



BONNEVILLE COUNTY, IDAHO

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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.

DUANE LEE YOST,

Defendant.

Case No. CV-11-493

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, 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 Bonneville County and elsewhere in the state of Idaho.

CASE SUMMARY

3. Plaintiff alleges that Defendant Duane Lee Yost, individually and dba as one or more Idaho companies (Yost), acting at times individually and at times in concert with each other, solicited investors to invest in securities in the form of promissory notes and investment contracts in an aggregate amount of at least twenty-seven million two hundred seventy thousand seven hundred eighty-four dollars (\$27,270,784). Yost took such investor money and sent it to Trigon Group, Inc. (Trigon), a company controlled or owned by Daren L. Palmer (Palmer).

4. Investors understood that money provided to Yost would be invested with Trigon and Palmer which in turn would be traded in indexes, Standard and Poor 500 (S & P 500) options or futures, currency futures, and/or stocks. Investors were told to expect an annual return of between 20 and 25 percent. Many investors Yost solicited for Palmer's trading scheme communicated directly with Yost regarding their investment moneys. Further, investors received quarterly account statements from Dual Funding, LLC, and Yost Enterprises dba Yost Group.

5. Yost defrauded investors by misrepresenting the investment and by omitting material information from the investor solicitations. Yost failed to register these securities and failed to register as a securities broker-dealer or agent, as required by law.

DEFENDANT

6. Defendant Duane Lee Yost is a resident of Idaho Falls, Bonneville County, Idaho and has conducted business in Idaho as Yost Enterprises, dba Yost Group, and Dual Funding, LLC during all times relevant herein.

FACTS

7. Beginning on a date uncertain, but at least as early as 2000, Yost began investing money with Palmer and Trigon. Over time, Yost began soliciting other investors to invest in Palmer's company, Trigon, by offering and issuing securities in the form of promissory notes and investment contracts through Yost's companies, Yost Enterprises dba Yost Group and Dual Funding, LLC. Investors who participated in this common enterprise expected profits from it based solely on the efforts of others.

8. Yost accepted money from individual investors, and sent it to Palmer and Trigon. Yost received a fixed, generous commission from Palmer and Trigon for bringing investors into Palmer's investment scheme.

9. Yost and his companies, at all times material herein, were not 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.

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

Investors

11. Beginning at least as early as 2000 and continuing through at least October 2008, Yost solicited and/or issued unregistered securities to at least 34 investors. Investors R.B., S.B., and C.S. identified herein are representative of the interactions and events surrounding the

investment dealings investors had with Yost.

Investor C.S.

12. Investor C.S. became aware of the investment opportunity with Palmer and Trigon in or around 2006 from some of C.S.'s friends who had investment dealings with Palmer and Trigon. However, it was not until approximately January 2008, when C.S. was solicited directly by Yost, that he considered an investment in the Trigon investment scheme.

13. During a discussion regarding the investment opportunity with Palmer and Trigon, Yost told C.S. that investment money was pooled together with other investors' money to create a "hedge fund" which would be invested in various financial sectors where most of the investment moneys would always be secure. Yost informed C.S. that the fund had operated for years and had always paid the promised return. Further, Yost explained to C.S. that the fund had "weathered difficult financial downturns well," and that it was therefore, a low-risk investment.

14. After speaking to Yost about the investment program with Trigon and Palmer, on January 3, 2008 C.S. decided to invest \$250,000. Yost explained to C.S. that at the level of investment he was making, C.S. would receive a 20% annual return. Yost further explained that if C.S. wished to invest more, he would receive a higher rate of return. Yost represented that any compensation was based on the performance of the investment fund – investors would receive the promised return first, and anything above and beyond that fixed amount would be kept by Yost and Palmer.

15. At the time of C.S.'s investment, Yost instructed C.S. to make the check payable to "Yost Enterprises," and that the money would be directed into the Palmer and Trigon fund.

16. After making the investment, C.S. communicated directly with Yost regarding his investment. In fact, C.S. received quarterly statements from Yost Group detailing the performance of his investments.

17. To date, C.S. has not received any return on the investment made with Yost. Further, C.S. has been unable to receive the return of his investment principal.

Investors R.B. and S.B.

18. Investors R.B. and S.B., husband and wife, were encouraged by their accountant to speak to Yost about a possible investment opportunity with Trigon. R.B. and S.B. had heard of the success of Trigon's investment program from friends and neighbors. Further, R.B. and S.B. personally knew Yost and decided to contact him regarding the investment.

19. After speaking with Yost about the investment opportunity with Palmer and Trigon, R.B. and S.B. understood that if they were to invest up to \$1 million, they would receive an annual return of 20 percent. Any investment over \$1 million would receive an annual return of 25 percent. Yost also explained that unless the investment performed better than the promised rate of return of either 20 or 25 percent, neither he nor Palmer would be compensated; in the event the investment did perform better, he and Palmer would receive the excess return. In addition, Yost told R.B. and S.B. that he had been working with Palmer for more than ten years and that the annual returns had "never missed a beat." Yost stated that the investment principal would be low-risk and safe. This sounded good to R.B. and S.B., so they decided to invest with Yost, despite the fact that the specific investments creating the returns were not described in detail. However, R.B. and S.B. did understand that their investment moneys were going to be sent to Palmer and Trigon.

20. R.B. and S.B. made four investments totaling \$1 million between May 2008 and September 2008. Yost instructed R.B. and S.B. to make the investment checks payable to Yost Enterprises, which they did. The account statements R.B. and S.B. received stated the company name, Yost Group, and indicated interest earned on the principal investment. At the time of their initial investment, Yost agreed to pay R.B. and S.B. all accrued interest on October 20, 2008.

