and invest R. A.'s money for the two year period in which he was on his mission.

XIII

On February 9, 2000, R. A. signed a letter addressed to Jeff Currie at Applied Assets on Shoreline Drive in Boise, Idaho. The letter was drafted by Defendant Karleen Savage. The letter authorized Defendant Karleen Savage to have access to and trade on R. A.'s investment account for the period of 2000 – 2002, while R. A. was on a mission for his church.

XIV

The letter to Jeff Currie dated February 9, 2000, also instructed Currie to change the address on the investment account to 4505 Buzzard Lane, Nampa, Idaho. This address was where the Defendants resided at the time, and where they currently reside.

XV

Prior to February 1, 1999, R. A. established a checking account with Washington Mutual Bank. On January 27, 2000, R. A. added Defendant Karleen Savage to his Washington Mutual checking account as a joint signer on the account. R. A. did this to enable the Defendants to manage his money while he was away on his church mission.

XVI

Prior to departing on his church mission on February 23, 2000, in addition to the agreement R. A. had with the Defendants to manage and invest his money, the Defendants and R. A. agreed that the Defendants would pay R. A.'s monthly mission expenses in the amount of $375 per month to R. A.'s local church. These monthly expense payments were to be made from the Washington Mutual checking account. R. A. deposited sufficient funds in his Washington Mutual checking account to pay these expenses, before he departed on his church mission.

XVII

R. A. departed on his church mission on February 23, 2000. Beginning on April 17, 2000, Defendant Karleen Savage initiated a number of unauthorized transactions in and between R. A.'s Investacorp/Applied Assets investment account and Washington Mutual checking account. These transactions culminated in withdrawals of funds from R. A.'s accounts by the Defendants and misappropriation of those funds for Defendants' use and benefit.

XVIII

Between the dates of April 17, 2000, and September 27, 2000, Karleen Savage sold securities in R. A.'s Investacorp/Applied Assets investment account, transferred cash from R. A.'s Investacorp/Applied Assets investment account to R. A.'s Washington Mutual checking account, and withdrew cash from R. A.'s Washington Mutual checking account.

XIX

During the two year period when R. A. was gone on his church mission (February of 2000 to February of 2002), the Defendants did pay some of R. A.'s mission expenses and taxes owed, as well as making a payment to R. A.'s mother. Subtracting the foregoing payments that benefited R. A., Defendants misappropriated the sum of $16,670.00 from R. A.'s Investacorp/Applied Assets account and Washington Mutual bank account, during the time period and under the circumstances set forth above.

XX

During the two year period R. A. was away on his church mission, he received no notice of Defendants' unauthorized liquidation of his securities and withdrawals from his accounts. As stated above, while R. A. was away on his church mission, the statements on the two accounts involved were sent to Defendants.

XXI

Soon after R. A.'s return from his church mission in February of 2002, he discovered that the balance of his Investacorp/Applied Assets was down to the approximate sum of $646.00 and that the balance of his Washington Mutual checking account was down to the sum of $4.44. R. A. also learned that all of his monthly mission expenses had not been paid by the Defendants, even though he had deposited sufficient funds in his Washington Mutual checking account to pay those espenses.

XXII

In or about February of 2002, after discovering that his securities investments and cash were largely gone, R. A. made inquiry of the Defendants as to the disposition of his securities and funds. Defendant Donald Savage falsely stated to R. A. that losses in R. A.'s investment account had brought the balance of that account down to $8,000. Defendant Don Savage further stated that the Defendants then invested R. A.'s money, in the amount of $8,000 into the Defendant's curbing business, because that would make a better return on R. A.'s money than the stock market. At no time had R. A. authorized Defendants to liquidate his securities, withdraw his money, and invest his money in Defendants' curbing business. At no time did Defendants provide R. A. with an accounting of the securities and monies in his investment account and checking account, nor the disposition of those investments and funds.

XXIII

Soon after R. A.'s inquiry to Defendants as to the disposition of his investments and funds while he was away on his mission, Defendants tendered two checks to R. A., as payments to him on the monies Defendants misappropriated. Those checks were returned NSF.

XXIV

Adding all of the withdrawals from R. A.'s investment and checking accounts, and subtracting payments Defendants made which benefited R. A., by virtue of their fraudulent acts, Defendants have misappropriated securities and cash totaling the sum of $16,670.00.

XXV

COUNT ONE

UNLAWFUL ACTS OF PERSON ADVISING ANOTHER

Plaintiff hereby realleges and incorporates by reference paragraphs I through XXX above as though fully set forth.

XXVI

By virtue of Defendants' conduct set forth above, Defendants have employed an act, scheme, or artifice to defraud a person they advised in the purchase or sale of securities, within the meaning of Idaho Code § 30-1404(1), and Defendants have engaged in an act, practice, or course of business which operates or would operate as a fraud or deceit upon a person they advised in the purchase or sale of securities, within the meaning of Idaho Code § 30-1404(2).

XXVII

Based on the foregoing, Plaintiff is entitled to a Judgment from this Court against the Defendants adjudging that Defendants have violated the Idaho Securities Act; awarding Plaintiff a permanent injunction prohibiting further violations of the Idaho Securities Act by Defendants; assessing a penalty of $10,000 against each Defendant for his or her violations of the Idaho Securities Act as described in this Count; ordering that any consideration paid by R. A. to Defendants as a result of Defendants' unlawful actions be restored to R. A. by Defendants, said sum totaling $16,670; reasonable attorneys fees incurred by Plaintiff; reimbursement for

Plaintiff's costs of investigation in this matter, and any other relief Plaintiff may be entitled to under Idaho Code § 30-1442, and other provisions of the Idaho Securities Act, or any other law affording remedies or relief to the Plaintiff as a result of Defendants' unlawful acts constituting violations of Idaho Code § 30-1404, subsections (1) and (2).

