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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**

**OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY**

STATE OF IDAHO, DEPARTMENT OF  
FINANCE, SECURITIES BUREAU,

Plaintiff,

vs.

LOUIS C. NARDONE III, an individual, and  
dba PRECISION MARKETING GROUP,

Defendant.

Case No. **CV OC 1110439**

**VERIFIED COMPLAINT**

Fee category: Exempt

COMES NOW the State of Idaho, Department of Finance, Securities Bureau, Gavin M. Gee, Director, Plaintiff herein (Department), 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 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 Defendant occurred in Ada County, Canyon County, Valley County, Idaho, and elsewhere, including Westchester County, New York. Defendant Louis C. Nardone III (Nardone) resided or was located in Lake Mohegan, New York when the alleged acts constituting violations of the Act were committed. Precision Marketing Group (Precision) is a fictitious name for Nardone's enterprise, as described below.

### CASE SUMMARY

3. The Department alleges that Defendant Louis C. Nardone III, individually and dba Precision Marketing Group (Nardone), solicited Idaho investors to invest in securities in the form of investment contracts in an aggregate amount of at least three hundred thousand dollars (\$300,000).

4. Investors believed that money provided to Nardone would be invested in certain vague and unspecified businesses or other investment opportunities. Investors were told to expect an annual return of 115 percent to 175 percent.

5. Nardone defrauded investors by misrepresenting the investment and by omitting material information from the investor solicitations. Nardone failed to register these securities and failed to register as a securities broker-dealer or agent, as required by law. Nardone paid early investors with funds from later investors, to create the appearance of a functioning investment, but it was a Ponzi<sup>1</sup> scheme that inevitably imploded. Investor moneys provided to Nardone were used to pay current and prior investors and for Nardone's personal expenses. Although Nardone made

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<sup>1</sup> As used herein, "A Ponzi scheme is a financial fraud that induces investment by promising extremely high, risk-free returns, usually in a short time period, from an allegedly legitimate business venture. 'The fraud consists of funneling proceeds received from new investors to previous investors in the guise of profits from the alleged business venture, thereby cultivating an illusion that a legitimate profit-making business opportunity exists and inducing further investment.' *In re United Energy Corp*, 944 F.2d 589, 590 n.1 (9<sup>th</sup> Cir.1991)." *Donnell v. Kowell*, 533 F.3d 762, 767 (9<sup>th</sup> Cir. 2007).

payments to some investors, the scheme eventually collapsed. Despite demand, the invested funds have not been returned to investors.

### **DEFENDANT**

6. Defendant Louis C. Nardone III is currently a resident of Lake Mohegan, Westchester County, New York, and has conducted business in Idaho as himself and as Precision Marketing Group at all times relevant herein. Nardone purposefully directed his activities into Idaho, and knew he was dealing with Idaho residents and investors.

### **FACTS**

7. Beginning on a date uncertain, but probably sometime in 2006, Nardone began soliciting funds from investors by offering and issuing securities in the form of investment contracts. Investors who participated in this common enterprise expected profits from it based solely on the efforts of others.

8. Nardone told different investors different stories about the nature of his investment. In a "Contractual Investment Agreement" that he required investors to sign, Nardone described the investment as being made "to assist it's (sic) [Precision's] growth in developing and sustaining its business activities." The Agreement described Precision as "a business consulting company which develops business systems for use by entrepreneurs/investors...." Investor N.S. "was told that he [Nardone] was an intermediary for a real estate investment group. He provided funds to them to purchase foreclosed, quick fix and short close properties. The real estate was then flipped for a huge profit." Other investors believe that Nardone was personally buying and selling real estate.

9. Nardone initially asked investors to wire funds to his grandmother's New York bank account. Later in the investment, Nardone opened a bank account in Nevada and had investors wire money there.

10. Some of the ponzi payments were sent to investors in the form of postal money orders.

11. Although the specific initial link to Idaho is unknown, Nardone did make contact with one Idaho investor and persuaded him to invest. That investor spread the word of the investment to other investors in Idaho, and eventually about 25 investors invested. Some investors invested as a married couple, so more than 25 individuals were affected. The total invested by Idaho investors is around \$300,000.

12. Nardone communicated with Idaho investors through email and telephone contacts. Nardone used these means to convince the investors to make the initial investment. Later, as the scheme fell apart, he used these means to forestall remedial or collection action by the investors.

13. Nardone also offered referral bonuses to individuals who assisted Nardone with soliciting funds from new investors.

14. Neither Nardone nor Precision, at all times material herein, were registered with the State of Idaho or the National Association of Securities Dealers (now known as the Financial Industry Regulatory Authority) as broker/dealers, or as broker/dealer agents.

15. The securities issued by Nardone were not registered with the State of Idaho or the US Securities and Exchange Commission.

#### **Investors**

16. Beginning at least as early as July 2006 and continuing through at least early 2008, Nardone solicited and/or issued unregistered securities to at least 25 investors. Investors N.S., S.S., and married couple B.S. and K.S. identified herein are representative of the interactions and events surrounding the investment dealings investors had with Nardone.

