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J. DAVID NAVARRO, Clerk
By DEBRAH L. PRICE
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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. DEVIN JOHN SMITH, an individual, Defendant.	Civil No. CV OC 9900472D **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 thereunder.

VENUE

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

FACTS

3. Defendant Devin John Smith ("Smith") is an individual whose last known business address is 1523 W. Hayes, Boise, Idaho. From September 1994 through March 1995, Smith was a securities sales agent for Commercial Leasing Co., d/b/a Galco Leasing Company ("Galco").

4. On September 27, 1994, Smith solicited an Idaho investor ("investor") to invest $5,000 in 1,000 shares of Galco common stock. Smith informed investor that Galco was a very good company and that it would be going public in the near future. Smith directed investor to make the check payable to Money Management Services, a business name used by Smith. Smith, as agent for Galco, provided investor with a receipt for the $5,000. The $5,000 was deposited in Smith's personal bank account.

5. On February 9, 1995, Smith again solicited investor to invest $2,000 in Galco common stock. The check was made payable to Money Management Services and referenced "400 share IRA Galco." At a later date, investor received a receipt for the $2,000 purportedly signed by Jon Steele, President of Galco Leasing Company. The signature of Jon Steele was forged. The $2,000 was deposited in Smith's personal bank account.

6. In 1997, investor became concerned with her investment and contacted Jon Steele, Galco's CEO. Investor was told that Galco did not have any record of her being a Galco shareholder.

7. On December 19, 1997, Smith delivered two Galco stock certificates to investor, representing 1,000 shares and 400 shares, respectively. The stock certificates were counterfeit.

8. In early 1998, Smith informed investor that Galco had severe financial problems and that he would personally pay back her $7,000 investment. Investor has received no repayment of her investment from Smith.

COUNT ONE

The allegations contained in paragraphs 1 through 8 are hereby realleged as if fully set forth.

9. Defendant offered and sold securities to an individual in this state in violation of an antifraud provision of the Idaho Securities Act, Idaho Code §30-1403(3), in that he engaged in an act, practice or course of business which operates as a fraud or deceit upon the individual. The fraudulent acts, practices, or courses of business of Defendant include, but are not limited to, the following:

A. Instructing investor to make out checks to Money Management Services rather than Galco, depositing those checks in Defendant's personal bank account, and using the money to pay personal obligations.

B. Providing counterfeit Galco stock certificates to investor.

10. Defendant has violated Idaho Code §30-1403(3).

COUNT TWO

The allegations contained in paragraph 1 through 10 are hereby realleged as if fully set forth.

11. Defendant offered and sold securities to an individual in this state in violation of an antifraud provision of the Idaho Securities Act, Idaho Code §30-1403(2), in that he made untrue statements of material facts in connection with the offer and sale of securities. The misrepresentations of Defendant include, but are not limited to, the following:

A. Representing to investor that Galco would be going public in the near future.

12. Defendant has violated Idaho Code §30-1403(2).

COUNT THREE

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

13. Defendant offered and sold securities to an individual in this state in violation of an antifraud provision of the Idaho Securities Act, Idaho Code §30-1403(2), in that he 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 omissions of Defendant include, but are not limited to, the following:

A. Failing to inform investor that her money was going to be deposited in Smith's personal bank account and not used to purchase Galco stock.

B. Failing to inform investor that her money was going to be used to pay Smith's personal obligations.

14. Defendant has violated Idaho Code §30-1403(2).

PRAYER FOR RELIEF

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

A. That Defendant be adjudged to have violated the Idaho Securities Act and Rules thereunder.

B. That Defendant 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, and in particular, that he 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 Defendant has registered as a broker-dealer or salesman 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.

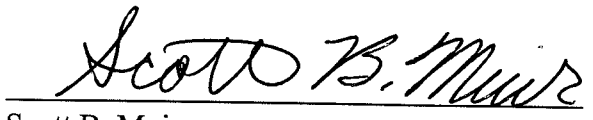
C. That Defendant be prohibited from claiming the availability of, using, or offering or selling securities, under any exemptions under the Idaho Securities Act without receiving the prior written consent of the Director.

D. That Defendant 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 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.

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

DATED this 29th day of January, 1999.



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