XXVIII

COUNT TWO

FAILURE TO REGISTER AS INVESTMENT ADVISERS

Plaintiff hereby realleges and incorporates by reference paragraphs I through XXXIII as though fully set forth.

XXIX

By virtue of their acts and conduct described above, Defendants have transacted business in this state as investment advisers without first registering with the Plaintiff, as required by Idaho Code § 30-1406(2).

XXX

Based on the foregoing, Plaintiff is entitled to a Judgment from this Court against the Defendants adjudging and decreeing that Defendants have violated the Idaho Securities Act; awarding Plaintiff a permanent injunction prohibiting further violations of the Idaho Securities Act by Defendants; a penalty of $10,000 against each Defendant for his or her violations of the Idaho Securities Act as described in this Count; ordering that any consideration paid by R. A. to Defendants as a result of Defendants' unlawful actions be restored to R. A. by Defendants, said sum totaling $16,670; reasonable attorneys fees incurred by Plaintiff; reimbursement for Plaintiff's costs of investigation in this matter; and any other relief Plaintiff may be entitled to under Idaho Code § 30-1442, and other provisions of the Idaho Securities Act, or any other law

affording remedies or relief to the Plaintiff as a result of Defendants' unlawful acts constituting violations of Idaho Code § 30-1406(2).

XXXI

COUNT THREE

UNLAWFUL ACTS IN CONNECTION WITH PURCHASE OR SALE OF SECURITIES

Plaintiff hereby realleges and incorporates by reference paragraphs I through XXXVI above.

XXXII

By virtue of Defendants' acts and conduct described above, in connection with the sale or purchase of securities, Defendants have directly or indirectly employed a device, scheme, or artifice to defraud, within the meaning of Idaho Code § 30-1403(1); they have made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, within the meaning of Idaho Code § 30-1403(2); and Defendants have engaged in an act, practice or course of business which operates or would operate as a fraud or deceit upon a person, within the meaning of Idaho Code § 30-1403(3).

XXXIII

Based on the foregoing, Plaintiff is entitled to a Judgment from this Court against the Defendants adjudging and decreeing that Defendants have violated the Idaho Securities Act; awarding Plaintiff a permanent injunction prohibiting further violations of the Idaho Securities Act by Defendants; a penalty of $10,000 against each Defendant for his or her violations of the Idaho Securities Act as described in this Count; ordering that any consideration paid by R. A. to Defendants as a result of Defendants' unlawful actions be restored to R. A. by Defendants, said sum totaling $16,670; reasonable attorneys fees incurred by Plaintiff; reimbursement for

Plaintiff's costs of investigation in this matter, and any other relief Plaintiff may be entitled to under Idaho Code § 30-1442, and other provisions of the Idaho Securities Act, or any other law affording remedies or relief to the Plaintiff as a result of Defendants' unlawful acts constituting violations of Idaho Code § 30-1403, subsections (1), (2), and (3).

WHEREFORE, Plaintiff prays for a Judgment against defendant as follows:

(1) That Defendants be adjudged and decreed to have violated the Idaho Securities Act;

(2) That Defendants be permanently enjoined from engaging in any acts, practices, courses of business, omissions, and misrepresentations which would constitute violations of the Idaho Securities Act, Title 30, Chapter 14, Idaho Code.

(3) That Defendants be permanently enjoined from engaging in the following acts and conduct:

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 or prospective investors;

(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) That Defendants be prohibited from claiming the availability of, using, or offering or selling securities under any exemptions under the Act without receiving the prior written consent of the Director.

(5) That Plaintiff be awarded a money judgment in the amount of $16,670, representing restitution for the benefit of R. A.;

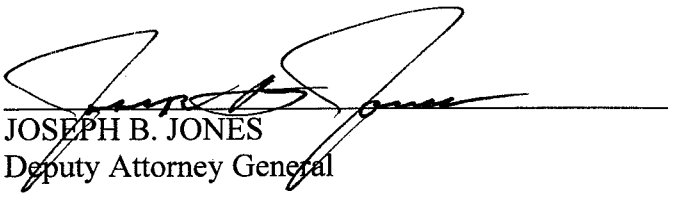
(6) That Plaintiff be awarded a judgment for its reasonable attorneys fees incurred in this suit and its costs of investigation;

(7) That Plaintiff be awarded any other relief it may be entitled to under Idaho Code § 30-1442;

(8) For such other and further relief as this Court may deem just and equitable.

Dated this 24 day of November, 2004.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



JOSEPH B. JONES
Deputy Attorney General

VERIFICATION

STATE OF IDAHO)
) ss.
County of Ada)

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

That she has read the foregoing verified complaint, that she knows the contents thereof, and that the same are true and correct to the best of her knowledge and belief.

DATED this 24th day of November, 2004.

Marilyn T Chastain

MARILYN T. CHASTAIN

SUBSCRIBED AND SWORN to before me this 24th day of November, 2004.

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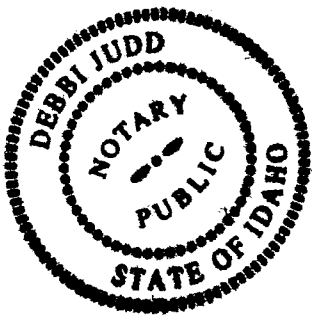
Notary Public for Idaho
Residing at: Boise ID
My Commission Expires: 7/31/2010