

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

STATE OF IDAHO, Department of Finance, Securities  
Bureau,

Complainant,

vs.

AMERICAN ALTERNATIVE INVESTMENTS, LLC,

Respondent.

Docket No. 2019-7-05-A

**AGREEMENT AND ORDER**

The Director of the Department of Finance, State of Idaho ("Director") has instituted an investigation into the conduct of American Alternative Investments, LLC ("Respondent"). Pursuant to said investigation, it appears that violations of the *Idaho Uniform Securities Act (2004)* ("Act"), *Idaho Code §30-14-101 et seq.* have occurred. The Director and American Alternative Investments, LLC have agreed to resolve 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 Respondent consents to the entry of this Order.

**RESPONDENT**

1. **American Alternative Investments, LLC** ("AAI") was incorporated by Rob Whitlow and Thomas Boesen on September 25, 2013 in Indiana and is located at 8470 Allisonville Point Boulevard, Suite 250, Indianapolis, Indiana. AAI is a financial services firm that offers alternative financial and insurance products. The company has been licensed with the State of Indiana's Insurance Department since 2016. AAI has never been registered to sell securities or provide investment advice.

**BACKGROUND**

2. 1 Global Capital, LLC dba 1<sup>st</sup> Global Capital LLC ("1<sup>st</sup> 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. 1<sup>st</sup> Global obtained the funds

for these loans through the sales of securities in the form of notes entitled Memorandum of Indebtedness (“MOI”).

3. 1<sup>st</sup> 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.
4. The investments in MOI notes were advertised as being short-term loans yielding double-digit returns with a diversified risk profile. 1<sup>st</sup> Global claimed that investors historically received a return on investment in excess of 15%.
5. The MOI notes stated that the investor would receive 3% interest on their investment and the investor could receive additional interest based on the allocation to each MCAT and at 1<sup>st</sup> Global’s discretion. Investments would automatically roll into a new nine-month MOI note unless 1<sup>st</sup> Global received a written termination agreement from the investor no less than 30 days prior to the MOI note maturity.
6. 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.
7. Investment funds received by 1<sup>st</sup> Global were commingled or pooled together and subsequently lent to MCAT borrowers. The investors would get a small fractionalized interest in hundreds of MCAT.
8. 1<sup>st</sup> Global, and their sister company 1<sup>st</sup> West Capital LLC, filed for chapter 11 bankruptcy on July 27, 2018.
9. On August 23, 2018, the Securities and Exchange Commission (“SEC”) filed a complaint against 1<sup>st</sup> Global and its affiliates alleging that Carl Ruderman, owner of 1<sup>st</sup> Global, conducted a nationwide fraud scheme that raised over \$287 million from over 3,400 investors. The SEC’s complaint alleged that 1<sup>st</sup> Global’s financial records were missing

approximately \$50 million dollars of investor funds due to the misappropriation and improper use of the funds.

10. The SEC alleged that 1<sup>st</sup> 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.
11. At no time were 1<sup>st</sup> Global's MOI notes registered as securities in Idaho nor did they qualify for an exemption.
12. AAI held out that 1<sup>st</sup> Global's MOI notes were 9-month loans that had historical annual returns in excess of 15%.
13. The Marketing Agreements between AAI and 1<sup>st</sup> Global, dated January 19, 2017 and July 7, 2017, states that AAI would receive the following payments for any loan proceeds ("investments") that were procured by AAI:
  - a. 6% annually for new investor funds
  - b. 5% annually for prior investor funds in a new investment
  - c. A one-time payment of \$175,000 or \$125,000 (depending on the completion date) once AAI had procured \$25,000,000 of investor funds for 1<sup>st</sup> Global.
14. AAI presented the investment to Jason Nightingale ("Nightingale"), a marketing partner of AAI, who solicited and sold 1<sup>st</sup> Global MOI notes in Idaho. Nightingale received \$562.50 and AAI received \$1,687.50 in commissions from the sales of the MOI notes to Idaho resident DS. DS invested \$50,000 in approximately February 2018.
15. At the time of the above transactions, Nightingale, who sold 1<sup>st</sup> Global MOI notes to an Idaho resident, was not registered to sell securities in Idaho, nor did they qualify for an exemption.
16. At the time of the above transactions, AAI 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

17. Investments in notes are "securities" as defined by *Idaho Code §30-14-102(28)*.
18. 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.
19. AAI 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 UNREGISTERED AGENTS

20. *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.
21. 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.
22. 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.

23. Nightingale, as a representative of AAI, assisted AAI in the offer and sale of 1<sup>st</sup> Capital MOI notes to Idaho residents. Nightingale was not registered to sell securities, nor did he qualify for a registration exemption at the time the securities were sold, in violation of *Idaho Code §30-14-402*.
24. AAI 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)*

#### ACKNOWLEDGMENT AND REMEDIES

25. To economically and efficiently resolve the pending dispute; the parties agree to entry of this Agreement and Order in lieu of other proceedings.
26. Respondent neither admits nor denies the Complainant's findings of facts and conclusions of law set forth in this Order.
27. Respondent hereby waives any rights they may have to notice and opportunity for hearing on this matter.
28. Respondent agrees to pay a civil penalty of the commissions paid in the amount of two thousand two hundred fifty dollars (\$2,250). Said 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."
29. Respondent agrees to pay an additional civil penalty in the amount of three thousand dollars (\$3,000) for the violations of the Act, 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."
30. Respondent agrees 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.

31. In the event that AAI commits future violations of the Act or fail to adhere to the terms of this Order, respondent acknowledges that the Idaho Department of Finance can incorporate the allegations giving rise to this Order in any future proceeding.

AGREED TO and ACKNOWLEDGED this 4<sup>th</sup> day of September, 2020.



AMERICAN ALTERNATIVE INVESTMENTS, LL

C By: Thomas J Boesen, COO

Printed Name and Title

**IT IS SO ORDERED**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

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PATRICIA R. PERKINS, Director of Finance

DATED this 8 Day of Sept., 2020.



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PATRICIA HIGHLEY, Securities Bureau Chief  
Idaho Department of Finance

IT IS SO ORDERED

DATED this 8 Day of September, 2020.

STATE OF IDAHO  
DEPARTMENT OF FINANCE



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PATRICIA R. PERKINS, Director  
Idaho Department of Finance

