

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, Department of Finance,
Securities Bureau,

Complainant,

vs.

MATTHEW LYNN WALKER, and
PINNACLE PLUS CAPITAL, LLC,

Respondents.

Docket No. 2019-7-05-F

AGREEMENT AND ORDER

The Director of the Department of Finance, State of Idaho ("Director") has instituted an investigation into the conduct of Matthew Lynn Walker and Pinnacle Plus Capital, LLC ("Respondents") to inquire into whether violations of the *Idaho Uniform Securities Act (2004)* ("Act"), *Idaho Code §30-14-101 et seq.* have occurred. In order to avoid the uncertainty and cost of litigation, and to promote a fair, just, and equitable resolution of this matter in the best interest of all, the Director, Matthew Lynn Walker, and Pinnacle Plus Capital, LLC have agreed to settle this matter without a public hearing. Therefore, the Director deems it appropriate and in the public interest that this Agreement and Order ("Order") be entered and the Respondents consent to the entry of this Order.

RESPONDENTS

1. **Matthew Lynn Walker** ("Walker") is a 39 year-old male and is located at 11225 College Blvd, Suite 150, Overland Park, Kansas. Walker is an owner of Pinnacle Plus Holdings, LLC and the company's affiliates. He has been licensed with the Department of Insurance in Kansas, Utah, and Idaho since 2004. Walker registered as a broker-dealer representative with the Financial Industry Regulatory Authority ("FINRA") in 2004 and received a Central Registration Depository ("CRD") number of 4874720. Walker registered with the State of Kansas as a broker-dealer agent and as a registered investment advisor in 2004 and 2006, respectively. As of February 27, 2009, Walker was no longer registered to sell securities.

2. **Pinnacle Plus Capital, LLC** (“Pinnacle”) was previously known as Pinnacle Plus Private Placement, LLC and was formed in Kansas on May 31, 2017. Pinnacle has never been registered to sell securities. Pinnacle is owned by Pinnacle Plus Holdings, LLC which was formed in Kansas in July 2016 by owner Walker. Pinnacle Plus Holdings, LLC also owns:
 - a. Pinnacle Plus Financial, LLC was formed in Kansas in July 2016 and provides financial insurance products. The company is registered with the Kansas Department of Insurance.
 - b. Pinnacle Wealth Management, LLC was formed in Kansas in October 2009 and is an investment advisory firm that offers asset management, financial planning, and advisory services. Pinnacle Wealth Management, LLC registered as an investment adviser firm with FINRA in 2010 and received a CRD number of 153896.
 - c. Pinnacle Plus Group, LLC was formed in Kansas in July 2017 and is registered with the Kansas Department of Insurance.

BACKGROUND

3. 1 Global Capital, LLC dba 1st Global Capital LLC (“1st Global”) was incorporated in June 2013 in Florida and founded by Carl Ruderman. The entity was a commercial lender that offered short-term loans to small and medium sized businesses. 1st Global obtained the funds for these loans through the sales of securities in the form of notes entitled Memorandum of Indebtedness (“MOI”).
4. 1st Global claimed the investor proceeds from the MOI notes would be used for funding Merchant Cash Advance Transactions (“MCATs”) which is an alternative funding source for businesses outside of the banking industry.
5. The investments in MOI notes were advertised as being short-term loans yielding double-digit returns with a diversified risk profile. 1st Global claimed that investors historically received a return on investment in excess of 15%.