Investor N.S.

17. Investor N.S. did not know Nardone, but was referred to him by another investor.

18. On or about August 3, 2007, N.S. invested \$5,000 with Nardone. This investment was preceded by a telephone conversation with Nardone in which he explained the investment opportunity as being risk-free, guaranteed, and secured by real estate. Nardone's representations about the investment persuaded N.S. to invest.

19. N.S. received no periodic payments and Nardone has kept the \$5,000 principal amount invested.

Investor S.S.

20. Investor S.S. learned of the investment opportunity through his brother, who had also invested with Nardone.

21. In or around May of 2007, S.S. contacted Nardone by telephone to discuss the investment opportunity. After speaking with Nardone, S.S. understood that he could expect a 115 percent return on his investment. Nardone also informed S.S. that the investment was guaranteed and virtually risk-free. Further, S.S. understood that Nardone invested in foreclosed properties; Nardone was the "go-between" between investors and the homeowners.

22. After speaking with Nardone, on or about May 21, 2007, S.S. and his wife invested \$5,000 with Nardone. S.S. received payments from Nardone in the approximate amount of \$475 per month for a few months. Then, in or around the fall of 2007, the payments stopped.

23. In or around December 2007, Nardone contacted S.S. by email. In the email, Nardone indicated that the investment was going well and that he was offering existing investors an opportunity to invest additional monies for an increased annual return. The email stated that new

moneys invested would earn an annual return of 175 percent. As a result, on or about December 19, 2007, S.S. invested an additional \$5,000 with Nardone.

24. Following his December 2007 investment, in January and February 2008, S.S. received the \$475 payments from Nardone relating to his May 2007 investment. S.S. has not received any additional payments since that time.

Investors B.S. and K.S.

25. Investors B.S. and K.S., husband and wife, became aware of the Nardone's investment scheme through B.S.'s brother-in-law, C.S. After hearing about the success of Nardone's investment program from C.S., in April of 2007, B.S. decided to contact Nardone regarding the investment program.

26. After speaking with Nardone about the investment opportunity over the telephone, B.S. and K.S. understood that Nardone was working with a group of investors and that Nardone was acting as a liaison for that group of investors. Further, B.S. and K.S. understood that any moneys invested would be used in a real estate-related investment. Nardone explained to B.S. and K.S. that they would be paid an annual return of 125 percent on moneys invested. In addition, Nardone told B.S. and K.S. that he was a school teacher who did investing "on the side." Based on Nardone's representations about the investment, B.S. and K.S. decided to invest. On April 3, 2007, B.S. and K.S. wired a total of \$10,000 to a bank account per instruction from Nardone, despite the fact that the specific investments creating the returns were not described in detail.

27. Nardone also encouraged B.S. and K.S. to refer others to his investment program and offered to pay a bonus to B.S. and K.S. if they referred other investors. B.S. and K.S. did refer one investor to Nardone, and received a bonus payment of \$500.

28. After making the \$10,000 total investment, B.S. and K.S. began receiving the promised monthly returns until approximately November 2007. In approximately mid-December 2007, Nardone contacted B.S. and K.S. to solicit them to make a second investment with him. Nardone explained that he had increased the rate of return on investment moneys to 175 percent. Because B.S. and K.S. had a positive experience with Nardone up to that point in time, they decided to invest an additional amount of \$6,000 with Nardone.

29. Following their investment in December 2007, B.S. and K.S. stopped receiving the promised returns. While B.S. and K.S. received approximately \$8,000 in returns, to date, B.S. and K.S. have not been able to receive the return of the remaining principal amount invested or interest promised from Nardone.

### **Misrepresentations**

30. In order to induce investors to invest, Nardone made the following representations, among others:

- a. The investment was guaranteed.
- b. The investment was risk-free or virtually risk-free.
- c. The investment had huge fixed returns.
- d. The investment would provide a 115 percent annual rate of return.
- e. That investor money would be invested in real estate transactions.
- f. That the investment would be secured by real estate.

31. The statements in the preceding paragraph are false and misleading for these reasons:

- a. The investments were not guaranteed. Nardone relied upon the investment of money from new investors to provide returns to earlier investors. When new investor money dried up, the scheme fell apart. Nardone has not returned investor principal, despite demand.

b. The investments were not risk-free, which is obvious because the investors have lost their money.

c. The investment scheme was not a successful investment and produced no actual returns. In fact, it was not an investment at all; it was an unlawful securities ponzi scheme.

d. Nardone did not invest the money in real estate transactions. It was primarily used to repay prior investors, and for Nardone's personal expenses.

e. Nardone purchased no real estate, and the investments were not secured by real estate or anything else.

#### **Material Omissions**

32. Nardone 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 Nardone. Nardone failed to disclose the following material information:

a. Information about Nardone's personal financial condition.

b. Information about the financial condition or operating history of Precision.

c. That some of the investment money provided to Nardone would be used to pay Nardone's personal expenses, and to pay returns to earlier investors.

d. That Nardone was not registered as an agent to sell the securities, as required by Idaho's Uniform Securities Act (2004).

e. That the securities issued by Nardone were not registered as required by Idaho's Uniform Securities Act (2004).

f. That neither Nardone nor Precision were registered as broker-dealers, as required by Idaho's Uniform Securities Act (2004).



