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**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR CANYON COUNTY**

STATE OF IDAHO, DEPARTMENT OF)
FINANCE, SECURITIES BUREAU,)
)
Plaintiff,)
)
vs.)
)
THE BABCO GROUP, LLC, an)
administratively dissolved Idaho limited)
liability company, and ROBERT)
FISCHER, JR., as managing member, and)
as an individual,)
)
Defendants.)
_____)

Case No. 007-5939

VERIFIED COMPLAINT

Fee category: Exempt

COMES NOW the State of Idaho, Department of Finance, Securities Bureau, Gavin M. Gee, Director (Department), by and through its counsel, A. René Martin, Deputy Attorney General, pursuant to the Idaho Securities Act, Idaho Code § 30-1401 *et seq.* and its successor act, the Uniform Securities Act (2004), Idaho Code § 30-14-101 *et seq.*, (collectively referred to herein as “the Act”), and upon information and belief, complains and alleges as follows:

JUDGE
GORDON W. PETRIE

1.

This action is brought pursuant to the Act, and in particular Idaho Code §§ 30-1442 and 30-14-603, wherein the Director of the Department of Finance (Director) is authorized to bring a civil action seeking injunctive and other relief against persons who have violated, are violating, or are about to violate provisions of the Act or any rule promulgated thereunder.

2.

The acts and practices alleged herein comprising violations of law by the above-named defendants occurred in the conduct of trade and commerce in Canyon County, Idaho, and elsewhere in the state of Idaho.

DEFENDANTS

3.

Defendant THE BABCO GROUP, LLC (Babco) was formed as an Idaho limited liability company in or about July of 2002, and was administratively dissolved on October 6, 2005. The company's original business purpose was the design and sale of pole buildings.

4.

Defendant ROBERT FISCHER, JR. (Fischer) is an individual who at all times pertinent hereto resided at 573 West 7th Street North, Middleton, Idaho 83644. Fischer served as a managing member of Babco, along with his son, Andrew Fischer. Fischer has worked as a self-employed building contractor and in construction and maintenance at a golf course. Fischer holds no professional licenses. Fischer and his spouse filed a Chapter 7 bankruptcy petition in

the U.S. District Court for the District of Idaho in 1998. The bankruptcy petition was later dismissed.

FACTUAL ALLEGATIONS

5.

During the period between approximately 2002 and 2005, Fischer and a partner engaged in business as “Home Buyers Group,” which business consisted of locating homeowners who were facing foreclosure on their homes, and entering into “land trust” agreements with the homeowners. Under a “land trust agreement,” which Fischer referred to as an “Illinois Land Trust,” Home Buyers Group would take over control of a home whose owner faced foreclosure, make the homeowners’ mortgage payments, enter into a “lease option” on the home, with the goal of selling the home at a profit, which profit would be shared by the homeowner and Home Buyers Group. Home Buyers Group was not financially successful in this business, and was dissolved in approximately 2005.

6.

In or about November of 1998, Andrew Fischer purchased a home located at 8162 East Brandts Creek Way, Nampa, Idaho 83687 (Brandts Creek Property). Due to a change in his personal situation leaving him unable to continue making his mortgage payments on the Brandts Creek Property, in or about spring of 2002, Andrew Fischer decided to move out of such Property and live with his parents. On or about May 31, 2002, Andrew Fischer entered into a trust agreement with Fischer, placing the Brandts Creek Property under the ownership and control of Fischer, purportedly in the capacity of a “trustee.” Pursuant to that agreement, Fischer

relieved Andrew Fischer from responsibility for the mortgage payments on the Brandts Creek Property by taking over the payments himself as a “trustee” of the Property.

7.

In or about early 2003, P. G., then a resident of Middleton, Idaho, due to health reasons, fell behind on her mortgage payments on her home located at 5400 Pioneer Avenue, Middleton, Idaho 83644 (the Pioneer Property). In an effort to avoid foreclosure, P.G. responded to an advertisement in the Caldwell Press Tribune placed by or on behalf of Fischer, which advertisement included an offer to take over home mortgage payments in distress situations. P.G. contacted Fischer, and on or about February 6, 2003, P.G. met with Fischer and entered into a trust agreement with Fischer whereby Babco became “trustee” of the Pioneer Property. Pursuant to her agreement with Fischer, P.G. vacated the Pioneer Property, and Babco took over P.G.’s mortgage payments.

8.