6. The MOI notes stated that the investor would receive 3% interest on the investment and the investor could receive additional interest based on the allocation to each MCAT and at 1st Global's discretion. Investments would automatically roll into a new nine-month MOI note unless 1st Global received a written termination agreement from the investor no less than 30 days prior to the MOI note maturity.
7. When the investor elected to terminate their MOI note at nine-months, the investor was required to wait for each of the MCATs in their account to unwind to receive repayment of their investment.
8. Investment funds received by 1st Global were commingled or pooled together and subsequently lent to MCAT borrowers. Investors would get a small fractionalized interest in hundreds of MCATs.
9. 1st Global, and its sister company 1st West Capital LLC, filed for chapter 11 bankruptcy on July 27, 2018 with the Bankruptcy Court for the Southern District of Florida (Case 18-19121-RAM).
10. On August 23, 2018, the Securities and Exchange Commission ("SEC") filed a complaint against 1st Global and its affiliates alleging that Carl Ruderman, owner of 1st Global, conducted a nationwide fraud scheme that raised over \$287 million from over 3,400 investors. The SEC's complaint alleged that 1st Global's financial records were missing approximately \$50 million of investor funds due to the misappropriation and improper use of the funds.
11. The SEC alleged that 1st Global issued unregistered securities in the form of notes, paid unregistered agents to sell the investments, used investor funds for purposes other than cash advances, and made numerous material misrepresentations and omissions to investors.
12. At no time were 1st Global's MOI notes registered as securities in Idaho nor did they qualify for an exemption.

13. Pinnacle held out that 1st Global's MOI notes were 9-month loans and were not securities. Investors were informed that they would need to give at least 60-days advance notice of the note's maturity date to retrieve their investment. Investors were further advised that the full payout would take 3-months if the investment was \$250,000 or less and 6-months if the investment was over \$250,000.

14. At least three representative of Pinnacle solicited and sold 1st Global MOI notes which included:

- a. **Cody Hill** ("Hill") is a 46-year-old Utah resident who has been licensed with the Utah and Idaho Insurance Departments since 2013 and has never held a securities license. He solicited and sold the MOI notes to at least one Idaho couple.
- b. **Benjamin Tanner** ("Tanner") is a 40-year-old Idaho resident who has never held a securities license. He solicited and sold the MOI notes to himself and his wife.
- c. **Walker** solicited and sold the MOI notes to at least two Idaho residents.

15. Pinnacle received \$1,610.93 in commissions from the sales of the MOI notes to at least two Idaho residents. Commissions include:

- a. \$860.93 from CJ & KJ's investment of \$114,790, in approximately March 2018, solicited and sold through Hill. Hill received commissions of \$2,582.78 from this investment.
- b. \$750 from Benjamin Tanner & MT's investment of \$100,000, in approximately April 2018, solicited and sold through Tanner. Tanner received commissions of \$2,250 from this investment.

16. Walker received \$11,812.50 in commissions from his sales of the MOI notes to at least two Idaho residents. Commissions include:

- a. \$11,250 from EI's investment of \$500,000, in approximately March 2018.

- b. \$562.50 from WM's investment of \$25,000, in approximately October 2017.
17. Pinnacle received an aggregate of \$601,066.51 in commissions for their nationwide sales of 1st Global securities. \$89,078.11 of the commissions were paid, by Pinnacle, to their directly-employed sales agents. \$109,248.86 of the commissions were paid to Walker. Pinnacle retained \$402,739.54 of the nationwide commissions.
18. On December 16, 2019, the U.S. Bankruptcy Court for the Southern District of Florida ordered the "Pinnacle Parties" (which included Pinnacle and Walker) to pay 1st Global's liquidating trustee \$500,000 pursuant to a settlement agreement. That payment was made to the liquidating trustee on December 30, 2019.
19. At the time of the above transactions, Pinnacle's agents, including Walker, who sold 1st Global MOI notes to Idaho residents, were not registered to sell securities in Idaho, nor did they qualify for an exemption.
20. At the time of the above transactions, Pinnacle was not registered as a broker-dealer in Idaho, nor did the company qualify for an exemption.

FINDINGS OF VIOLATIONS

OFFER & SALE OF UNREGISTERED SECURITIES

21. Investments in notes are "securities" as defined by *Idaho Code §30-14-102(28)*.
22. Pursuant to *Idaho Code §30-14-301*, it is unlawful for a person to offer or sell a security in this state unless: (a) The security is a federal covered security; (b) The security, transaction or offer is exempted from registration under sections 30-14-201 through 30-14-203, Idaho Code; or (c) The security is registered under this chapter.
23. Walker and Pinnacle sold securities in the form of notes. The securities were not registered, nor did they qualify for a registration exemption at the time they were sold, in violation of *Idaho Code §30-14-301*.