**COUNT ONE**  
**(Fraud - False and Misleading Statements)**

33. The allegations of paragraphs 1 through 32 above are realleged and incorporated herein as if set forth verbatim.

34. 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 the light of the circumstances under which they were made, not misleading.

35. Nardone's misrepresentations to prospective investors as set forth in paragraph 30 above were made in connection with the offer, sale or purchase of securities. Nardone's misrepresentations, as specifically set forth in paragraphs 30 a. through f. above, were false and misleading, constituting violations of Idaho Code § 30-14-501(2) as to each misrepresentation to each investor.

36. Nardone's omissions of material facts and failures to disclose to prospective investors as set forth in paragraph 32 above were made in connection with the offer, sale or purchase of securities. Nardone's omissions of material facts and failures to disclose, as specifically set forth in paragraphs 32 a. through f. 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)**

37. The allegations of paragraphs 1 through 32 above are realleged and incorporated herein as if set forth verbatim.

38. 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.

39. Nardone's acts as set forth in paragraphs 7 through 32 above were made in connection with the offer, sale or purchase of securities. His conduct, as described in paragraphs 7 through 32, 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.

40. Specifically, Nardone's ongoing misrepresentations and omissions about the success of his investment were designed to perpetuate the fraud. The misrepresentations and omissions were intended to, and did, beguile investors into giving money to Nardone. This scheme continued for the better part of two years, 2006 through 2008, until it eventually collapsed.

**COUNT THREE**  
**(Unregistered Securities)**

41. The allegations of paragraphs 1 through 32 above are realleged and incorporated herein as if set forth verbatim.

42. Nardone issued, sold or offered for sale in Idaho securities in the form of promissory notes and investment contracts. Such securities were not registered with the Department as required by Idaho Code § 30-14-301.

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

**COUNT FOUR**  
**(Failure to Register)**

44. The allegations of paragraphs 1 through 32 above are realleged and incorporated herein as if set forth verbatim.

45. Nardone, through his company, Precision, transacted business in Idaho as a broker-dealer. Neither Nardone nor his company were registered as broker-dealers with the Department as required by Idaho Code § 30-14-401(a).

46. Nardone's failure to register himself or his company as a broker-dealer with the Department constitutes violations of Idaho Code § 30-14-401(a).

47. Nardone transacted business in Idaho as an agent of a broker-dealer or of an issuer. Nardone was not registered as an agent with the Department as required by Idaho Code § 30-14-402(a).

48. Nardone's failure to register as an agent with the Department constitutes a violation of Idaho Code § 30-14-402(a).

**PRAYER FOR RELIEF**

WHEREFORE, the Department prays for judgment in favor of the Department and against Nardone as follows:

1. That Nardone 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 Nardone be permanently enjoined from engaging in any act or practice violating any provision of the Act or any rule promulgated thereunder, pursuant to Idaho Code § 30-14-603(b)(1), and in particular, that he be permanently enjoined from selling or offering for sale

securities in any form in the state of Idaho.

3. That Nardone be ordered to pay a civil penalty of up to ten thousand dollars (\$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 forty thousand dollars (\$40,000), and that the Court award a money judgment in favor of the Department in such amount.

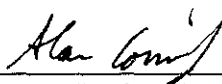
4. That Nardone be ordered to make restitution to investors, pursuant to Idaho Code § 30-14-603(b)(2)(C), in the aggregate amount two hundred fifty-seven thousand seven hundred twenty dollars and ninety cents (\$257,720.90) or such other amount as proven at trial, and that the Court award a money judgment in favor of the Department in such amount.

5. That the Department 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 the Department in such amount. Should judgment be taken by default herein, the Department asserts that five thousand dollars (\$5,000) 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 25<sup>th</sup> day of May, 2011.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

  
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ALAN CONILOGUE  
Deputy Attorney General


**VERIFICATION**

STATE OF IDAHO    )  
                                  ) ss.  
County of Ada       )

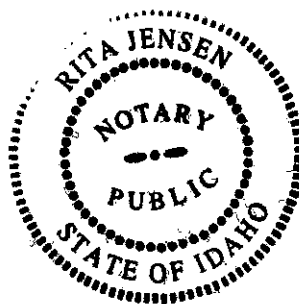
JAMES A. BURNS, Lead Investigator of the Securities Bureau of the Department of Finance, State of Idaho, being first duly sworn, deposes and says:

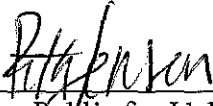
I have read the foregoing Verified Complaint, and know the contents thereof; and that the same are true to the best of my knowledge and belief.

DATED this 26<sup>th</sup> day of May, 2011.

  
\_\_\_\_\_  
JAMES A. BURNS

SUBSCRIBED AND SWORN to before me this 20 day of May, 2011.



  
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Notary Public for Idaho  
Residing at: Meridian, Idaho  
My Commission Expires: 3/6/2013