

9-21-2026 10:37

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**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR BONNEVILLE COUNTY**

STATE OF IDAHO, DEPARTMENT OF
FINANCE, SECURITIES BUREAU,

Plaintiff,

vs.

GENE E. HINSLEY, and GALAXY
COIN, LLC,

Defendants.

Case No. CV-09-2026

COMPLAINT

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 primarily in Bonneville County, Idaho.

CASE SUMMARY

3. Between 2004 and 2008, Defendants unlawfully issued securities in the form of investment contracts for the purpose of speculating in the silver market. Defendants were poor record keepers, so while the exact amounts are unknown, it appears that they issued investment contracts to over one hundred (100) investors in an aggregate amount of over four million dollars (\$4,000,000).

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 spent investor money on personal and business expenses, and do not have the silver investors thought they were buying. Investor losses total between one and a half and two million dollars (\$1,500,000 - \$2,000,000).

DEFENDANTS

5. Defendant Gene E. Hinsley (Hinsley) is an individual currently believed to be residing in Idaho Falls, Idaho. At all times material to the allegations in this Complaint, Hinsley lived at 398 Hartert Drive, Idaho Falls, Bonneville County, Idaho. He is 60 years old.

6. Defendant Galaxy Coin, LLC (Galaxy) is a limited liability company formed on June 07,

2000, under the laws of the State of Idaho, with a principal place of business at 2070 W. Broadway Street, Idaho Falls, Idaho. Galaxy is in good standing as of the date of the filing of this complaint. Hinsley is its sole member. Hinsley and Galaxy have also done business as Galaxy Coin and Collectibles, LLC, and as Galaxy Trust. Galaxy Trust was a ludicrous and incomprehensible effort to issue credit or debit cards backed by silver, and redeemable in gold, but the effort collapsed before it could get up and running.

FACTS

7. On or about June 7, 2000 Hinsley began to traffic in the purchase and sale of coins and bulk silver, with occasional purchases and sales of gold. As the decade progressed, Hinsley became more and more involved in this activity, until he eventually quit his full-time job in 2006 to pursue it full time. Although Hinsley did buy and sell gold, the focus of his activity was related to silver.

8. At some point in 2004, Hinsley began to offer an investment program to people who wanted to invest in silver. Hinsley's program purported to use his expertise to buy and sell silver and generate a return by selling it for more than he paid for it. The program morphed over time as Hinsley gained more and more investors.

9. Hinsley's program was initially structured to pay his investor 80% of profits earned, leaving Hinsley with the remaining 20%. As he gained investors and conducted more and more transactions, Hinsley became less and less able to accurately track the investments. To simplify, Hinsley switched to a fixed rate of return of 13% every two months, or 78% annually.

10. Hinsley paid his investors the returns he promised, for a time, which is a classic element of a Ponzi scheme. Early investors gain confidence over time as the investment appears to be reliably paying a generous return. These investors spread the word of the investment, and new

investors seek to participate. This is what happened with Hinsley.

11. The price of silver rose from six dollars and eighty cents (\$6.80) per ounce in January, 2005 to twenty dollars and sixty six cents (\$20.66) per ounce on March 17, 2008, and during this period Hinsley expanded his program. In a rising market it is easy to sell silver for more than one buys it for.

12. On March 18, 2008, the price climb reversed and began to decline. It went from the twenty dollars (\$20.00) per ounce range to the seventeen dollars (\$17.00) per ounce range by March 24, 2008. The price of silver stabilized in the seventeen dollars (\$17.00) per ounce range through August, 2008, but during August the price began to fall again, eventually reaching a low of nine dollars and twenty cents (\$9.20) an ounce on October 29, 2008.

13. Hinsley's Ponzi scheme collapsed with the price of silver. On April 7, 2008, he sent a letter to his investors saying that the falling silver price made it impossible for him to buy silver because no one wanted to sell in a declining market, and saying that he was going to reduce the return he was paying to two per cent (2%) per month, or twenty-four per cent (24%) annually. He also informed his investors that he would not return their investments until October 2008. In September, 2008 he told his investors he would continue to pay the two per cent (2%) per month return, but would postpone payouts of principal for an additional six (6) months.

14. Hinsley has spent the investor money on Ponzi payments to investors and on personal and business expenses. He does not have a store of silver to back up the investments. He cannot repay the investors their principal.