Sometime during the summer of 2003, Fischer approached D.B. and J.B., a married couple residing in Boise, Idaho who were acquaintances of Fischer, concerning an investment. Fischer told D.B. and J.B. that he engaged in a business conducted under the “umbrella” of Babco, whereby he bought houses, improved them, and sold them at a profit. Fischer told D.B. and J.B. that if they invested in his business, when a particular house was sold, D.B. and J.B. would receive their investment monies back, plus a 15% profit. Fischer told D.B. and J.B. that an investment in his business would be a safe investment. Fischer also told D.B. and J.B. that at the time a house was sold, he would give them the option of investing in another house.

9.

On September 17, 2003, Fischer went to D.B. and J.B.'s home, and entered into an agreement with them, which agreement purported to assign a portion of Babco's beneficial interest in the Pioneer Property to D.B. and J.B., in the amount of \$7,500 plus 15% interest due at the closing of the sale on the Pioneer Property. Fischer then accepted from D.B. and J.B. a check in the amount of \$7,500 constituting an investment in Fischer's business of purportedly buying, repairing and selling homes. D.B. had withdrawn such sum from his retirement account to invest in Fischer's business. Fischer represented to D.B. and J.B. that their \$7,500 investment would be used to buy the Pioneer Property and fix it up for sale. Fischer did not tell D.B. and J.B. that some of the investment monies would be used by Fischer to play Internet poker.

10.

On October 14, 2003, Fischer deposited D.B. and J.B.'s \$7,500 investment check into Babco's checking account. Fischer then used approximately \$1,790 of D.B. and J.B.'s \$7,500 investment monies to play Internet poker. The investment Fischer offered and sold to D.B. and J.B. constitutes a security in the form of an investment contract under the Act.

11.

On or about February 1, 2004, Fischer again visited D.B. and J.B. at their home and told them he needed money to buy another house, repair it, and sell it for profit, identifying the particular property as the Brandts Creek Property. Based on Fischer's representation, D.B. and J.B. agreed to make a second investment in Fischer's company. D.B. withdrew \$6,000 from his retirement account and gave the money to Fischer as an additional investment in Fischer's

business. The \$6,000 investment Fischer offered and sold to D.B. and J.B. constitutes a security in the form of an investment contract under the Act. Fischer did not inform D.B. or J.B. that he had already acquired the Brandts Creek Property from his son, Andrew Fischer, or the circumstances under which he had acquired the property. Further, Fischer did not inform D.B. and J.B. that \$900 of their \$6,000 investment monies would be used by Fischer to play Internet poker.

12.

In June of 2004, the Pioneer Property was sold through a foreclosure sale. Fischer had previously “dissolved” the trust agreement with P.G., and the property had reverted to her ownership and control.

13.

In August of 2004, Andrew Fischer sold the Brandt’s Creek Property and personally realized the profit on the sale of that Property. Fischer’s trust agreement with Andrew Fischer had previously been dissolved, and ownership and control of the Brandts Creek Property had been transferred back to Andrew Fischer.

14.

For the period between at least November 3, 2003 through January of 2006, Fischer provided D.B. and J.B. with statements showing the “status” of their purported investments in Fischer’s company, which statements consistently showed that the value of such investments was increasing.

15.

In approximately October of 2006, Fischer informed D.B. and J.B. that he no longer had control of the Pioneer Property and the Brandts Creek Property and that he had spent all of D.B. and J.B.'s investment monies.

16.

Fischer promised to repay D.B. and J.B. their investment monies, but has failed to do so.

COUNT ONE: VIOLATIONS OF IDAHO CODE §§ 30-1403 AND 30-14-501(2) - MISREPRESENTATIONS OF MATERIAL FACT

17.

The allegations set forth in paragraphs 1 through 16 above are fully incorporated herein by this reference.

18.

Idaho Code §§ 30-1403 and 30-14-501(2) provide that it is unlawful for any person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to make any untrue statements of material fact.

19.

In offering and selling the securities to D.B. and J.B. as referenced in paragraphs 1 through 16 above, Fischer made untrue statements of material fact, which misrepresentations included but were not limited to the following:

- (A) That D.B. and J.B.'s investment monies would be applied to buy a home identified as to each separate investment, and that Fischer would improve such home and sell it for profit, when in reality Fischer applied none of D.B. and J.B.'s investment monies for such purposes.
- (B) That D.B. and J.B. would receive the return of their principal investments plus a 15% profit when the identified properties were sold;
- (C) That Fischer needed D.B. and J.B.'s \$6,000 investment to purchase and fix up the Brandts Creek Property, while in reality Fischer had already entered into a trust agreement with Andrew Fischer that gave Fischer control of the Property and responsibility for mortgage payments on the Property; and
- (D) That D.B. and J.B.'s investment with Fischer was safe, when Fischer had no reasonable basis in fact for such representation.