21. On or about October 20, 2008, R.B. contacted Yost to inquire about the accrued interest payment he expected to receive. Yost informed R.B. that he was unable to pay R.B. and S.B. the accrued interest as the funds were not available. To date, R.B. and S.B. have not received the principal amount invested or the interest promised.

Misrepresentations

22. In order to induce investors to invest, Yost made the following representations, among others:

- a. The investment was virtually guaranteed.
- b. The investment was risk-free or virtually risk-free.
- c. The investment had been running successfully for years.
- d. The returns were generated by the investment performance of Trigon and that such investment performance depended on investing in indexes, S & P 500 options or futures, currency futures, and stocks.
- e. That investors could receive their investment money at any time.

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

- a. The investments are not guaranteed. Yost worked in conjunction with Palmer to provide returns to investors; Palmer, Trigon and Yost relied upon the investment of money from

new investors to provide returns to earlier investors. When new investor money became scarce, the scheme fell apart. As a result, since approximately October 2008, investors stopped receiving the promised payments and there are no sufficient assets to repay investors. Thus, the payments investors received prior to approximately October 2008 could only be coming, in part, from ongoing unlawful fundraising by Yost.

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

c. While the investment scheme had been operating for several years, it was not a successful investment. In fact, it was not an investment at all; it was an illegal securities ponzi scheme.

d. Returns were not generated by successful investment performance of Trigon in the index, futures, options, and stock markets. Returns were simply payments to investors with new investor money.

Material Omissions

24. Yost 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 Yost. Yost failed to disclose the following material information:

a. Information about Yost's personal financial condition.

b. Information about the financial condition or operating history of Yost Enterprises dba Yost Group, Dual Funding, LLC, or Trigon.

c. Information about the risks associated with investing in indexes, S & P 500 options or futures, currency futures, stocks, or the promissory notes Yost or Palmer issued.

d. That Yost would be receiving a commission from Palmer no matter how the investment performed.

e. That Yost received a referral bonus for soliciting new investors.

f. That only some of the investment moneys provided to Yost would be invested into trading accounts, but that such moneys would be used to pay Yost's and Palmer's personal expenses, and to pay returns to earlier investors.

g. That neither Yost nor Palmer was registered as agents to sell the securities, as required by Idaho's Uniform Securities Act (2004).

h. That the securities issued by Yost and Palmer were not registered as required by Idaho's Uniform Securities Act (2004).

COUNT ONE
(Fraud - False and Misleading Statements)

25. The allegations of paragraphs 1 through 24 above are realleged and incorporated herein as if set forth verbatim.

26. 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.

27. Yost's misrepresentations to prospective investors as set forth in paragraph 22 above were made in connection with the offer, sale or purchase of securities. Yost's misrepresentations, as specifically set forth in paragraphs 22 a. through e. above, were false and misleading, constituting violations of Idaho Code § 30-14-501(2) as to each misrepresentation to each investor.

28. Yost's omissions of material facts and failures to disclose to prospective investors as set forth in paragraph 24 above were made in connection with the offer, sale or purchase of securities. Yost's omissions of material facts and failures to disclose, as specifically set forth in paragraphs 24 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)

29. The allegations of paragraphs 1 through 24 above are realleged and incorporated herein as if set forth verbatim.

30. 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.

31. Yost's acts as set forth in paragraphs 1 through 24 above were made in connection with the offer, sale or purchase of securities.

32. By working in conjunction with Palmer and Trigon, Yost helped perpetuate the appearance of a successful investment plan. Yost assisted Palmer and Trigon by selling the plan and by roping in new investors, thus feeding a larger pyramid scheme. By doing so, Yost conducted a scheme or artifice to defraud. Yost's actions were calculated to beguile investors into parting with their money. Yost convinced investors by espousing the safety and success of the investment coupled with a high rate of return, and the effect was to make investors want to invest with him.

33. Yost's conduct as described in paragraphs 1 through 24, and paragraph 32 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 victim.

COUNT THREE
(Unregistered Securities)

34. The allegations of paragraphs 1 through 24 above are realleged and incorporated herein as if set forth verbatim.

35. Yost 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.

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

COUNT FOUR
(Failure to Register)

37. The allegations of paragraphs 1 through 24 above are realleged and incorporated herein as if set forth verbatim.

38. Yost, through his companies, Yost Enterprises dba Yost Group and Dual Funding, LLC, transacted business in Idaho as a broker-dealer. Yost and his companies were not registered as a broker-dealer with the Department as required by Idaho Code § 30-14-401(a).

39. Yost's failure to register as a broker-dealer with the Department constitutes a violation of Idaho Code § 30-14-401(a).

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

41. Yost'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 Plaintiff prays for judgment in favor of Plaintiff and against Yost as follows:

1. That Yost 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 Yost 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), and in particular, that he be permanently enjoined from:

- a. Selling or offering for sale securities in any form in the state of Idaho;
- b. Engaging in any act, practice or course of business that operates or would operate as a fraud or deceit upon another person.

3. That Yost be ordered to make restitution to investors, pursuant to Idaho Code § 30-14-603(b)(2)(C), in the aggregate amount of twenty-seven million two hundred seventy thousand seven hundred eighty-four dollars (\$27,270,784) or such other amount as proven at trial. That Yost pay the restitution amount to Wayne Klein, at Klein & Associates, Receiver in *Securities and Exchange Commission v. Daren L. Palmer and Trigon Group, Inc.*, the civil action filed in United States District Court, for the District of Idaho, Civil No. 09-075-S-EJL,