15. In order to beguile investors into giving him money, Hinsley made the material misrepresentations set forth below. Hinsley also omitted from his sales pitch material information necessary to make an informed investment decision. Had he told his investors the

truth, they would not have invested with him.

16. 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 providing the investment funds. The agreements thus constituted investment contracts.

17. Hinsley, at all times material herein, was not registered with the Idaho Department of Finance or the National Association of Securities Dealers (NASD) (now known as the Financial Industry Regulatory Authority, or FINRA) as a broker/dealer, or as a broker/dealer agent.

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

Misrepresentations

19. To induce investors to invest, Hinsley made the following false representations, among others not set forth below:

a. Hinsley 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. Hinsley told other investors that the investment was moderately risky. Further, Hinsley has stopped paying the agreed interest and cannot return the invested funds or provide the equivalent amount in silver. An investment that does not pay the expected return and that loses the investors' money is not risk free.

b. Hinsley told investors that their only risk was that they might end up with the silver. This was false because the silver, to the extent it was purchased, was sold by Hinsley, and the proceeds spent. Some of the silver may have been transferred to a favored investor or two.

c. Hinsley represented that the investors could withdraw all or part of the invested

funds upon notice. This was false because investors have been unable to withdraw their funds, despite many requests. Several investors have asked for return of their funds, but Hinsley has not returned the money.

d. Hinsley told investors they would receive a 13% return every other month. Although he made such payments for a while, he later unilaterally reduced the return to 2% per month, and the returns have now stopped for all investors.

e. Hinsley told investors that their money would be used to purchase silver, but some investor funds were used for Hinsley's personal needs or to pay off other investors.

f. Hinsley issued bi-monthly account statements that purported to show the accounts appreciating. These statements misled investors into believing he was investing prudently and obtaining consistent monthly returns, and worked to keep investors in the investment and to generate positive word of mouth that lured in other investors.

Material Omissions

20. Hinsley 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 Hinsley. Hinsley failed to disclose the following material information:

- a. The true risks of the investment;
- b. That the bi-monthly account statements did not accurately reflect the returns he was earning;
- c. Information about Hinsley's financial condition or operating history;
- d. That investor money would be used for Hinsley's personal expenses or to pay off other investors;
- e. That Hinsley had a very poor ability to track and monitor investor funds to ensure

that returns were appropriately allocated;

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

g. That Hinsley was not registered as a broker-dealer or as an agent to sell the securities, as required by Idaho's Uniform Securities Act (2004); and

h. That the agreements between Hinsley and his investors were securities issued by Hinsley, but were not registered as required by Idaho's Uniform Securities Act (2004).

COUNT ONE
(Fraud - False and Misleading Statements)

21. The allegations of paragraphs 1 through 20 above are realleged and incorporated herein as if set forth verbatim.

22. 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.

23. Defendants' misrepresentations to prospective investors as set forth in paragraphs 19 a through f above 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.

24. 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 20 a through 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)

25. The allegations of paragraphs 1 through 20 above are realleged and incorporated herein as if set forth verbatim.

26. 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.

27. Defendants' acts as set forth in paragraphs 1 through 20 were made in connection with the offer, sale or purchase of securities. Their conduct as described in paragraphs 1 through 20 above 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)

28. The allegations of paragraphs 1 through 20 above are realleged and incorporated herein as if set forth verbatim.

29. 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.

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

COUNT FOUR
(Failure to Register)

31. The allegations of paragraphs 1 through 20 above are realleged and incorporated herein

as if set forth verbatim.

32. 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).

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

34. 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).

35. 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), that they be permanently enjoined from issuing, selling or offering for sale securities in any form in the state of Idaho, and that they be permanently enjoined from buying or selling numismatic coins and precious metals in the State of Idaho.

3. That Hinsley 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, and that the Court award a money judgment in favor of Plaintiff in such amount.

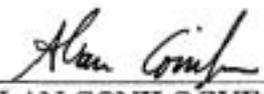
4. That Hinsley be ordered to make restitution to investors, pursuant to Idaho Code § 30-14-603(b)(2)(C) in the amount of one million five hundred thousand dollars (\$1,500,000), or in such other amount as is proven at trial. That Hinsley pay the restitution amount to Plaintiff, to be delivered to the 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 \$1,000 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 1st day of April, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



ALAN CONILOGUE
Deputy Attorney General