Each misrepresentation constitutes a separate violation of Idaho Code §§ 30-1403 and 30-14-501(2).

**COUNT TWO – VIOLATIONS OF IDAHO CODE §§ 30-1403 AND 30-14-501 –
OMISSIONS OF MATERIAL FACT**

20.

The allegations set forth in paragraphs 1 through 16 above are fully incorporated herein by this reference.

21.

Idaho Code §§ 30-1403 and 30-14-501(2) provide that it is unlawful for a person, in connection with the offer, sale or purchase of a security, directly, or indirectly, to omit to state a material fact.

22.

In offering and selling to D.B. and J.B. the securities referenced in paragraphs 1 through 16 above, Fischer omitted material facts, which omissions included but were not limited to the following:

- (A) That D.B.'s investment monies would not be used to purchase and improve homes for resale, but a portion of such investment monies would be used for Fischer's Internet gambling; and
- (B) That Fischer had experienced ongoing financial problems, and he and his spouse had filed a Chapter 13 bankruptcy petition in the U.S. District Court for the District of Idaho in 1998.

Each omission of material fact constitutes a separate violation of Idaho Code §§ 30-1403 and 30-14-501(2).

PRAYER FOR RELIEF

WHEREFORE, the Department prays that the Court enter judgment against the Defendants as follows:

- (1) That the Defendants be adjudged to have violated the Act as alleged in Counts One and Two above;

(2) That the Defendants be permanently enjoined, pursuant to Idaho Code §§ 30-1442(3) and 30-14-603(b)(1), from engaging in any omissions and misrepresentations that would constitute violations of the Act, and in particular, that they be permanently enjoined from, while engaged in or in connection with the offer, sale or purchase of any security, 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 were made, not misleading;

(3) That the Defendants be ordered to restore to each person in interest any consideration which may have been acquired or transferred in violation of the Act, and that the Court award the Department a money judgment in the amount of at least \$13,500, or such amount as determined by the proof, as restitution for the victims of the Defendants' violations of the Act, pursuant to Idaho Code §§ 30-1442(3)(b) and 30-14-603(b)(2)(C);

(4) That the Defendants be ordered to pay a civil penalty to the Department in the amount of \$10,000 for each violation of the Act, pursuant to Idaho Code §§ 30-1442(3)(b) and 30-14-603(b)(2)(C), in the total amount of at least \$20,000 for the violations set forth in Counts One and Two above;


(5) That a receiver or conservator be appointed for the Defendants' assets, pursuant to Idaho Code §§ 30-1442(3) and 30-14-603(b)(2)(A);

(6) That the Defendants be ordered to pay attorney fees and costs incurred in the preparation and prosecution of this action, pursuant to Idaho Code §§ 30-1442(3) and 30-14-603(b)(3). If judgment is taken by default herein, that \$5,000 is a reasonable sum for the same;

(7) For such further relief as this Court may deem equitable and just under the circumstances.

DATED this 6th day of June, 2007.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL


A. RENÉ MARTIN
Deputy Attorney General

VERIFICATION

STATE OF IDAHO)
)ss.
County of Ada)

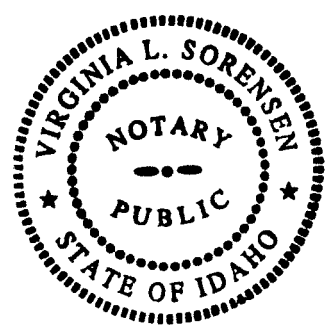
MARILYN T. CHASTAIN, Bureau Chief of the Securities Bureau of the State of Idaho,
Department of Finance, being first duly sworn, deposes and says:

I have read the foregoing Verified Complaint, and know the contents thereof, and the
same are true to the best of my knowledge and belief.

DATED this 5th day of June, 2007.

Marilyn T. Chastain
MARILYN T. CHASTAIN

SUBSCRIBED AND SWORN to before me this 5th day of
June, 2007.



Virginia L. Sorensen
Notary Public for Idaho
Residing at: Caldwell
My Commission Expires: 04/05/2012