OFFER & SALE OF SECURITIES BY AN UNREGISTERED BROKER-DEALER

24. *Idaho Code §30-14-102(4)* defines a "broker-dealer" as a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.
25. Pursuant to *Idaho Code §30-14-401*, it is unlawful for an individual to transact business in this state as a broker-dealer unless the person is registered under this chapter as a broker-dealer or is exempt from registration as a broker-dealer.
26. Pinnacle transacted business in Idaho as a broker-dealer. Pinnacle was not registered as a broker-dealer, nor did they qualify for a registration exemption at the time the securities were sold, in violation of *Idaho Code §30-14-401*.

OFFER & SALE OF SECURITIES BY UNREGISTERED AGENTS

27. *Idaho Code §30-14-102(2)* defines an "agent" as an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or who represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities.
28. Pursuant to *Idaho Code §30-14-402*, it is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection (b) of this section.
29. Pursuant to *Idaho Code §30-14-402(d)*, it is unlawful for a broker-dealer engaged in offering, selling, or purchasing securities in this state to employ or associate with an agent who transacts business in this state on behalf of broker-dealers unless the agent is registered under subsection (a) of this section or is exempt from registration under subsection (b) of this section.
30. Walker, Hill, and Tanner, as representatives of Pinnacle, assisted Pinnacle in the offer and sale of 1st Global MOI notes to Idaho residents. Walker, Hill, and Tanner were not registered

to sell securities, nor did they qualify for a registration exemption at the time the securities were sold, in violation of *Idaho Code §30-14-402*.

31. Pinnacle engaged in the offering of unregistered securities and employed agents that were not registered to sell securities. Neither the security nor the agents qualified for a registration exemption at the time the MOI notes were sold, in violation of *Idaho Code §30-14-402(d)*

ACKNOWLEDGEMENT AND REMEDIES

32. In order to avoid the uncertainty and cost of litigation, and to promote a fair, just, and equitable resolution of this matter in the best interests of all the parties agree to entry of this Order in lieu of other proceedings.
33. Respondents neither admit nor deny the Complainant's findings of facts and conclusions of law set forth in this Order.
34. Respondents hereby waive any rights they may have to notice and opportunity for hearing on this matter.
35. Respondents agree to disgorge commissions received in the amount of thirteen thousand four hundred twenty-three dollars and forty-three cents (\$13,423.43). Respondents and the Complainant agree and acknowledge that Respondents have disgorged these commissions by payment to 1st Global's liquidating trustee as part of an order issued by the U.S. Bankruptcy Court for the Southern District of Florida, as referenced in paragraph 19 of this Order.
36. Without admitting or denying violations of the Act, Respondents agree to pay a civil penalty in the amount of five thousand dollars (\$5,000) pursuant to *Idaho Code §30-14-604(d)*. Said civil penalty is to be paid not later than thirty (30) days from the date the Director executes this Order. Payment shall be made to the "Idaho Department of Finance."
37. Respondents agree to not now, nor in the future, offer or sell securities in, into, or from Idaho without complying with the requirements of the Act and its rules.

38. Respondents agree to not claim the availability of, use, or offer or sell securities under any exemptions under the Act without giving written notice to the Director. Said written notice shall be provided at least 10 (ten) days in advance of the proposed activities in Idaho.

39. In the event that either Walker or Pinnacle commit future violations of the Act or fails to adhere to the terms of this Order, Respondents acknowledge that the Idaho Department of Finance can incorporate the allegations giving rise to this Order in any future proceeding.

AGREED TO and ACKNOWLEDGED this 12 day of May, 2020.


MATTHEW LYNN WALKER


PINNACLE PLUS CAPITAL, LLC

By: Matthew I Walker
Printed Name and Title

IT IS SO ORDERED

DATED this 13th day of May, 2020.



STATE OF IDAHO
DEPARTMENT OF FINANCE

PATRICIA R. PERKINS, Director of Finance